April 29, 2025

Financial Services Regulatory Authority of Ontario

Re: MGA Proposed Rule 2025 – 001 Life and Health Insurance Managing General Agents

The Canadian Association of Independent Life Brokerage Agencies (“CAILBA”) appreciates the opportunity to respond to the Financial Services Regulatory Authority of Ontario (“FSRA”) public consultation on the proposed *Rule 2025-001 – Life and Health Insurance Managing General Agents (*the “Proposed Rule”).

As the national voice of Managing General Agencies (“MGAs”) in Canada, CAILBA is committed to fair treatment of customers and maintaining high standards of compliance and professionalism within the life insurance industry. Our feedback is designed to help promote the successful implementation of this project while preserving the efficiencies of the industry and continued access to advice for consumers. To this end, while we understand this guidance addresses principles and not methods, our comments necessarily include some requests for clarity of methodology, and we also offer some suggested examples of how aspects of this guidance can be implemented.

CAILBA supports the intent of the proposed rule 2025-001 Life and Health Insurance Managing General Agents as we feel this will enhance consumer protection and align with the principles of Fair Treatment of Customers (“FTC”). We also appreciate FSRA recognizing the unique characteristics of life and health Managing General Agents, which differs from general insurance MGA distribution models.

MGAs and National Accounts (NA), while different in ownership and structure, but for this consultation we consider them alike and will refer to them simply as “MGAs”, play a critical role in the distribution of insurance products and believe that neither the insurer nor the MGA or NA should be the only entities to have oversight obligations, and believe shared obligations with the insurers are appropriate and necessary.

CAILBA believes having a dedicated licensing class for L&H MGAs should provide a framework where MGAs and insurers could and should have a shared oversight responsibility. MGAs as a licensee of FSRA, will then have oversight by the regulator, however , the rule as currently drafted does not clearly separate the roles and responsibilities of FSRA and the insurers for the oversight of MGAs. We question whether achievement of FSRA’s stated outcomes of consistent treatment across distribution channels, fair treatment of customers and enhanced compliance can be achieved?

Interpretation (Section 1)

Broadly speaking, CAILBA believes that some tasks belong to the insurer, for example "training advisors" (Section 1 (ix)) with respect to the manufacturers' products, insurer promoted strategies, and knowing your customer (as it applies to matching the customer to the appropriate product/strategy); should be conducted and ensured by the insurer, while market conduct, monitoring and oversight (in a shared capacity), and advisor compliance training can fall to the MGA.

Application (Section 2)

CAILBA supports the Rule and application of this but believes the definition of the MGA and identification of others that "act like an MGA" needs to be clarified. Previous literature put out by FSRA identifies intermediaries performing MGA-like functions as MGAs. Some functions of an MGA are also undertaken by entities that are not MGAs. The lack of clarification regarding the definition of an MGA creates confusion for our members and challenges self-identification

Designated Compliance Representative (Section 6)

Generally, our members agree with the proposed duties and eligibility (Section 6.2) however, the requirements for the individual to be an officer, or a partner of the organization seems excessive for this Rule. Many of our members have a qualified, designated compliance representative that is a compliance professional, proficient in their duties and are neither an officer, or a partner.

Our members believe that Section 6.2 needs to be reassessed as the majority of all members would not be able to fulfill this requirement today. Implementation of this requirement, as is, would force some firms to make significant changes, and many of those would be costly due to the "wording" requirements, and not satisfying the responsibilities of the role. For example, some firms would need to make their compliance representative an officer of the firm, others would need to make a partner of the firm take on the compliance representative role, others would need to create an executive leadership role, rather than a senior leadership role, resulting in additional costs for the firm wherein, the knowledge, experience and qualifications should be sufficient.

Managing General Agents Compliance System (Section 9)

In the proposed Rule, the expectation to audit sub-managing general agent(s) ("Associate General Agent" or "AGA") in Section 9(3), at least annually, is unrealistic based on the current number of agents-to-MGA ratio. In addition, our members had additional comments:

- What does the assessment process 9(4) shall be *'reasonably designed'* mean? More details are needed.
- How to ensure no duplication of oversight? Potential for overlap with other MGAs and Insurers?
- How will proportionality work? Details or specifics needed.
- Different methods to achieve same results may be possible. What are they?
- Could APEXA be used as part of the solution? Compliance documents could be uploaded for ease of access and viewing.
- Can the audits be simplified, or could they be coordinated so the MGAs do not have to undergo more than 15 audits per year by insurers, currently the norm, or is there an unbiased entity, perhaps a self-regulatory organization ("SRO"), that can perform this

function on behalf of the regulator/industry? Perhaps an independent body can perform the audits rather than every carrier, and or regulator.

In Section 9(5) the ability to develop/support/manage a 'client service continuity plan' is one of the biggest challenges facing MGAs today. Many of which have thousands of orphan-like clients that do not have a dedicated agent due to license surrenders/revocation, retirement, or death. The desire to take on another agent's client for service is almost non-existent due to the lack of service fees that are transferable to the new agent. The vested commissions problem, while not a FSRA problem, it a notable issue CAILBA would like to remind everyone that it makes it, not only challenging, but nearly impossible as agents will not take on clients from another agent, along with the potential liability, without any compensation or service fee.

Shared Responsibility for Outcomes (Section 10)

In CAILBA's opinion, clear responsibilities for the regulators, MGAs and insurers (delineation of duties and responsibilities) are crucial. We believe the MGAs should have oversight of the agent compliance profile, and FSRA and the Insurers should have oversight of the MGAs.

We agree with the proposed Rule in that there should be oversight of agents and oversight of MGAs. Both entities have a role to play in the distribution of insurance products for the insurers. What our members would like to see is a framework that goes along with this proposed rule. How should this be done? What are the criteria to make this happen and how will this successfully be achieved?

We are of the view that the regulator should perform a significant role in overseeing MGAs. Obtaining and holding an MGA license is not enough. MGAs are large contributors in the distribution of insurance products and fair and equal oversight and accountability

Insurers should remain responsible for ensuring certain criteria are met, for instance, MGA suitability, appropriate licensing, robust compliance programing including the monitoring & supervision of agents, as week as a program to test the ongoing suitability of agents it contracts with.

Further to our comments on oversight of an MGA as being a shared responsibility among insurers and the regulator, we see oversight of agents as a shared responsibility between insurers and MGAs, With insurers e-application systems and on-line transaction portals, monitoring and controlling for KYC, KYP, KYS and controlling for licensing jurisdiction of the advisor, whereas MGAs monitor for advisor compliance profile and conduct. OBA monitoring would be a shared function between MGA, insurer and regulator. Enhanced reporting from the insurers and better data accessibility for the MGAs will help in the monitoring and oversight activities relating to:

- The suitability of an agent's business mix and client recommendations
- The replacement or churning of business across multiple insurers
- Persistency and lapse trends for all advisor business

With respect to the MGA monitoring advisor compliance profile and market conduct, where this becomes complicated when the agent has more than one MGA relationship, and thus, has many insurer contracts spread across multiple MGAs. This weakens the ability to have meaningful

oversight and each MGA, while being part of a collective group under CAILBA and the industry, is still a competitor of each other.

In addition to the multiple MGA relationships an agent can have, they can also have a direct agreement with an insurer, as can an AGA. This relationship somewhat mirrors the former career agent model, and where this relationship exists, we believe the onus should be on the insurer to confirm the agent is certified, suitable and would perform the oversight directly, as the contract is direct.

Training Agents (Section 15)

As discussed earlier in this document under Section 1, CAILBA believes that "training advisors" (Section 1 (ix) and Section 15(1) (iii)) with respect to the manufacturers' products, insurer promoted strategies, and knowing your customer (as it applies to matching the customer to the appropriate product/strategy); should be conducted and ensured by the insurer, while market conduct, monitoring and oversight (in a shared capacity), and advisor compliance training can fall to the MGA.

Transitional Matters (Section 18)

The majority of our members believe an iterative transition period and scope are required to make the transition successful at each stage.

Our members support the efforts of FSRA to make positive changes to MGA licensing and oversight to achieve better outcomes for consumers and protect consumers' interests. In the next stages of this Rule development, our members ask for expanded details relating to the points referenced herein.

We thank FSRA for allowing us the opportunity to comment on this consultation and remain available for future discussions on this subject including the transition period, implementation, application and refinement of the Rule.

Respectfully,

Phil Marsillo, President
Canadian Association of Independent Life Brokerage Agencies