

**Montreal, February 23, 2024**

Mr. Mark White  
Chief Executive Officer  
Financial Services Regulatory Authority of Ontario  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6  
[contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca)

**Re: Consultation for Proposed Guidance on Life Insurance Agent & MGA Licensing Suitability**

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Dear Mr. White,

On behalf of the Desjardins Group, I am pleased to respond to your request for comments on the Financial Services Regulatory Authority of Ontario's (FSRA) public consultation on the proposed *Guidance on Life Insurance Agent & MGA Licensing Suitability*.

Desjardins Group is the leading cooperative financial group in Canada serving over 7.5 million members<sup>1</sup> and clients across the country. For over 120 years, Desjardins has listened and responded to its members' needs and adapted to change. We provide Canadians with banking, wealth management, life & health insurance, property & casualty insurance, and personal, business, and institutional financial services. In Ontario, the Desjardins Ontario Credit Union (DOCU) is the second largest credit union with over 132,000 members, 48 branches, and over 10 billion in assets. Desjardins Insurance is Desjardins Group's life and health insurance subsidiary. IDC Worldsource Insurance Network Inc. is a division of Worldsource Wealth Management Inc., which is a wholly owned subsidiary of Desjardins Group.

Desjardins Insurance welcomes the opportunity to provide general comments, and where appropriate specific comments with respect to the proposed guidance *Life Insurance Agent and Managing General Agent (MGA) Licensing Suitability (the Guidance)*.

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<sup>1</sup> As of T4 2023 : <https://www.desjardins.com/ressources/pdf/d50-fiche-technique-investisseurs-2023-4-e.pdf?resVer=1708535069000>

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More than five million Canadians are counting on our solid expertise and our people-focused approach at every stage of their life. As an industry leader, we recognize the importance of the member/client experience and strive to offer insurance products and solutions designed to meet the evolving needs of our clients, and Canada's insurance and financial services marketplace. With that, we appreciate that the regulatory landscape must evolve to meet those changes, to ensure that distribution channels and intermediaries are suitable, and that consumers are protected. We welcome the open dialogue and opportunity to collaborate with FSRA on these and other topics.

Proper industry oversight in the life and health insurance sector, is a top priority for our organization.

We agree that further clarity into the separate or shared regulatory obligations for insurers, intermediaries and distributors is needed, however, we feel a different approach would be more effective to create the overall compliance framework FSRA seeks to achieve, and to mitigate the need for interpretation that parts of the Guidance require.

While the introduction of FSRA Guidance and Rules can assist in the interpretation of existing legislation, distribution channels, specifically MGAs have grown and evolved significantly over the past decade or more. As FSRA states in its *"Insurer-MGA Relationship Review Report"*, the independent agent channel is the most prevalent distribution model, with many agents placing business through MGAs. We believe the most effective way of ensuring consistent suitability standards and oversight is to make appropriate amendments to the *Insurance Act* (the Act) and companion Regulations, to have a legislative framework that more accurately reflects current industry distribution channels, including MGAs. We feel, this approach will provide greater clarity into regulatory obligations, greater accountability for each participant in the life cycle of an insurance product and increase positive, consistent, and fair outcomes for consumers. Further, reliance, at least in part, on insurer contracts, may provide accountability for the insurer, it does not however provide the consistency sought, because legal contracts and agreements are subject to interpretation, change, and vary amongst, and between insurers and intermediaries and distributors.

While our recommendation would be to address any perceived gaps in the existing oversight framework by way of legislative updates, should FSRA proceed as proposed and issue the Guidance, we would like to take the opportunity to comment on areas of potential concern, or offer feedback for your consideration.

### **Suitability assessments and responsibilities**

While there is life agent and MGA suitability assessment obligations on insurers, the Guidance remains ambiguous as to what those suitability standards should be. In the case where certain delegation or reliance are made to MGAs, for example, in the case of some ongoing monitoring activities, the Guidance does not clarify how accountabilities differ between the MGA and the Insurer. Also, clear suitability and responsibility delineations between agents and MGAs (screening or ongoing) are needed to address their different and separate roles. We agree with the statement that FSRA assesses whether applicants and agents are suitable for licensing in accordance with the Act, its regulations and FSRA rules and guidance. Regarding the ongoing suitability of the agent, we are concerned with FSRA's lack of mandatory reporting requirements of critical events contemporaneously with those events occurring. Some other provincial insurance councils have instituted a requirement to report significant events, for example, financial issues, discipline by another regulator, criminal charges, etc., within a prescribed time frame of the event occurring. Generally, reporting is required in a matter of days. However, FSRA only requires these events to be reported at licence renewal or the reinstatement application of their licence. The lack of any reporting requirements means that serious conduct (e.g., regulatory sanctions, criminal charges, including theft or other serious or egregious issues) would otherwise, remain unknown to FSRA until the time of the licensee's renewal. Waiting until renewal for the disclosure and possible re-assessment of the agent's suitability, does not serve to protect the public, as FSRA may be dealing with a serious event up to two years after it occurred. While insurers require reporting within a prescribed time frame in most cases, regulatory support by mandating its own reporting deadlines would serve a greater purpose. The Guidance states that FSRA can address suitability earlier than renewal ("... at any time FSRA deems appropriate."), however, the Guidance does not indicate anything regarding FSRA's potential implementation of reporting deadlines to address as soon as possible, events that may give rise to questions about the suitability of a particular licensee.

We agree with the guidance in the section "False statements and material omissions". The honesty and transparency of the licensee is fundamental to the suitability assessment process and may impact any final determination. Further, to our earlier position on the implementation of regulatory reporting deadlines, the timely disclosure of "suitability events" would assist with closing any potential gaps in time between when the licensee reported the event to their insurer and when they reported it to their regulator, thus mitigating potential unintentional false statements or material omissions because of the licensee's misinterpretation of a renewal question, confusion related to the fact they already reported it to their insurer, or their potential forgetfulness of relevant details or misplacement of relevant documentation due to the time passed since the event occurring.

**Misconduct of the agent or MGA**

We agree that each licensee is responsible for their own proper and ethical conduct and compliance with regulatory rules and obligations under the Insurance Act. However, we do not agree with FSRA's presumptive position that where a contractual relationship exists between agents – insurers, a principal – agent relationship exists and as a result, an insurer or MGA is fully responsible for the actions and conduct of the agent. The Act, Regulations and Unfair and Deceptive Acts and Practices (UDAP) in its current form, does not support these assertions, and a final determination on whether a principal – agent relationship exists should be addressed by the courts, as appropriate.

Regarding the adequacy of MGA's control and compliance functions, and the Insurer's supervision obligations of MGAs, we believe the Guidance document lacks clarity as to the compliance system (including supervision) roles for the insurer vs. the MGA. Clear requirements and accountabilities for each party would assist with creating a more seamless and consistent compliance landscape, regardless of the distribution method or model.

We agree that MGA suitability and its ability to properly recruit, train, supervise or support their life agents, either directly or indirectly through sub-agents, is an important factor in whether they should be granted or maintain their licence to operate as an MGA. However, we do want to address the fact that swift action to remove or suspend any MGA licence could have a detrimental effect on consumers who may be serviced by a life agent whose ability to conduct business is impacted by such action. Specifically, life agents who are suitable and have not been accused of any misconduct.

We want to extend our appreciation for the opportunity to share our thoughts on the proposed Guidance.

We are aligned with FSRA on the intended positive consumer and industry outcomes. FSRA's progressive and proactive approach to regulation in Ontario will help ensure that in partnership, rules and regulations reflect the current landscape and anticipates future evolutions, so that we all continue to deliver on promises outlined in Fair Treatment of Customers Guidance (FTC).

We look forward to further discussion and collaboration with FSRA on initiatives to achieve greater consumer protection as supported by a healthy and robust Canadian insurance marketplace. A marketplace where consumers have choice and can access the products they need, to protect what's most important to them, while having the assurance they will be treated fairly, by proficient and suitable agents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Giuseppina Marra".

Giuseppina Marra, CPA auditor, ICD.D  
Regulatory Affairs  
Desjardins Group

CC:

Mr. Denis Dubois, Executive Vice-President, Wealth Management and Life and Health Insurance Executive Division  
Mrs. Chantal Gagné, Vice-President, Life and Health Insurance Division  
Mrs. Marie-Andrée Alain, Vice-President, Compliance and Privacy Division and Office of the Chief Compliance and Privacy Officer