

Draft 2018 FSCO Statement of Priorities

Message from the Chair and Chief Executive Officer

(CAFII preliminary comment: We will not comment on the Statement of Priorities content related to the FST, as it is out-of-scope for our Association.)

Every day, people and companies that provide financial services make a meaningful impact on the lives of Ontarians.

Financial services consumers – including retirees receiving a pension, new parents buying life insurance, first-time homebuyers shopping for a mortgage, and drivers looking to renew their vehicle insurance – all want to feel their interests are being protected as they make important decisions.

For the past two decades, the Financial Services Commission of Ontario (FSCO) has provided regulatory oversight of financial services and pension plans – working to ensure the nearly 94,000 entities we regulate are following the law. We undertake our activities with consumers and pension plan beneficiaries in mind, because we know Ontarians count on our regulated sectors to help protect their assets, manage risk, and enhance their financial security.

As we look ahead, we recognize the need not only to protect the public, but also to empower them. We see the growing need to nurture healthy innovation in the marketplace, and the ongoing importance of promoting consistent approaches to regulation on both a provincial and national level.

(CAFII comment: CAFII agrees that empowering consumers by generally increasing Ontarians' financial literacy is an important priority. In addition, we congratulate FSCO on maintaining – throughout the Commission's final period of existence as the province's financial services regulator – a laser-like focus on achieving the optimal right/balance between fostering marketplace innovation and ensuring consumer protection.)

At the same time, we have identified goals and activities that align with the vision for the new regulator being created – the Financial Services Regulatory Authority (FSRA). The Ontario government has made significant progress towards implementing FSRA, and FSCO will continue to support those efforts. Until FSRA is operational, FSCO remains the financial services regulator in Ontario, and we will continue to deliver on our mandate to protect consumers and enhance public confidence in the sectors we regulate.

(CAFII comment: CAFII agrees that it is very important for FSCO to continue up to the very end with the professionalism, diligence, and intensity of its provincial regulatory work and, as well, to continue to play a leadership role in national co-ordinating bodies, as doing so will see the Commission "go out on a very strong note" and send a strong signal and demonstration to FSRA, its successor regulator, that it will need to maintain and strengthen FSCO's legacy in this regard.)

None of this would be possible without the commitment and efforts of our talented staff. Their creativity and drive have helped us achieve positive results that make a difference for all Ontario stakeholders. We are proud of the accomplishments of this organization and look forward to the year ahead.

Ian McSweeney

Chair, Financial Services Commission of Ontario

Chair, Financial Services Tribunal

Brian Mills

Chief Executive Officer and

Superintendent of Financial Services,

Financial Services Commission of Ontario

About FSCO

FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates.

Using a risk-based approach to enforce legislation, FSCO regulates the insurance sector (including service providers who invoice auto insurers for statutory accident benefit claims); pension plans; credit unions and caisses populaires; the mortgage brokering sector; co-operative corporations; and loan and trust companies in Ontario.

FSCO's approach to fulfilling its legislated regulatory responsibilities is outlined in greater detail in its Regulatory Framework. Accountable to the Minister of Finance, FSCO also seeks approval for its projects and direction through the Agency Business Plan and reports back on its core activities through its Annual Report.

FSCO Priorities

Section 11 of the Financial Services Commission of Ontario Act, 1997 [New Window] (FSCO Act), requires that FSCO publish a statement each year setting out its proposed priorities and the reasons for adopting these priorities.

FSCO's mission is to continue to be an effective regulator that protects the public interest while supporting a dynamic financial services marketplace.

Building on last year's key themes of treating consumers fairly and enabling innovation, FSCO is embarking on a new strategic plan in 2018-19 with overarching goals and associated outcomes aimed at empowering consumers, fostering innovation and providing leadership on the national stage. The 2018 Statement of Priorities provides a brief overview of FSCO's areas of focus in the coming year.

1. Create greater consumer awareness and understanding of their rights and responsibilities and how to protect themselves

(CAFII comment: CAFII agrees that empowering consumers by generally increasing Ontarians' financial literacy is an important priority; and that to generate sustainable, long-term gains, initiatives in this area need to have a proportionate focus on consumers' responsibilities as well as their rights.)

FSCO is committed to protecting consumers in the sectors it regulates. We recognize one of the most effective ways to do this is to equip consumers with the tools they need to protect themselves. In 2018-19, FSCO will continue to invest in public education initiatives, such as national Fraud Prevention Month and Financial Literacy Month, to help empower consumers and pension plan members to make informed financial decisions. These efforts will include actively seeking relevant partnerships to broaden our reach, as well as improving consumer-facing tools and information.

(CAFII comment (tentative; for consideration only): CAFII member financial institutions may be willing to partner with FSCO on a consumer financial literacy/education initiative. Our members' retail branch networks could assist in providing a significantly broader reach for such a joint/collaborative initiative.)

In addition, FSCO will continue to work with industry stakeholders to strengthen their understanding of FSCO's expectations regarding statutory compliance and the fair treatment of consumers. For example, FSCO will hold public consultations in 2018 in advance of the release of a new Superintendent's guideline establishing a common understanding of what it means to treat financial services consumers fairly. The guideline will align with international best practices and strengthen confidence in the sectors through measurable and demonstrable outcomes for the consumer.

(CAFII comment: CAFII congratulates FSCO for taking a leadership initiative through the imminent Superintendent's Treating Consumers Fairly (TCF) Guideline. In that connection, our Association has two specific requests: (i) please co-ordinate and harmonize, to the maximum degree possible, with CCIR in connection with its imminent Draft "Guidance: Conduct of Insurance Business and Fair Treatment of Customers" in order to achieve the benefits of harmonization, including minimizing regulatory burden upon the industry; and (ii) please allow a reasonable response period of at least 45 days with respect to consulting with the public and the industry on the Superintendent's Guideline. Allowing a political deadline such as the looming Ontario provincial election on June 7/18 to govern the timelines for such an important initiative and forcing it to be rushed to completion would not be in the interests of stakeholder buy-in, consumer protection, or the Guideline's prospects for long-term effectiveness.

2. Be proactive with respect to industry transformation and new technologies

Technology continues to evolve and advance at a rapid pace. FSCO recognizes the need for regulators to be more adaptable and agile to foster innovation in the marketplace. Over the coming year, FSCO will work to re-assess and re-align our processes to find ways to be more responsive to innovation in our regulated sectors. We will also equip and empower staff to develop regulatory solutions and use innovative supervisory approaches to better support new technologies and business models while remaining focused on our consumer protection mandate.

(CAFII comment: CAFII strongly supports FSCO's commitment to reassess and realign its processes over the coming year, in order to find ways to be more responsive to innovation in its regulated sectors. Our Association stands ready to meet with FSCO representatives, at your convenience, to offer advice and suggestions on what becoming more responsive to innovation would look like from the perspective of alternate channel distributors of life and health insurance.)

As more financial technology (fintech) businesses seek to operate in Ontario, and as consumer demand for innovative financial services continues to rise, FSCO is responding to the need to support them as they navigate and comply with the Ontario's financial services legislation. Drawing on our past experience, we will also work closely with the government and other partners to support Ontario's broader fintech strategy, helping encourage innovation while ensuring consumer protection.

3. Achieve a higher degree of harmonization, supervisory cooperation, and jurisdictional participation

In today's global environment, financial services are interconnected, crossing jurisdictional and sectoral boundaries. It is critical that regulators throughout Canada work together and coordinate efforts. Greater cooperation leads to the identification of emerging risks, sharing of best practices, and a more consistent level of protection for consumers across jurisdictions. In addition, greater regulatory harmonization can result in reduced regulatory burden, and supports market competition, new entrants and greater innovation, which ultimately benefits the consumer and the economy.

FSCO demonstrates its commitment to regulatory coordination and communication through its leadership engagement and active participation in the following inter-jurisdictional associations of financial services regulators:

- Canadian Council of Insurance Regulators (CCIR)
- Canadian Association of Pension Supervisory Authorities (CAPSA)
- Mortgage Broker Regulator's Council of Canada (MBRCC)
- Canadian Insurance Services Regulatory Organization (CISRO)
- Joint Forum of Financial Market Regulators
- Canadian Automobile Insurance Rate Regulators (CARR)
- General Insurance Statistical Agency (GISA)

FSCO will strengthen collaborative relationships with other regulators and provide leadership in the delivery of strategic national policy initiatives.

(CAFII comment: CAFII thanks and congratulates FSCO for its commitment – even though the Commission is in a final, wind-down period – to strengthening collaboration with other regulators; and to playing an increasingly important leadership role in national co-ordinating bodies such as CCIR and CISRO. This commitment and compelling success in the pursuit of related initiatives will send a strong signal and be a demonstration to FSRA that it must maintain and strengthen FSCO's legacy in this area.)

For example, FSCO will work with other CCIR members to coordinate simultaneous thematic and insurer-specific reviews across jurisdictions, to ensure that insurance customers are being treated fairly throughout the country. These reviews will capitalize on information from the Annual Statement on Market Conduct introduced last year to identify areas of potential risk requiring attention.

(CAFII comment: CAFII congratulates FSCO, as a leader at the CCIR table, for the commitment to ongoing refinement of the Annual Statement on Market Conduct; and for using its data for the intended purpose: identifying areas of potential risk in the marketplace.

With respect to the resulting initiative of conducting simultaneous and insurer-specific reviews across jurisdictions, we pose the following questions: (i) in the case of thematic reviews, would not one single, nationally co-ordinated review be the most harmonized and effective approach to take?; and (ii) in the case of insurer-specific reviews related to nationally-operating insurers, would not one single, nationally co-ordinated review be the most harmonized and effective approach to take?)

4. Support the implementation of the Financial Services Regulatory Authority of Ontario

In the fall of 2016, the provincial government passed legislation to create and establish the initial parameters of the Financial Services Regulatory Authority (FSRA) – a new, independent and flexible regulator with a stronger focus on protecting consumers, investors and pension plan beneficiaries.

At this time, no date has been set for the implementation of FSRA. As such, FSCO remains the financial services regulator in Ontario, and we continue to deliver on our mandate and serve the public interest.

FSCO's chosen priorities for 2018-19 are consistent with the vision for the new organization, and all operational decisions made this year will consider the potential impact on the implementation of FSRA. As it progresses, FSCO will continue to work with the Ministry of Finance and the FSRA board to support a seamless experience for our regulated sectors, while maintaining a focus on consumer protection.

(CAFII comment: CAFII strongly supports FSCO's commitment in this area and resolve to act on it, as fostering and achieving a seamless transition experience from FSCO to FSRA, for all regulated sectors, is a critically important priority which will bring significant benefits for businesses which operate in the regulated sectors and, indirectly, for consumers as well.)

About the Financial Services Tribunal

The Financial Services Tribunal (FST or Tribunal) is an independent, expert decision-making body that, at the request of affected persons, holds hearings and appeals from decisions and proposed decisions of the Ontario Superintendent of the Financial Services and of the Deposit Insurance Corporation of Ontario (DICO).

The FST has exclusive jurisdiction to exercise the powers conferred upon it under the FSCO Act and other Ontario statutes.

(CAFII comment: CAFII will not comment on the Statement of Priorities content related to the FST, as it is out-of-scope for our Association.)

FST Priorities

Maintain a pool of qualified members to adjudicate hearings

The Tribunal will continue to work with the Ministry of Finance and the Public Appointments Secretariat to ensure the appointment of additional qualified members sufficient to meet the Tribunal's expected caseload. The FST will continue to provide adequate training (internal and external resources) to ensure Tribunal members have the appropriate education and expertise to hear Tribunal matters to which they are assigned.

Dialogue with members of the legal profession

The FST will continue its dialogue with members of the legal profession through its Legal Advisory Committee to address matters related to its hearing rules, practices and procedures. The Tribunal will continue to receive an annual report from the committee chair.

Update Tribunal rules, practices and procedures

The Tribunal will review rules, practices and procedures as required to reflect changes to its mandate and other legislated change. The Tribunal will review and revise performance standards as needed to ensure available resources deliver adjudicative services effectively and efficiently.

Transition to the FST Act

In 2017, the government passed the Financial Services Tribunal Act, 2017 (the "FST Act"), which, upon proclamation, will remove the FST from the FSCO Act and continue it as an independent Tribunal with respect to proceedings arising out of Superintendent regulatory enforcement under the FSCO Act/FSRA Act.

In 2018-19, the Tribunal will continue to work with the Ministry of Finance to ensure a smooth and efficient transition of its mandate from the FSCO Act to the FST Act.

Send us your comments

FSCO invites interested parties to make written submissions regarding FSCO's Draft 2018 Statement of Priorities.

Interested parties may send submissions by May 8, 2018, to:

Chief Executive Officer and

Superintendent of Financial Services

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To request a paper copy, please call (416) 250-7250 or toll-free: 1-800-668-0128.

FSCO's 2018 Statement of Priorities will be submitted to the Minister of Finance in June 2018 and will be published in The Ontario Gazette shortly thereafter.