

November 13, 2023

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, Ontario M2N 6S6

Dear Sir/Madame;

Proposed FY2024-2025 Statement of Priorities as published October 10, 2023

Thank you for the opportunity to comment on the 2024-2025 Statement of Priorities.

As the Ontario Mutual Insurance Association, we are providing feedback on behalf of our 36 member companies, all of whom are property-casualty insurers organized as mutual insurers and incorporated under Ontario statute.

Our members underwrite farm, home, automobile, and commercial insurance policies. Each of our mutuals is over 100 years old, with the oldest having been established in the 1850s. Our companies are predominantly located in small towns and cities across the province. Each of our members' policyholders is a fully participating mutual member. The boards of directors of our mutuals are composed of policyholders and all policyholders are eligible to vote at annual general meetings and participate in any refunds granted from surplus.

Our member mutuals are small insurers in a rapidly consolidating property-casualty insurance sector and we have seen a consolidation trend among our members. Our mutuals, when premium volume is aggregated, write a significant volume of farm, home, and auto insurance in the province. When regionality is considered, many of our mutuals are a vital market in their region and provide essential capacity, availability, and choice for Ontario consumers.

Our response to the 2024-2025 Statement of Priorities will focus on cross-sector priorities and property and casualty auto insurance priorities. We will also comment on the financial outlook provided in the Statement of Priorities.

Advance the Consumer Interest

Consumer interest should be at the core of any business. In advancing that interest we believe a regulatory authority should ensure they have a holistic view of consumer interest. It is increasingly prevalent in the media and some legislative forums to solely consider short-term cost considerations as the primary area of consumer interest. The cost of insurance is an important factor; however, insurance is an economic enabler and requires a long-term sustainable “cost of business” environment to continue to provide affordable insurance. We believe FSRA has recognized this in the Statement of Priorities when you speak to fostering strong sustainable, competitive, and innovative financial service sectors.

As mutuals our policyholders, as members of the mutual, are at the centre of decision making and governance. Mutuals, without exception, have taken the long-term view when considering consumer interest.

We urge FSRA to continue to ensure consumer interest is viewed through an appropriate lens.

We also believe a thoughtful approach to protecting vulnerable consumers is important. An area we have identified as being especially challenging for vulnerable consumers is the complexity created by the lack of plain language material for consumers. We acknowledge that the adversarial litigation environment and complexity in existing statutory and regulatory language are out of the regulators control, but we urge FSRA to advocate for ways to improve plain language communication opportunities for consumers.

We also note that FSRA is seeking to establish enforcement that is balanced, transparent and effective and considers the impact of noncompliance on consumers. We also believe that impact is important and that FSRA’s efforts in educating sectors on expectations must precede enforcement, particularly in areas which may be unclear. Our member companies look for balance and transparency from their regulator as it relates to enforcement, and we believe that FSRA has shown the capacity to do this over the last year.

Enable Innovation

FSRA’s Innovation Framework and Test and Learn Environment are in their early days. This priority notes that FSRA is looking to broaden awareness of the role of the Innovation Office.

As a trade association representing the mutuals we would welcome the opportunity to have FSRA address a workshop or group where a more complete discussion can take place on the possibilities of innovation so we can gain a greater understanding of both the opportunities, responsibilities, and costs that would go with entering a FSRA Test and Learn Environment.

FSRA should play a key role in ensuring that innovation trends and developments at the federal level, such as open banking, are understood. Regulatory missteps relating to open banking and

similar trends in financial services could lead to an imbalance in favour of larger financial institutions that would result in the loss of competition in the marketplace.

Modernize Systems and Processes

FSRA identifies a core outcome of “greater access to data and analytics tools across all sectors”. Requests for data from any regulator can be problematic if they become cost-prohibitive to the entity providing the data. Each enterprise has a different capacity, breadth, and depth of data and may, in some cases, not have the data requested. In those instances, proportionality needs to be considered. Proportionality should include cost considerations and the impact on an organization’s priorities on data. We believe that each organization should have discretion to make their own decisions as to the data they collect, above and beyond data that is part of a mandatory and well-established data reporting protocol.

Additionally, if data is collected by a regulator that should also include a responsibility by the entity collecting the data to provide a meaningful report summary or information from research arising from the data. There are instances in the past when data has been collected without any meaningful report back to stakeholders as to insights gained or trends identified.

Property & Casualty and Auto Insurance Priorities

Execute strategy for reforming the regulation of auto insurance rates and underwriting

We look forward to details on the framework and guidance that will create the auto insurance rate and underwriting regime noted in the priority.

FSRA’s work with operational risk management frameworks and an industry review took place in 2023 and we believe that a FSRA report on the overall outcomes of that review will be essential in aligning with modernized rate and underwriting regulation.

More detail will be required to truly understand the implications of some of the concepts associated with the new regime. We believe that this could be positive for all stakeholders.

We recommend that FSRA continue to consider the specific circumstances of filing insurers in thinking through how a risk level will be assigned.

We also urge FSRA to be as timely and proactive as possible in publishing guidance, as inevitably there will be growing pains and questions associated with any new regime.

Support reforms of the Auto Insurance system

We note that in 2022-2023 the priority was to develop recommendations and act on reforms of the auto insurance system.

We understand that FSRA can only play a supporting role as reform initiatives are studied, as reform falls within the authority of the Ministry of Finance.

We believe that FSRA's support of potential reforms to the auto insurance system can be proactive and incorporate critical insights and input to the Ministry as they study reform alternatives.

FSRA is uniquely positioned to be a credible arm's length reporter on the state of health of the Ontario automobile insurance line of business. We believe FSRA has sufficient information, expertise, and capacity to help identify areas where reform can be most effectively achieved to the benefit of the consumer.

We also believe FSRA is positioned to advise on the cost benefit analysis to all stakeholders, but particularly the consumer, as reforms are considered. We believe that the history of auto reform in Ontario too often strays from a holistic approach and the result can be less than the perceived sum of the parts.

FSRA can also help ensure the true cost of implementation is known to decision makers as eventually this cost is borne by consumers. If reforms don't have a significant impact in controlling the cost of doing business, then implementation costs can easily outstrip benefits. We believe this is particularly true with "optionality" reforms.

The support role of FSRA should presumably entail providing many of the technical details, wording parameters, and other guidance that would allow reforms to go forward. One of the great frustrations for insurers when faced with reform to a mandatory product is the time lag in receiving the detail required to make decisions on programming, communications, and even strategic decision making on product design.

This priority also identifies an outcome of improving the ability to quantify and better detect insurance fraud. Fraud remains a significant factor that increases costs to consumers. We have consulted previously on some fraud data studies with working groups from FSRA and at that time voiced concerns that an increased data reporting regime would be cost prohibitive. Our understanding of the current fraud reporting service rule is that it will potentially entail mandatory reporting of fraudulent claims to a centralized repository under FSRA oversight. We believe that this could be a very positive development and might help specifically target fraud reduction efforts at the level where fraud is being planned and committed.

We strongly urge that any fraud reporting service rule be administratively straightforward and that it includes protection for those reporting potentially fraudulent claims. Guidance as to the parameters of what would constitute a fraudulent claim is needed, but the equivalent of whistleblower protection or immunity is the most important factor. We believe that industry experience in fighting fraud over the past 3 decades has shown the potential risk of identifying fraudulent claims and creating a litigation environment where bad faith and punitive damages

pose a major risk in insurance claim litigation. Unfortunately, this risk is borne by both insurers and individual employees or agents of the insurer.

Ensure the fair treatment of customers of Property and Casualty Insurance

FSRA recently announced a thematic review on residential insurance. In looking at the key activities to achieve outcomes in the priorities this would appear to be a significant growth area for regulatory activity. As such it will potentially pose additional cost and regulatory burden on insurers. We believe this framework has the potential to become very complex. We recommend that a simple, clear framework would be most beneficial to all stakeholders.

As smaller insurers we also continue to urge that the approach remain proportional. The framework needs to be easily adaptable to smaller entities. Uncertainty as to how and where proportionality will be applied typically is one of the greatest barriers to being able to assess the positive or constructive aspects of any framework in the consultation or conceptual stage.

We also believe that increased complexity can create increased instability and can be disruptive as it relates to potentially altering customer relationships that are already well founded, transparent, working well, and to the consumers benefit.

We encourage as much clarity as possible as to how different elements of distribution will be integrated into or closely work within the framework. As Ontario based insurers our concerns are for this province alone, but we also acknowledge that this task becomes significantly more difficult when looking at national frameworks.

As Ontario based insurers, we urge FSRA to ensure that market conduct supervisory activities are uniformly understood and communicated across each of FSRA's operational groups. We believe that mixed signals on how market conduct is to be managed at different FSRA working group levels could potentially lead to duplication or less than efficient response to market conduct initiatives.

As FSRA continues to gather information, do surveys, and complete thematic reviews we urge FSRA to ensure that they publish the results of their reviews with meaningful information as to what was observed, what trends are emerging, and what insights can be drawn as related to future regulatory activity. The thematic review related to take all comers was an example of a report that we feel was helpful to all users of the report.

Promote resilience, stability, and public confidence in the Ontario incorporated insurance companies and reciprocals sector.

As Ontario incorporated insurance companies our members are directly affected by activity within this priority. This has been a work in progress, and we look forward to constructive and productive opportunities to create an effective and efficient oversight regime.

Proportionality is a critical factor, as is timeliness and ensuring that the complexity of requests for data in the risk profile assessment process is focused and efficient for all parties.

This priority is another area where the cost of supervision has, is, and will presumably be increasing. This is a cost borne directly by policyholders. These costs include regulatory fees but also include the cost of staff and other resources to work through the introduction of frameworks, guidance and approaches.

Financial Outlook

The Financial Outlook section of the Statement of Priorities indicates there will be an 8.3% increase in budget year over year and that \$9.7 million is allocated to new initiatives. This clearly tracks above consumer price increases and given the breadth and scope of the priorities published we see the potential for budgets increasing.

The sector fee assessments as noted in the priorities indicate that the 2024-2025 plan which incorporates a total budget of \$125.9 million will result in increases as follows:

- Auto Products - 15.9%
- P&C Conduct - 17%
- P&C Prudential - 11.1%

Given the previous year's increases this is a concerning year-over-year increase.

Our own members total FSRA aggregate fee assessments over the past three years have included year-over-year increases of 34%, 71%, and 28%.

This does not include increases from the General Insurance Statistical Agency (GISA) which where as follows:

- 2021 - 13.37% increase
- 2022 - 73% increase
- 2023 - 40.78% increase

We acknowledge that GISA is not under FSRA's budgetary authority, but again this is an additional cost burden that has been growing well in excess of other expense trends.

For additional context, in addition to insurance regulatory fees the entire insurance sector has experienced significant increases in the cost of financial reporting related to IFRS-17. These additional reporting costs have been material. IFRS-17 is not a concern created by FSRA, but it is nonetheless an increased cost of doing business that falls within the broad range of costs imposed by regulatory, statutory, and standard setting regimes.

The impact of these increases, with the prospect of further annual increases, directly impacts

the cost of insurance at the policyholder level.

Thank you for providing the opportunity to respond to 2024-2025 Statement of Priorities. We look forward to further opportunities to provide comment on the work identified for the year ahead.

Yours truly,

A handwritten signature in blue ink that reads "John L. Taylor". The signature is written in a cursive style with a large initial "J" and "T".

John L. Taylor BBA, FCIP, FCLA, CHRL
President