



May 30, 2012

Mr. Philip Howell  
Chief Executive Officer and  
Superintendent, Financial Services  
Financial Services Commission of Ontario  
5160 Yonge Street, Box 85  
Toronto, ON M2N 6L9

**RE: Statement of Priorities for 2012**

Dear Mr. Howell,

I am writing to you on behalf of the Canadian Association of Financial Institutions in Insurance (CAFII) in regard to the draft 2012 FSCO Statement of Priorities.

Risk-based Regulation

We support FSCO's three main priorities particularly the emphasis on risk-based regulation. FSCO notes that risk-based regulation involves monitoring, identifying, focusing and allocating resources toward the highest risks in each regulated sector. One important tool of risk-based regulation is the self-evaluative questionnaire. Industry is increasingly being asked to supply information in response to such questionnaires. We believe it will provide the necessary protection to companies if such information is protected by "self-evaluative privilege". This was a position recommended by the Canadian Council of Insurance regulators (CCIR) and adopted by Alberta and Manitoba in their recent *Insurance Act* reviews. Given Ontario's focus on both risk-based regulation and harmonization, we recommend that self-evaluative privilege be adopted.

CAFII also recommends that a risk-based perspective be extended to any market conduct regulation changes under consideration, such that changes are measured against the risk to consumers, e.g distribution of insurance over the Internet. The electronic channel's broad geographic reach can help ensure that insurance is made available to uninsured and underinsured consumers and we therefore recommend that the final regulations should foster electronic distribution.

Harmonization

We also appreciate FSCO's continued leadership in fostering a coordinated national approach to regulation. CAFII members offer insurance coverages in multiple jurisdictions and it is very important that regulations are as similar as possible across all jurisdictions.

Coordination of regulations is also important for ensuring that consumers have consistent satisfactory experiences in each jurisdiction.

Below we offer our comments on initiatives to be undertaken for each strategy that are of particular interest to CAFII.

- 1) *Implement Administrative Monetary Penalties (AMP) model in the insurance sector.*  
We note that Bill 55, when passed, will provide for AMPs. CAFII is on record as supporting AMP as an enforcement tool provided that there are guidelines on how the AMP would be levied, i.e., that a penalty would be used to address persistent problems rather than inadvertent error. CAFII would appreciate the opportunity to comment on draft regulations when they are available.
- 2) *Conduct life insurance product suitability reviews.*  
Market conduct reviews of suitability of product recommendations would involve a variety of distribution channels and intermediaries, and life and health insurance products with a wide range of complexity. We would appreciate discussing with you how such a review would be undertaken and offer our assistance.
- 3) *Build an enterprise relationship system.* This system will offer one-window access to check or renew licenses, submit filings, pay fees and do other related tasks.  
CAFII supports ongoing improvements to electronic licensing systems. In keeping with the priority of fostering a coordinated national approach to regulation, we also recommend pursuing compatibility of electronic systems with other jurisdictions. Alberta has proposed a business number registration system to be used by all jurisdictions that would serve as a central database of all insurance licensees and record all infractions by licensees. CAFII supports a central database as a step toward efficient multi-jurisdictional licensing.
- 4) *Develop and implement social media initiatives and Web 2.0 enhancements for public website.*  
CAFII supports development of web tools that facilitate communication with stakeholders.
- 5) *Harmonize life and accident and sickness insurance.*  
CAFII would like to acknowledge the efforts of FSCO, in conjunction with the Ministry of Finance, in updating the *Insurance Act*. When updates are done as part of a Budget Bill, we understand that confidentiality requirements do not allow for industry consultation. There are, however, a few comments we would like to make about the changes and hope that they can be included in the revisions to the Act.

We note that the limitation period references the Ontario *Limitations Act 2002*. As insurers must also deal with other provinces as well, we respectfully request that the required contract wording be changed to accommodate other provinces.

We also note that Electronic Commerce provisions have not been included in changes to the Act. In our submission to the CCIR paper we recommend that provisions to allow for electronic beneficiary designations be permitted. In Alberta, the statute

states that Electronic Commerce legislation applies to the *Insurance Act* except for specified exceptions related to termination of contract by the insurer and CAFII recommends that Ontario adopt a similar provision. Customers often do not mail in written beneficiary designations and this results in many coverages where no beneficiary is specified. From a customer service perspective, being able to deal with clients in the medium of their choice is important, whether that be electronic or paper. We therefore reiterate the importance of noting the application of the *Electronic Commerce Act* in the *Insurance Act* to so that there will be protection of beneficiaries' rights at the time of a claim.

CAFII appreciates the opportunity to comment on FSCO's priorities and looks forward to continued communication and input on policy matters.

Yours truly,



John Lewsen  
as CAFII Secretary