



Nick Pszeniczny
Executive Chair
Financial Horizons and Advice Canada
Suite 1280, One London Place
London, ON N6A 5R8
Direct Line: 519-878-5997
nick.pszeniczny@financialhorizons.com

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Financial Services Regulatory Authority (FSRA)
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Dear Sirs/Mesdames,

Re: Consultation on proposed Rule 2025-001 – Life and Health Insurance Managing General Agents

Thank you for the opportunity to comment on FSRA's *'Rule 2025-001 – Life and Health Insurance Managing General Agents'* (the "**Proposed Rule**").

Financial Horizons ("**FH**") is one of Canada's largest, longest-running and most productive MGAs, with over 10,000 independent advisors, 19 branch offices (6 in Ontario), and over 300 employees. FH is at the forefront of the industry, with representatives on the Board of Canadian Association of Independent Life Brokerage Agencies (CAILBA) and FSRA's MGA Technical Advisory Committee.

FH submits the following comments on the Proposed Rule.

1. Definition of MGA

FH believes that the Proposed Rule should apply to "traditional" MGAs, and not to other entities such as "Sub-MGAs" or "AGAs".

A "traditional" MGA would be a legal entity that has contracts in two directions: (i) up to an Insurer or Insurers to access insurance products and commissions, and (ii) down to Agents (be they individuals, corporations or partnerships) who are licensed as Agents to sell insurance products to consumers.

The MGA is not client-facing and provides no services or advice to consumers. Rather, the MGA provides services (such as education, training and monitoring) to Agents, and the Agents provide services and advice to consumers. If an MGA is also engaged in selling products to consumers (whether limited to orphan clients or otherwise), then the MGA should also have an Agent license, to permit the selling to consumers, in addition to the MGA license.

2. AGAs and Sub-MGAs:

FH believes the Proposed Rule should not apply to AGAs or Sub-MGAs.

FH has a number of relationships with AGAs, also known as “Associate General Agents.” An AGA is an entity that has contracts in two directions: (i) up to an MGA to access the MGA’s product offering through the MGA’s contracts with Insurers, and (ii) down to the AGA’s Agents (be they individuals, corporations or partnerships) who are licensed as Agents to sell insurance products to consumers.

A typical MGA-AGA relationship has the following components:

- (a) The AGA represents a number of advisors (the “**AGA Agents**”) that are contracted directly with the AGA.
- (b) Each AGA Agent has its own commission rates (being first year override or FYO rate, and segregated fund commission rate) with the MGA.
- (c) The AGA’s commission rates with the MGA are higher than or equal to the commission rates of its AGA Advisors.
- (d) For any sale by an AGA Agent of an insurance product, (i) the AGA Agent will earn its commission on the sale and (ii) the AGA will earn its commission “spread” (being the difference between the AGA’s commission rate and the AGA Agent’s commission rate) on the sale.
- (e) The AGA is primarily responsible for monitoring and supervising the activities of the AGA Agents, and the AGA is liable for the actions of the AGA Agents, including responsibility for chargebacks.

While the AGA would have primary responsibility for supervising its AGA advisors, the MGA would have secondary responsibility for such supervision, from the perspective of the Insurers and regulators.

FH’s view is that an AGA relationship should only be permitted if the AGA is performing a valuable function in the sale process, such as by having primary responsibility for monitoring and supervising the actions of its AGA Agents. FH believes that an AGA relationship should not be permitted if the only purpose of the AGA is to receive a share of the commissions, such as in a referral-type relationship. In other words, a referral should not result in the AGA earning a share of the referred Agent’s commission in perpetuity.

Since the MGA would continue to have secondary responsibility for supervising the AGA Agents, FH’s view is that no more than one AGA or Sub-MGA “level” should be permitted. In other words, the maximum number of entities receiving a share of the commission should be three (3), being the MGA, the AGA, and the AGA Agent.

FH is aware of some MGAs permitting more commission-sharing levels. FH has never engaged in that type of multi-level structure because, in FH’s view, FH would not be able to adequately monitor or supervise Agents that are so far removed from the MGA level. FH also believes that, in a multi-level structure, it is unrealistic to expect that all entities in the structure are actually performing valuable functions in the sale process.

3. Audits

FH believes that the audit requirements in the Proposed Rule, which require Insurers to audit MGAs at least once per year, and which require MGAs to audit AGAs at least once per year, is too onerous.

FH has MGA Contracts with 30 Insurers and AGA Agreements with dozens of AGAs. Currently, Insurers audit FH once every 1-3 years (depending on the Insurer), and FH audits its AGAs approximately once every 3-5 years (more frequently if there’s an elevated risk).

The audit requirements should not be so onerous that the MGA's Compliance Team is so focused on audits that they cannot perform their primary tasks to reduce consumer harm.

We have two suggestions for how the audit process could be simplified for MGAs:

- (a) FSRA could audit each MGA annually, and the various Insurers could rely on FSRA's audit results. The result would be that an MGA would have one audit per year, as opposed to 20-30 audits per year. To the extent FSRA requires additional resources for this, perhaps the Insurers could pay for the audits given that they won't have to do their own audits of each MGA.
- (b) As an alternative to the above, if FSRA provided a recommended Audit Compliance Checklist that the various Insurers could adopt, then MGAs could gather the documents to satisfy the FSRA checklist and then provide the same set of documents to all Insurers, thus simplifying the audit process for MGAs. (We understand this is already being done, to an extent, but most Insurers add their own questions which results in each audit being unique.)

For auditing AGAs, the MGA should be permitted to follow the same "risk-based approach" that it uses to select Agents for audit.

4. Primary MGA Model, or Mandatory Information-Sharing Among MGAs

If the MGA is to have primary responsibility for monitoring and supervising its Agents, then the MGA must be empowered to perform this role. It is unreasonable and unrealistic to expect an MGA to effectively monitor an Agent's practice if the Agent has contracts with multiple MGAs.

FH supports the 'Primary MGA Model', as it's the best way to ensure that the MGA can effectively monitor and supervise its Agents. Under this model, an Agent may only have one primary MGA, and could contract with a second MGA only to access Insurer products that aren't offered by the primary MGA. The primary MGA would therefore have primary responsibility for monitoring and supervising the Agent.

In the absence of this protection, it would be impossible for the MGA to discover churning activity between Insurers through different MGAs.

We're aware that some of the smaller MGAs oppose the 'Primary MGA Model', because such a change would devastate their business model. As a compromise solution, FH believes that similar protections could be effectively achieved with the following rules:

- (a) An Agent may have no more than two (2) active MGA contracts at any time.
- (b) An Agent with two (2) active MGA contracts must disclose this information to both MGAs, including the identity of the other MGA.
- (c) If an Agent is contracted with two (2) MGAs, then each MGA is authorized and required to share information about the Agent and the Agent's clients with the other MGA, to the extent required to responsibly monitor and supervise the Agent's business. Given privacy considerations, it is important to balance the privacy concerns of consumers with the consumer protection that will be gained when the MGA is empowered with knowledge of the Agent's entire practice.

5. Specific Minimum Criteria for MGA Suitability Requirements

FH's view is that many of the requirements in the Proposed Rule are too principled or vague to be effective, so FH recommends adding clarity.

FH proposes that MGAs have the following minimum requirements (the "**Specific Minimum Criteria**") in order to be licensed to operate as an MGA in Ontario:

- (a) A Compliance Officer with (i) a university or college degree, or equivalent experience, (ii) a minimum five (5) years experience working in a compliance-related function in Canada, (iii) proven proficiency via an exam or periodic exams, and (iv) a detailed continuing education requirement.
- (b) A Compliance Department consisting of no fewer than one full-time Compliance employee (which may be the Compliance Officer) per every group of 1,000 or fewer advisors represented by the MGA. For clarity, a firm consisting of 10 individual advisors would count as 10 advisors for this requirement. Each full-time Compliance employee must have employment duties focused only on Compliance and market conduct activities.
- (c) Errors & Omissions insurance, with coverage for prior acts, with minimum limit of \$1M per occurrence and \$2M in aggregate.
- (d) Cyber insurance, with minimum limit of \$1M per occurrence and \$2M in aggregate.

We believe that most of the risks faced by consumers and Agents in the marketplace would be significantly reduced if all MGAs had adequate Compliance Departments. There are currently no formal guidelines for the minimum qualifications or proficiency required of an MGA's Compliance Officer. This is unlike other industries which provide detailed minimum requirements for Compliance Officers.

The current legislation wording – which references sufficient "*expertise and resources*" and "*an adequate compliance function*" – is so ambiguous and vague that it may not cause any change in the way MGAs operate and behave. We believe most, if not all, of the larger and well-established MGAs have been, for themselves, insisting on criteria well above the proposed Specific Minimum Criteria for years. We believe that smaller, less organized, MGAs pose a much greater risk to consumers and to the reputation of the industry as a whole, and the Specific Minimum Criteria may be effective in helping to mitigate that risk.

Regarding the requirement for the number of full-time Compliance employees, please note that FH's Compliance Department is roughly two (2) times the size of this minimum criteria. Different MGAs may have different requirements for their Compliance Departments, depending on how proactive vs. reactive they choose to be, and depending on the nature of their advisor networks. We believe that one full-time Compliance employee per 1,000 advisors is a reasonable minimum requirement.

Regarding the suggested insurance requirements, we note (i) the Errors & Omissions insurance requirement is already included in most, if not all, of the standard MGA Contracts that Insurers have with their MGAs, and (ii) while Cyber insurance is not usually a contractual requirement, the nature of current business risks makes Cyber insurance as important to the protection of consumers as Errors & Omissions insurance, and the popularization of Cyber insurance in recent years has resulted in such coverage being more affordable.

While we believe the above Specific Minimum Criteria are appropriate, we offer the recommendation to spur conversation and debate. Our main concern is that specific minimum criteria, whatever they may be,

be included in the final version of the Proposed Rule. Otherwise, if the requirements are merely principled instead of prescriptive, we are concerned the requirements will be interpreted very differently by different parties, and the consumer protection goals of the Proposed Rule will not be achieved.

Thank you for the opportunity to provide feedback on the Proposed Rule. We look forward to being part of the ongoing dialogue and working with FSRA on these important issues.

Yours truly,

FINANCIAL HORIZONS

A handwritten signature in black ink, appearing to read 'Nick Pszeniczny', with a stylized, cursive script.

Nick Pszeniczny
Executive Chair
Financial Horizons and Advice Canada