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Financial Services Regulatory Authority of Ontario (FSRA)
25 Sheppard St. W., Suite 100
Toronto ON M2N 6S6

Submitted via the FSRA website.

RE: Proposed Rule 2025-001, Life & Health Insurance – Insurance Managing General Agents

Independent Financial Brokers of Canada (IFB) is pleased to comment on the Financial Services Regulatory Authority of Ontario (FSRA) proposed *Rule 2025-001, Life & Health Insurance – Insurance Managing General Agents (Proposed Rule)*. This Proposed Rule establishes a framework for licensing and regulating Managing General Agents (MGAs) in Ontario.

About IFB

Independent Financial Brokers of Canada (IFB) is a national, not for profit association representing approximately 2,000 licensed professionals across Canada. Many IFB members are licensed by FSRA as life/health insurance agents.

IFB members must agree to adhere to IFB's Code of Ethics and Standards of Professional Conduct as a condition of membership. Often, they hold additional licenses or accreditations which permit them to address the broader financial needs of today's client. These can include securities/investments, mortgages, P&C insurance, deposit instruments, estate/tax services, and financial planning.

The Proposed Rule

MGAs play a significant role in the distribution of life and health insurance products in Ontario. They act as intermediaries between insurers and agents, providing various

services such as agent recruitment, training, underwriting, and claims administration. The Proposed Rule responds to the evolving MGA landscape and aims to enhance consumer protection by introducing a licensing regime for MGAs operating in Ontario.

IFB generally supports a licensing regime for MGAs, as this will help to promote transparency, accountability, and professionalism within the industry. We congratulate FSRA on its commitment to principles-based and outcome-focused regulation, which we believe leads to a stronger industry.

Clarity Needed

We have concerns about the vagueness of some of the requirements in the Proposed Rule, and the potential for life insurance companies to rely on MGAs to carry out supervision duties that rightly rest with the company.

While the Proposed Rule outlines the framework for MGA licensing, several provisions lack clarity and specificity. For example, the concept of "reasonableness" is used extensively throughout the Proposed Rule without providing concrete examples or guidance. FSRA indicates in the *Notice of Rule/Interpretation and Guidance for the Proposed Rule* that it is considering developing companion interpretation guidance. IFB strongly supports this idea and feels that those impacted by the Proposed Rule will greatly benefit from this additional material.

We suggest that the Guidance should provide specific examples and guidance to clarify the meaning of "reasonableness" in the context of the Proposed Rule's requirements. This will help MGAs understand their obligations and ensure consistent application of the rules.

Shared Responsibility

The Proposed Rule outlines a shared responsibility model between insurers and MGAs for agent supervision and compliance. However, there is a risk that insurers may over-rely on MGAs to fulfill their supervisory duties. It is crucial to clearly delineate the responsibilities of both parties to avoid any ambiguity and ensure that insurers maintain ultimate accountability for the actions of their agents.

IFB agrees that collaboration is essential. However, FSRA must ensure that insurers do not abdicate their supervisory responsibilities. Clearer guidelines and expectations for both parties are necessary to prevent any gaps in oversight, particularly as it relates to education and training of agents.

While the Rule appropriately places primary responsibility on the life insurance company

to provide training, it also allows insurers to rely on MGAs to provide this training. While this model provides flexibility, it does present a potential weakness, in that training could be inconsistent due to varying MGA capabilities and a lack of standardized curriculum. Additionally, blurring the lines of responsibility has the potential to lead to weakened oversight and an over-reliance on sales-driving training at the expense of broader knowledge required to serve clients in an independent manner.

This could potentially be addressed by limiting the number of CE hours that can be earned through MGA-provided training to ensure a broader base of knowledge for agents. Additionally, a clear accountability framework for advisor training should be established that delineates roles, responsibilities and accountability for all aspects of training.

Conflicts of Interest

We are pleased to see that section 6(2)(iv) and (v) of the Proposed Rule addressed potential conflicts of interest for the managing general agent's designated compliance representative. We agree that the MGAs compliance representative should not have any concurrent involvement with the MGA's sales function, nor should they receive commissions or other incentives related to those sales functions.

Privacy Concerns

Section 16(3)(iii) states that agents, upon an insurer's request, must provide records of "prospective insureds who considered purchasing the insurer's insurance." This access to information of individuals who did not become clients raise potential conflicts with Canada's privacy laws. "Considering" a product does not equate to broad consent for information sharing as these individuals haven't entered a client relationship with the insurer.

Insurers might argue they have a legitimate interest in accessing this data for compliance purposes, fraud prevention, or market analysis. However, this needs to be balanced against the individual's right to privacy.

There is an opportunity for FSRA to provide concrete examples to illustrate who and what is captured in this requirement. Does it include individuals who made informal inquiries, attended webinars, or downloaded brochures? Would it encompass individuals who were presented with a product illustration but did not proceed with an application? Clearly defining the scope of "considering" will provide much-needed clarity.

Requiring independent advisors to share information about individuals who are not their clients could erode consumer trust and discourage individuals from seeking financial

advice. People may be less likely to approach an advisor or be forthcoming with information if they fear that their data will be shared with companies they have not consented to engage with. However, if FSRA deems it necessary to collect data on prospective insureds, the Rule should mandate data minimization and anonymization.

Surety Bond vs. E&O Insurance

In Section 7, the Proposed Rule specifies that MGAs are required to carry either a surety bond OR E&O insurance. However, E&O insurance and Surety Bonds provide very different forms of protection.

E&O protects the MGA from financial losses due to claims arising from professional negligence or mistakes. It covers defense costs, settlements or judgements against the MGA and provides coverage for the actions of the MGA's staff. Surety bonds¹, on the other hand, primarily protect the insurer from financial losses caused by the MGAs failure to fulfill contractual obligations.

It is the view of IFB that E&O insurance, which most MGAs currently carry, is the most effective form of consumer protection. We would welcome clarification on what form of exposure FSRA sees a surety bond (as an alternative to E&O insurance) addressing. If the concern is fraud or the theft of funds, this could be addressed by mirroring the E&O requirements for life agents, which includes a fraud coverage component.

Cyberliability

Given the increasing reliance on technology and the prevalence of cyber attacks, this form of insurance should be required for MGAs. According to a recent Statistic Canada study², spending on recovery from cybersecurity incidents have doubled since 2021. In 2023, 1 in 6 Canadian businesses were impacted by cyber security incidents.

Given the volume and nature of client information in the care of the MGA, IFB supports the inclusion of standards for this form of insurance, proportionate to the size and complexity of the MGA.

Conclusion

IFB supports the regulation of MGAs in Ontario. However, the Proposed Rule needs further clarity and specificity to ensure effective implementation and avoid unintended

¹ <https://www.travelerscanada.ca/prepare-prevent/business/what-is-a-surety-bond>

² <https://www150.statcan.gc.ca/n1/daily-quotidien/241021/dq241021a-eng.htm>

consequences. By addressing the recommendations outlined above, FSRA can create a robust regulatory framework that protects consumers, promotes fairness, and fosters a competitive and innovative MGA sector in Ontario.

IFB appreciates the opportunity to provide comments on the Proposed Rule and would be pleased to discuss our comments in further detail.

Yours truly,

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