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Expert Advisory Panel – FSCO/FST/DICO Mandate Reviews
Ontario Ministry of Finance
Financial Institutions Policy Branch (FIPB) and Income Security & Pension Policy Division
Frost building North, Room 424
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Submitted by email: FIPBmandatereview@ontario.ca

Attention: Expert Advisory Panel

Subject: Review of Mandates of the Financial Services Commission of Ontario (FSCO), Financial Services Tribunal (FST) and the Deposit Insurance Corporation of Ontario (DICO)

Independent Financial Brokers of Canada (IFB) is pleased to provide our comments to the Expert Advisory Panel. The majority of our members are regulated by FSCO as life/health insurance agents, and as such are directly affected by any changes to FSCO. Therefore, our comments will focus on the mandate review as it pertains to FSCO.

IFB is a not for profit, professional association representing approximately 4,000 licensed financial advisors across Canada. The majority of our members are located in Ontario and licensed to sell both life insurance and mutual funds. Many hold other, complementary, financial licenses such as P&C insurance, mortgages, GICs, etc.

Our members are independent in that they can offer the products and services of more than one company. They adhere to a voluntary code of conduct which places the interests of clients first. Many studies have shown that people who work with a financial advisor achieve better long-term results, and are better prepared to meet their financial goals.

IFB supports the FSCO review. The mandate of FSCO has expanded significantly since it was created in 1998, as have the complexities in the sectors it regulates. For example, in today's financial marketplace, advisors don't just provide product recommendations, but provide advice and coaching that helps individuals and families set reasonable goals and work toward meeting these goals. To address this change, regulation has moved in a principles based direction, focused on positive consumer outcomes, and away from more limited product regulation. As well, the regulation of financial services has become more global in nature and the risk management processes expected of all market participants reflect this global view.

We have chosen to respond to the questions below, as they are the most pertinent to the regulation of our members.

Future of the Financial Services Sector

Q.5 What are your views on the future of the financial services sector over the next 10 to 15 years and how should the mandate and functions of FSCO be adapted to address the market transformation to come?

The pace of change, both within the financial services industry, and in virtually all other aspects of life, has increased to the point that predicting what will happen in even 2 or 3 years is challenging. There are trends, however, that are currently shaping the industry, and that will continue to do so over the course of the next decade.

<u>Aging population</u> - One of the greatest challenges facing this industry is that of an aging population. Financial advisors work with an increasingly elderly client base, and are increasingly called up to act as intermediaries in situations where the adult children of a client may be exercising undue influence. They are often the first to see signs of declining mental capacity in their clients, and must develop the knowledge and skill to deal with these sensitive matters.

At the same time, financial advisors are aging, too. The average age of an independent broker is 56, and because of the nature of the industry, some continue to work and serve clients well into their 80s. Succession planning for advisors has become an industry imperative as we all work to ensure that clients are not left in the lurch when an advisor leaves the business through retirement, incapacity, or death.

Similarly, the large cohort of advisors who will leave the industry in the next 10 to 15 years must be replaced with new entrants to the business who can provide the same high level of caring service that Canadian consumers currently enjoy. The international focus on the fair treatment of the customer will continue to be addressed through rule-making and regulation, however, this must be balanced so that the cost of compliance does not become prohibitive so that only the wealthy can afford access to independent advice.

The next 10-15 years will see large numbers of individuals leaving the workforce and drawing on their pension plan benefits and retirement savings. Pension plans must be solvent and positioned to pay benefits for these retiring workers. There is considerable evidence that this is not currently the case. FSCO must be proactive, and have the legislative power and regulatory authority under the *Pension Benefits Act,* to ensure it can take appropriate action when required.

The aging population will also make greater demands on Ontario's health care system. Research shows that living longer increases the chances of having a critical illness or disability and that the cost of care represents a huge financial burden. While traditional life insurance products are important to provide long-term protection for families or dependents in the event of death, increasingly critical illness protection needs to be part of a financial strategy for individuals and families so they can cope with the cost of treatment and long term care.

Future of advice - Call centers, mobile applications, and the internet are expected to grow and influence how consumers access life insurance products. Roboadvisors will appeal to consumers who prefer to do their own online comparison shopping and make purchases without advice. The growth of these channels will create opportunities, and also challenges – especially for regulators who must ensure consumers remain protected even when accessing insurance through less traditional means. Regulators, like FSCO, will have to adapt to providing market oversight and taking disciplinary action in the absence of an agent.

Despite these challenges, IFB believes that, looking forward, the independent sales channel will remain relevant and continue to thrive. Our members believe that providing advice that includes a choice of products and product providers is the best form of consumer protection, because it allows them to find the best product to suit the consumer's financial need. Clients rely on their advice – often over many years – and this trust adds value to this relationship that "no advice" channels cannot provide.

Industry consolidation - The increasingly global context of business, competition and the costs associated with compliance, are driving consolidation in the insurance industry – thereby reducing the number of insurance companies and MGAs conducting business.

In the future, FSCO may have fewer insurance companies and agencies to regulate but those that remain will more likely be larger corporations offering a wide array of complex financial products across various sectors. Today's traditional, small family owned businesses or partnerships may be threatened if they cannot compete with large firms, or meet the increased costs of regulation. Regulators need to address whether the loss of independent financial businesses, and the advice these advisors provide, represents a reduction in consumer access and protection. IFB believes it does, and is becoming a real, if unintended, consequence of an overburdened financial sector.

Consumer Protection and Promoting a Strong Financial Services Sector

Q. 6 *Should the legislated mandates of the agencies explicitly refer to the goal of consumer protection, and should that goal be balanced with the goal of promoting a strong financial services sector? If yes, how?*

We agree that consumer protection and promoting a strong financial services sector are appropriate goals for FSCO. These goals are integrated in that a strong financial services sector promotes consumer trust.

Ontarians need to feel confident that they can achieve a stable financial future for themselves and their families and be confident that the marketplace has adequate oversight and controls in place to protect them from fraud and dishonesty. Regulators and government initiatives must provide tools for consumers to increase their financial literacy and education and be better prepared to make good decisions. Many of the initiatives underway intended to provide consumers with greater transparency, through enhanced disclosure, contribute to both goals by promoting trust. Setting expected outcomes of good corporate governance will help prevent the systemic risks, attributed to previous market instability, and that lead to a reduction in consumer confidence.

A strong marketplace is also an important element in attracting new entrants to the business and preserving its ongoing sustainability. The life insurance business must be seen to be an attractive career choice for young people. Without this we will see a future where an increasing number of households lack basic life insurance or critical illness protection that will help them to be more financially resilient in the event of death or incapacity. LIMRA research indicates that the number of households with life insurance is at a 30 year low. From a social policy point of view this represents a tremendous gap in risk management for families.

Structural Models

Q. 7 Should FSCO continue to exist as an integrated regulator?

It is clear from some external reports that FSCO is overburdened and needs to be restructured or have significantly more resources available to be an effective and efficient regulator.

In March 2014, the International Monetary Fund (IMF) published the findings of its detailed assessment of "Canada's regulatory regime and supervisory practices against the international standards established by the International Association of Insurance Supervisors (IAIS), as part of the 2013 Financial Sector Assessment Program (FSAP) of Canada."   The report made several references to the need to review the adequacy of FSCO's supervisory resources in order to deal with the "size and diversity of the Ontario marketplace".

In addition, the IMF report suggests that this lack of supervisory resources has reduced FSCO's capacity to set out its own expectations with respect to corporate governance and market conduct, and that it lacks the necessary powers to "issue enforceable rules on product development and promotion."   These issues paint a picture of a regulatory body that is overburdened, and, as the report continues, lacks the "adequate resources to undertake proactive Conduct of Business supervision of insurers and intermediaries."

Whether FSCO remains an integrated regulator, or there is evidence to support dismantling of regulatory authority over certain sectors, the issue for IFB is that each of the regulated sectors be subject to an appropriate level of oversight that will protect consumers and the industry. Given the findings referred to above, if FSCO remains an integrated regulator, significantly more resources will need to be added to achieve this.

Q.8 Are there any regulated financial services entities or sectors that would be suited to a self-regulatory regime?

Our comments on this question are restricted to the creation of a SRO as it pertains to life insurance agents. We have not undertaken an extensive review of whether this approach is a desirable one, however, we recognize that there are different models that a self-regulatory organization can take, which can range in scope.

In our opinion, any examination of a SRO for life insurance would have to reflect the public interest accountability that FSCO has built into its mandate today, as expressed below:

Regulatory bodies are expected to act in the public interest and not in the interest of the profession they regulate. In many situations, the public interest and the profession interest may be the same. In situations where they are not the same, it is the role of the professional association to represent the interests of the profession, while the regulatory body considers the public. Because of the conflict between making decisions in the interest of the public versus that of the profession, governments often requires a separation between regulatory body and professional association.[1]

[1] Understanding Professional Self-Regulation Glen E. Randall BA, MA, MBA, PhD candidate http://www.oavt.org/self_regulation/docs/about_selfreg_randall.pdf

Ontario's Auditor General, in its recent review of FSCO's regulatory oversight of life insurance agents, suggested weaknesses in market conduct oversight, could be addressed by establishing an SRO to oversee the licensing and monitoring of life insurance agents. The report went on to suggest that the SRO could possibly be an advisor association[2].

While it was not clear what the AG meant by an "advisor association", as an association representing advisors, IFB does not agree that this is appropriate. Associations speak on behalf of their members to advocate for professional and public policy initiatives that represent their members' interests. A regulatory body is mandated with protecting the public interest as an impartial arbitrator, which an advisor association cannot be.

FSCO already shares some aspects of a SRO in its dealings with life insurance agents, in that it sets the licensure standards (both entry and ongoing), undertakes disciplinary action, and the majority of its costs are recovered from the insurance sector. Further, our understanding is that a number of the criticisms pertaining to market conduct deficiencies that were identified in the AG's report are already in the process of being addressed by FSCO through technological enhancements.

Many life insurance agents hold other financial licenses, most commonly as securities registrants. How this "SRO" would operate across these two sectors, and provide oversight for advisors licensed in multiple jurisdictions, would have to be fully explored. Whether creating a SRO is a possibility will require a thorough cost-benefit analysis, and evidence that this alternative will be of greater benefit to both consumers and the industry, than the current structure.

In conclusion, IFB appreciates the opportunity to provide our comments to the Panel. The mandate review provides the opportunity to position FSCO as a relevant and effective regulator into the future. We look forward to contributing to this process and providing further comment as the Panel works toward its recommendations.

Please contact the undersigned, or Susan Allemang, Director, Policy & Regulatory Affairs (email: sallemang@ifbc.ca) should you wish to discuss our submission further.

Yours truly,

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[2] Auditor General, Ontario. Chapter 3, Section 3.03, Financial Services Commission of Ontario – Pension Plan and Financial Service Regulatory Oversight