



Financial Services Commission of Ontario

STATEMENT OF PRIORITIES

June 2004

Introduction

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established under the *Financial Services Commission of Ontario (FSCO) Act, 1997 (FSCO Act)*.

Section 11 of the *FSCO Act* requires FSCO to “deliver to the Minister of Finance and publish in the *Ontario Gazette* [by June 30th of each year] a statement setting out the proposed priorities of the Commission for the fiscal year in connection with the administration of this Act and all other Acts that confer powers on or assign duties to the Commission or the Superintendent.”

This is FSCO’s seventh Statement of Priorities. It identifies key challenges facing FSCO, outlines proposed strategic priorities, highlights initiatives and notes recent progress on significant projects.

FSCO is comprised of three elements: the five-person Commission or Board; the Superintendent of Financial Services and staff; and the Financial Services Tribunal. FSCO regulates insurance, pension plans, loan and trust companies, credit unions/caisses populaires, mortgage brokers and co-operative corporations in Ontario.

As of April 1, 2003, FSCO regulated 399 insurance companies, 6,161 pension plans, 273 credit unions and caisses populaires, 514 mortgage brokers, 1,871 co-operative corporations and two Ontario incorporated loan and trust companies, as well as approximately 39,900 insurance agents, 4,576 corporate insurance agencies and 1,276 insurance adjusters. The regulated sectors represent a large, dynamic and evolving industry that plays a vital role in the provincial economy and the financial security of individuals and families.

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Our Mandate

To protect the public interest and enhance public confidence in the regulated sectors, FSCO provides regulatory services that protect financial services consumers and pension plan beneficiaries and support a healthy and competitive financial services industry.

Our Vision

We are committed to being a vigilant, fair-minded and forward-looking regulatory agency with a constructive and responsive presence in Ontario’s financial services marketplace.

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Key Challenges

In setting its overall direction and strategic priorities, FSCO took into account the following key challenges in the environment:

Convergence

There is a continuing trend toward consolidation and mergers of financial institutions, globalization of the marketplace and convergence of the financial services industry. This trend challenges financial services regulators to address issues facing the financial services industry through a cross-jurisdictional, cross-sectoral approach. Stakeholders are increasingly calling for national rather than local solutions to regulatory issues. Mechanisms are needed to facilitate harmonized solutions for national issues.

Changing market conditions

Uncertain market conditions, moderate investment performance expectations and a low interest rate environment for the foreseeable future are affecting the financial condition of financial institutions and pension plans. Consumers of financial services and pension plan beneficiaries are concerned about the implications of fluctuating market conditions. Regulators therefore need to be able to anticipate and react to the changing market conditions. They also need to address solvency and market conduct issues that may affect financial services consumers and pension plan beneficiaries in this changing environment.

Evolving regulatory environment

A number of initiatives are underway to rationalize the regulatory structures and framework to align the regulation of financial services with evolving market realities. Regulators need to keep pace with, and have adequate regulatory instruments to respond to, the changing regulatory environment. FSCO will also need to respond to any changes that may occur in the regulatory systems for financial services not regulated by FSCO, including the outcomes of current discussions regarding national securities regulation.

Impact of technological change

The increasing trend toward electronic communication throughout the economy demands an enhanced capability to deliver services electronically. Regulators must be able to conduct business with the industry electronically, and reach and be accessible to consumers and pension plan beneficiaries on-line.

What this Means to FSCO

To meet these challenges, we have established the following strategic priorities. These priorities build on the delivery of the core business activities we carry out to achieve our mission. As each is significant, FSCO's priorities are not ranked in any particular order:

- I. Promote a coordinated national approach to regulatory issues.
- II. Enhance the risk-based approach to regulation.
- III. Review and recommend amendments to the regulatory framework to keep up with changes in the marketplace.
- IV. Improve delivery of services.

We believe these strategic priorities and the initiatives associated with them on the following pages, will have a positive impact on consumers and pension plan beneficiaries. By pursuing them, FSCO will meet the on-going needs of financial services consumers.

Most projects undertaken by FSCO are complex in that they involve a range of stakeholders and are carried out in conjunction with national and other provincial jurisdictions. As a result, many initiatives span several years and work continues on an on-going basis from year-to-year.

Our Strategic Priorities

I. Promote a coordinated national approach to regulatory issues

FSCO continues to work with other Canadian regulators in coordinating regulation of the financial services industry at the national level.

FSCO supports the development of harmonized regulatory solutions through participation in the Joint Forum of Financial Market Regulators (Joint Forum), the Canadian Association of Pension Supervisory Authorities (CAPSA) and the Canadian Council of Insurance Regulators (CCIR).

FSCO is participating with these national organizations as a member of, or in some cases as a lead of, committees and project teams that are mandated to undertake the following initiatives.

Joint Forum

- Implement the Joint Forum guidelines for capital accumulation plans.
- Implement a national plan to harmonize point-of-sale disclosure requirements for individual variable insurance contracts (IVICs) and mutual funds.
- Complete a national implementation plan for the project, "Principles and Practices for the Sale of Products and Services in the Financial Sector."
- Work with the Financial Services OmbudsNetwork (FSON) to coordinate and enhance operations of an integrated dispute resolution service for all financial services consumers.
- Consult with industry representatives to identify opportunities to harmonize the differences in investment rules for pension funds, mutual funds, segregated funds and other pooled investment funds.
- Continue to examine harmonized approaches to licensing for multi-licensed intermediaries.

CCIR

- Respond to insurers' requests for harmonized corporate and financial filing requirements.
- Develop model wording provisions for property insurance.
- Identify areas of market conduct regulation that can be harmonized nationally.
- Continue to work with stakeholders on risk-based market conduct and prudential regulation to reduce the complexity and cost of regulation in Canada.
- Develop an enhanced governance model for the operation of the automobile statistical plan.

CAPSA

- Finalize and release pension plan governance guidelines and a self-assessment questionnaire for use by the pension industry.
- Complete consultations on proposed regulatory principles for a model pension law.
- Continue work on the development of a multi-jurisdictional agreement for the regulation of pension plans with members in different jurisdictions.

II. Enhance the risk-based approach to regulation

- Implement a risk-based market conduct review of general insurance claims, focussing on Statutory Accident Benefits (SABS) and individual variable insurance contracts.
- Work with stakeholders in fighting insurance fraud and being proactive in pursuing *Insurance Act* contraventions.
- Provide enhanced information on auto insurance costs, rates and consumer rights and responsibilities.
- Continue to develop market conduct reviews in the life insurance sector.
- Strengthen a risk-based approach to the regulation of persons engaging in mortgage brokering in Ontario.
- Conduct appropriate consultation, then implement the Investment Information Summary (IIS), a form that will contain information about pension funds for the purpose of establishing a risk-based approach to pension fund investment monitoring.

III. Review and recommend amendments to the regulatory framework to keep up with changes in the marketplace

- Work with the Ministry of Finance and FSCO stakeholders on the following priorities:
 - Implementing further auto insurance reforms, including designing and implementing a new assessment process to replace the Designated Assessment Centre system;
 - Monitoring auto insurance changes;
 - Establishing a stable funding structure for the Motor Vehicle Accident Claims Fund (MVACF);
 - Coordinating prudential responsibilities with the Office of the Superintendent of Financial Institutions (OSFI) and other regulators;
 - Conducting reviews of the *Mortgage Brokers Act*, and the *Credit Unions and Caisses Populaires Act*;
 - Supporting changes to reinsurance rules to harmonize Ontario's laws with federal law;
 - Working with stakeholders to facilitate mutual recognition or reciprocal licensing of intermediaries across Canadian borders;
 - Reviewing the regulatory frameworks for cooperatives and for pension plans, and implementing any changes adopted by the government; and
 - Supporting the removal of unnecessary restrictions and barriers to becoming an agent or operating an agency.

- Work with the Facility Association (FA) on changes to the FA to enhance fulfilment of its objectives.

IV. Improve delivery of services

- Launch FSCO's enhanced website and improve accessibility to FSCO's Contact Centre.
- Expand consumer information available on the financial services sector and enhance consumer information on auto insurance.
- Integrate current corporate data systems into a common platform to streamline and improve corporate information in order to provide better customer service.
- Move the Automated Rates and Classification Technical Information Communication System (ARCTICS) from a pilot to full production to enable web-based electronic filing for automobile insurance companies.
- Develop and refine automobile insurance information systems to enhance the reporting of industry results.
- Develop facilities for electronic filings for dispute resolution services.
- Produce amendments to the Dispute Resolution Practice Code to improve access and understanding of the Dispute Resolution System.
- Align our resources to ensure that priorities are staffed and addressed properly.

FSCO Funding

Under Section 25 of the *FSCO Act, 1997*, the Lieutenant Governor-in-Council may assess all entities that form part of a regulated sector with respect to all expenses and expenditures that the Ministry of Finance, the Commission and the Tribunal have incurred. The Minister of Finance is also authorized to establish fees with respect to these regulated sectors for services provided by FSCO.

In determining the administration of the funding system, FSCO has established that it will:

- be fair;
- reflect the use of FSCO resources;
- enable reasonable predictability of regulatory costs;
- be simple to administer; and
- be flexible and easily modified.

FSCO has also made a commitment to the following principles in carrying out its funding system:

- revenues will not exceed forecasted expenditures for each sector;
- disruption will be minimized and changes will take into account the effect of fees on the marketplace; and
- FSCO will be accountable to its stakeholders for the efficiency and quality of the services delivered.

Statement of Priorities – 2003

Report on Key Initiatives

Promote a coordinated national approach to regulatory issues

FSCO continued to work with other Canadian regulators in coordinating regulation of the financial services industry at the national level through the following initiatives.

Joint Forum

- Completed consultation on proposed *Principles and Practices for the Sale of Products and Services in the Financial Sector*. The revised Principles and a Summary of Comments and Responses were published in February 2004.
- Continued to work with the FSON to develop best practices and protocols to govern information sharing among regulators and the services that make up the OmbudsNetwork.
- Completed consultation on proposals *Rethinking Point of Sale Disclosure for Segregated Funds and Mutual Funds* and published results in a Summary of Comments and Responses in the spring of 2004.
- Completed consultation on *Proposed Guidelines for Capital Accumulation Plans*. The revised guidelines were tabled for approval at the spring meetings of the Joint Forum, CCIR, CAPSA and CSA, and to be released in the summer of 2004.

CAPSA

- Released *Proposed Regulatory Principles for a Model Pension Law* in January 2004.
- Released draft document *Pension Plan Governance Guidelines and Self-assessment Questionnaire* in July 2003. In the fall of 2003, a “road testing” initiative was launched to gain stakeholder feedback on the effectiveness of the guidelines.
- Completed consultations on proposed amendments to the investment rules for pension funds and made recommendations to the federal regulator, the Office of the Superintendent of Financial Institutions.

CCIR

- Introduced updated, harmonized insurer application form.
- Implemented mandatory participation in the Life Licensing Qualification Program (LLQP) on a national basis on January 1, 2003.

- Initiated a CCIR committee that, together with stakeholders, will work on the harmonization of errors and omissions requirements, continuing education requirements and licence application forms. Recommendations will be developed by July 2004.
- Completed CCIR work on the development of harmonized classes of insurance. It is now up to individual jurisdictions to adopt the harmonized classes. In Ontario, regulations will be required to implement the harmonized classes.
- Completed CCIR work on the development of a minimum capital test. It is now up to individual jurisdictions to adopt the test. In Ontario, regulations will be required to implement the minimum capital test.

Apply risk-based approaches when designing operational policies and procedures

- Developed an investment monitoring model.
- Appointed actuary requirements have been implemented by companies. DCAT requirements are under development.
- Continued a risk based approach for prudential regulation and developed a model for market conduct regulation.
- Commenced development of a replacement for the Designated Assessment Centre (DAC) system with a new assessment process, as directed by the government. Monitoring and evaluation will be a key component for the new system to be launched in 2004-05.
- Focused resources from Investigations Unit to work closely with insurers to deal with breaches of the *Insurance Act*.
- Worked on an outreach program to inform consumers and others about how to identify abuses that lead to increased costs of insurance.

Amend operational policies and procedures and propose amendments to legislation and regulations to keep up with changes in the marketplace

- Continued development of a Standard Invoice database in consultation with stakeholders to ensure appropriate data is captured and that privacy, infrastructure, governance and ownership issues are addressed.
- Undertook a review of the automobile insurance risk classification system and underwriting rules and received stakeholder input using existing advisory committees to FSCO.
- Developed a plan to process and pay the automobile accident benefits claims of an insolvent insurer out of the MVACF and to recover them from the auto insurance industry.

- Established a regulatory process for paralegals and implemented a filing system that now requires a paralegal to file with FSCO an annual declaration of compliance with regulatory requirements.
- Updated both the Automobile Statistical Plan (ASP) and the Ontario Statutory Accident Benefits Statistical Plan (OSABSP). Changes to the ASP were approved by CCIR and will be implemented effective January 1, 2005. Changes to OSABSP have been made to reflect auto insurance reform changes.
- Updated the Dispute Resolution Practice Code in October 2003, distributed amendments to key users, and posted them on FSCO's website.
- Worked with the Ministry of Finance to develop and identify key policy issues of interest to stakeholders in the development of a regulatory regime for viatical settlements.
- Worked with the Ministry of Finance and the co-operative sector to develop a list of legislative amendments for the government's consideration.
- Worked with OSFI to implement discounting requirements and instructions to insurance companies in 2003.

Make effective use of technology in delivering services

- Improved stakeholder access to information by continuing to work on a redesigned FSCO web site, which is expected to be launched later this year.
- Implemented a link from the FSCO public web site to key fields of the pension plans database. The Pension Weblink was launched on September 2, 2003.
- Converted the existing DAC reporting system to a web-based system to enable all DACs to report on the web-based system by end of fiscal 2003/04.
- Introduced practical, "smart" mediation and arbitration application forms in October 2003 as a step toward full e-filing of mediation applications in early 2005.
- Continued to enhance the Automated Rates and Classification Technical Information Communication System (ARCTICS) to enable moving from a pilot project to full production for use by all automobile insurance companies in submitting electronic filings in fiscal 2004-05.

The Financial Services Tribunal

The Financial Services Tribunal (Tribunal) is an independent, adjudicative body composed of nine to 15 members (10 members as of April 1, 2004), including the Chair and two Vice-Chairs of the Commission. The Tribunal has exclusive jurisdiction to exercise the powers conferred under the *FSCO Act, 1997* and other Acts that confer powers on or assign duties to the Tribunal. It also has exclusive jurisdiction to determine all questions of fact or law that arise in any proceeding before it. As well, the Tribunal has authority to make rules for the practice and procedure to be observed in a proceeding before it, and to order a party to a proceeding before it to pay the costs of another party or the Tribunal's costs of the proceeding.

For the year ahead the Tribunal has identified the following priorities:

- Complete the review of the Tribunal's Rules of Practice and Procedure;
- Continue to review and revise forms, practice directions for applications and reconsideration of financial hardship matters;
- Review and develop forms and practice directions to respond to needs/issues arising in other types of Tribunal hearings (other pension, insurance, mortgage broker, credit union/cassie populaire, as required);
- Develop a code of conduct and finalize guidelines regarding conflicts of interest affecting Tribunal members;
- Review and update the Tribunal hearing manual;
- Continue developing Tribunal performance service standards; and
- Create and maintain an index of all Tribunal decisions by subject, issues and relevant sections of respective Acts.

Conclusion

This statement has outlined FSCO's proposed Strategic Priorities for the coming year. We look forward to working with our many stakeholders to achieve our objectives and thereby sustain a fair, efficient and effective financial services marketplace where consumers are protected and competition thrives.

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Financial Services Commission of
Ontario and
Superintendent of Financial Services

Colin McNairn
Acting Chair
Financial Services Commission of Ontario
and
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