

**DRAFT ONLY**  
**NOT FOR DISTRIBUTION BEYOND CAFII MEMBERS**

May 29, 2014

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: FSCO Statement of Priorities for 2014**

Dear Mr. Howell:

I am writing to you on behalf of the Canadian Association of Financial Institutions in Insurance (CAFII) with respect to FSCO's 2014 Statement of Priorities.

CAFII supports FSCO's over-arching emphasis on risk-based regulation and its four main strategies. Below we comment on initiatives to be undertaken that are of particular interest to CAFII; and thereafter we address some matters of general strategic focus.

*1) Conduct life insurance and mortgage broker product suitability reviews (Initiative 1.4)*

CAFII has appreciated its involvement as a key stakeholder in the continuing life insurance product suitability review initiative, launched in Spring 2013, including our April 9, 2014 meeting with the project team to provide feedback on the Interim Report stemming from the review.

We acknowledge FSCO's prudent decision, rooted in risk-based regulation, to narrow the scope of the review to include only face-to-face, across-the-kitchen-table sales of term life, whole life and universal life insurance. Thereby, the electronic commerce, contact centre, and incidental sales of insurance (ISI) alternate distribution channels through which CAFII members offer creditor's group insurance were excluded from the review.

In keeping with the comments we shared with the project team on April 9, CAFII offers a caution to take care to avoid unwarranted inferences and generalizations not justified by the data generated from the Life Agent Questionnaire completed by a random sample of captive and independent life insurance agents involved in face-to-face sales.

With respect to the non-face-to-face contact centre environment – the prime sales support mechanism for the alternate distribution channels which constitute the bulk of CAFII members' business -- the issues identified by the survey with respect to low levels of written documentation and failure to provide legally mandated disclosures are "not applicable." CAFII member contact centres are controlled, monitored environments where all required disclosures are set out in

scripts and where interactions with the consumer are recorded and thereby documented. The Contact Centre environment is distinctly different, and rules and regulations that are germane and applicable to licensed life agents should not be applied to incidental sales of insurance.

2) *Develop and implement an information technology Enterprise Development Program (Initiative 2.2)*

CAFII supports this initiative and commends FSCO for the business case and project plan progress it has made on this system, intended to create one window access to check or renew licenses, submit filings, pay fees, and do other related tasks. We support ongoing improvements to electronic licensing systems.

In keeping with the priority of fostering a co-ordinated, national approach to licensing and regulation, we recommend that FSCO pursue compatibility of its electronic systems with those of other jurisdictions. That focus on co-ordination and integration should include the Canadian Insurance Participant Registry (CIPR) currently being rolled out by the Alberta Insurance Council, given its breakthrough potential as a platform for a nationally harmonized licensing system.

3) *Implement fraud awareness stakeholder engagement strategy (Initiative 3.1)*

CAFII congratulates FSCO for undertaking to work with insurance stakeholders and consumers to implement an anti-fraud awareness strategy, and provide information to consumers on fraud in the insurance sector. Should FSCO decide to pursue an industry partnerships approach to this initiative, our Association stands ready to co-operate and assist.

4) *Promote consumer access to financial literacy information (Initiative 3.3)*

CAFII supports FSCO's intention to promote consumer access to educational materials that can strengthen financial literacy in all regulated sectors. Our Association has recently increased its strategic focus on Consumer Financial Literacy as a win-win goal that is good for consumers, for business, the economy, and our society. Should FSCO decide to pursue an industry partnerships approach to this initiative, CAFII stands ready to co-operate and assist.

5) *Develop harmonized life agent licence qualification national standard (Initiative 4.1)*

CAFII supports this initiative and commends FSCO for its participation in CISRO's Life Licence Qualification Program (LLQP) project. This critically important initiative will develop a national qualification standard that aligns with the Agreement on Internal Trade, the Ontario Labour Mobility Act, and the Ontario-Quebec Trade and Cooperation Agreement. We continue to participate with keen interest in the LLQP Committee's Industry Stakeholder Consultation meetings and processes.

As you may know, in response to a request from the Chair of CISRO's LLQP Committee, CAFII recently provided a formal letter of support for the LLQP modernization effort.

## 6) General Matters

### Improved Disciplinary Model to Regulate Insurance Agents and Adjusters

CAFII commends FSCO for the transparent, thorough, and effective consultation process it conducted in 2013 around modernizing the disciplinary process for insurance agents and adjusters, which led to the introduction of legislation in March 2014. We trust that that legislation – which died on the Order Paper with the calling of a provincial election – will be re-introduced soon after a new government takes office.

In a similar vein, CAFII also supports the proposed legislation that would see authority for the dispute resolution system related to FSCO moved from FSCO itself to the Ministry of the Attorney General's Licence Appeal Tribunal. The proper home for a dispute resolution mechanism is with an independent, third party and this change will support increased transparency, efficiency and effectiveness.

### International Insurance Core Principles

CAFII congratulates FSCO for achieving recognition from the International Monetary Fund in 2013 for a high level of adherence to the International Association of Insurance Supervisors' Insurance Core Principles. Our Association strongly supports this work to ensure adequate levels of consumer protection and a financially sound insurance sector. Should any follow-up be required as a result of the IMF's assessment, we stand ready to co-operate and assist FSCO and other members of the Canadian Council of Insurance Regulators.

### Regulatory Co-ordination and Harmonization

CAFII extends kudos to FSCO for playing a leadership role in the development and launch of the Canadian Insurance Regulators Disciplinary Actions (CIRDA) database. In this and other initiatives, CAFII appreciates FSCO's continued leadership in fostering a coordinated national approach to regulation.

As you know, CAFII members offer insurance coverages in multiple jurisdictions and it is very important that regulations are as similar as possible across all jurisdictions. Co-ordination of regulations is also important for ensuring that consumers have consistent satisfactory experiences in each jurisdiction.

We are looking forward to an anticipated opportunity to make a presentation to CISRO in September 2014 on Multi-Jurisdictional Licensing Issues and Compliance Challenges.

### Risk-Based Regulation

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 that necessary protection for respondent companies related to such questionnaires will be provided if the information they submit is protected by "self-evaluative privilege." This was a position recommended by the Canadian Council of Insurance Regulators and adopted by Alberta and Manitoba in their recent *Insurance Act* reviews. Given Ontario's leadership focus on both

risk-based regulation and harmonization, we recommend that self-evaluative privilege be adopted in Canada's most populous province.

CAFII also recommends that a risk-based perspective be extended to any market conduct regulatory changes under consideration, such that contemplated changes are measured against the risk to consumers. For example, distribution of insurance over the internet achieves broad demographic and geographic access to Canadians. As such, electronic channels can help ensure that insurance is made available to uninsured and underinsured consumers and we therefore recommend that regulations should support electronic distribution.

#### Auto Insurance; and Voluntary Usage-Based Programs

We note that FSCO has ongoing focus on auto insurance reforms and insurance fraud. Using risk-based regulation principles, where regulation should focus on areas with greatest impact on consumers, we concur that these are important priorities for FSCO to continue to pursue.

In that connection, CAFII supports innovation in all sectors of the insurance market. We therefore commend FSCO for the foresight and leadership demonstrated in supporting telematics-based innovation in auto insurance, while ensuring that consumers are fairly treated (Initiative 3.4).

FSCO has publicly acknowledged that "Government and regulators need to meet the increasing service expectations of consumers." This is equally true with respect to market conduct regulation, and CAFII congratulates FSCO for its leadership and the risk-based regulatory approach deployed in assessing innovation and supporting the introduction of usage-based insurance.

Finally, we continue to stress how vitally important it is that the remaining recommendations from the package of Auto Insurance Reforms, announced by the Minister of Finance in November 2009, be fully addressed. Additional challenges arose following the implementation of the 2010 reforms -- such as capacity and process issues within the FSCO Dispute Resolution System -- which added costs to the accident benefit system for both claimants and insurers. So while we extend congratulations to FSCO for eliminating the mediation backlog in August 2013, we must underscore that maintaining a laser-like focus on cost containment remains critically important to the availability and affordability of the auto insurance product in Ontario.

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

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Hines', with a stylized flourish extending from the end.

Jennifer Hines  
CAFII Secretary and Chair, Executive Operations Committee