Financial Services Commission Of Ontario

Report of the Superintendent as required by the Registered Insurance Brokers Act, R.S.O., 1990

Date: March 31, 2015

This report is made in compliance with the requirements of subsection 10(2) of the *Registered Insurance Brokers Act, R.S.O., 1990* (the Act) which requires the Superintendent to make an annual examination of the affairs of the Registered Insurance Brokers of Ontario (RIBO) and to report the results to the Minister. Accordingly, it is my responsibility to ensure that RIBO is fulfilling its regulatory responsibilities and operating with policies and procedures that protect the interest of members of the public that rely on the services of general insurance brokers. This report is submitted in conjunction with RIBO's Annual Report covering its fiscal year ended July 31, 2014.

MANDATE

RIBO's mandate, through self-governance, is to protect the public during insurance transactions with general insurance brokers in the province of Ontario. Subject to the Act and regulations, RIBO regulates the licensing, professional competence, ethical conduct, and insurance related financial obligations of all independent general insurance brokers in Ontario. RIBO is also responsible for the disciplining of the brokers.

ABOUT RIBO

RIBO is a self-funding and self-governing organization, without share capital, whose members are property and casualty (general) insurance brokers in Ontario. It was established, under the Act, by the Ontario government in 1981. The Act also provided for self-regulation.

RIBO is a non-profit organization that is financed by its members. The primary source of funds for RIBO is its members' annual registration fees which largely cover its annual operating expenses. In addition, RIBO strives to maintain its Operating Fund (or surplus) at a level that is approximately equal to one year of operating expenses. As at July 31, 2014, RIBO's Operating Fund was $3.7 million or 0.89 times its annual expenses. This was considered to be adequate since the purpose of the Operating Fund is to provide a supplementary source of funds for RIBO when unexpected expenses may arise. As such, RIBO appears to be operating prudently and its viability is not a concern at this time.

The Act provides for the establishment of a governing Council of RIBO, a Qualification and Registration Committee, one or more Complaints Committees, a Discipline Committee and any other committees as necessary.

The Act specifies that Council consists of thirteen people, of whom nine are elected brokers and four are public members appointed by the Lieutenant Governor in Council. The Council acts as a board of directors, supervising the management and affairs of RIBO, and is responsible for setting policies and guidelines. At least one member of the public, appointed by the Lieutenant Governor in Council, sits on every RIBO Committee. The public members serve to represent the interest of insurance consumers and the public in general.

The Qualification and Registration Committee is responsible for determining the eligibility of individuals and firms as applicants for a licence or renewal of a licence. Accordingly, the committee sets and reviews RIBO's qualification standards for brokers and brokerages in Ontario. It is also responsible for ensuring that individuals and businesses comply with these standards.

The Complaints Committee evaluates the merit of allegations of professional misconduct brought against a member to determine whether there is sufficient evidence to warrant referring the complaint to the Discipline Committee.

The Discipline Committee conducts hearings on matters referred to it to determine whether allegations of misconduct or incompetence against a member have been proven. Where a member is found guilty, based on the evidence presented, the Discipline Committee has the authority to impose an appropriate penalty, ranging from a reprimand to license revocation.

REGULATORY CO-ORDINATION

It is essential that a regulatory authority understand the nature of the market and its participants. RIBO meets regularly with FSCO's senior management as well as other regulatory bodies, and it is an active participant in the Canadian Insurance Services Regulatory Organizations. It also consults with stakeholder associations, such as the Insurance Brokers Association of Ontario. These efforts are aimed at furthering the coordination of activities and harmonization of regulatory requirements. General issues or changes impacting the industry are also addressed.

EXAMINATION

The Superintendent is deemed to have an interest in RIBO, as the representative of all persons who may be served by registered insurance brokers, pursuant to subsection 9(1) of the Act. As such, I must ensure that RIBO is fulfilling its regulatory responsibilities and operates with policies and procedures that protect the interest of members of the public that rely on the services of general insurance brokers.

The examination included an assessment of RIBO's Annual Report for the year ended July 31, 2014 (attached) as well as its quarterly bulletins. The examination also encompassed a review of the Minutes of Council meetings, its committee meetings and the 2014 Annual General Meeting. In addition, discussions were held with various RIBO representatives with respect to IT and asset general controls as well as cyber security. Furthermore, the examination evaluates how RIBO assesses brokers efforts in determining product suitability at the point of sale, how brokers are contributing to reducing auto insurance premiums, what anti-fraud tools brokers are utilizing at the point of sale and a review of the action plan RIBO developed in response to the International Monetary Fund (IMF)(1) Report on Observance of Standards and Codes (ROSC).

FINANCIAL STATEMENTS

We relied upon the work of RIBO's external auditor who advised that there were no issues of concern. Accordingly, the auditor issued an unqualified opinion on the financial statements.

PUBLIC APPOINTMENTS

Currently, RIBO has two public members appointed to Council, two less than the four public members that are required by Ontario Regulation 308/98. Such appointments are made by the Lieutenant Governor in Council. RIBO has taken steps to try to have this matter resolved through meetings with the Public Appointments Secretariat. There are a sufficient number of public members available to serve on RIBO's committees. As such, RIBO's ability to carry out its mandate has not been impaired by the vacancy of two public members on the Council.

REGULATORY OVERSIGHT

The Qualification and Registration Committee meets on a monthly basis to address such items as industry standards, applications for secondary business exemptions, applicants who have attempted the equivalency examination, continuing education issues and management's proposals to refuse or revoke registrations.

Brokers are required to carry errors and omissions insurance and a fidelity bond. Additional consumer protection is afforded by RIBO's Professional Indemnification Fund which was established in 1992 to cover losses on claims for premiums misappropriated by brokers.

Complaints against brokers may arise from members of the public or from the on-site spot checks or broker reviews that are conducted by RIBO investigators. Where matters are referred by RIBO staff to a Complaints Committee, the committee decides whether to dismiss an allegation or forward it to the Discipline Committee for further action.

In considering an allegation of misconduct or incompetence against a member, the Discipline Committee may settle by way of Consent or conduct a hearing. In the event a member is found guilty, the committee may impose an appropriate penalty or combination thereof, as set out in the Act. The penalties vary, but the more severe cases result in the cancellation of the broker's licence and imposition of fines. Disciplinary decisions are published in RIBO's quarterly bulletin; however, the Discipline Committee may consider whether to grant a request for non-publication.

CONCLUSION

RIBO continues to monitor registered insurance brokers to ensure that they are operating within the requirements of the Act and regulations. In addition, it has policies and procedures in place that provide for consumer protection when dealing with insurance brokers.

The examination did not reveal any areas of concern with RIBO's operations that would require regulatory action. Although RIBO requires two additional publicly appointed members on its Council, it must await such appointments by the Lieutenant Governor in Council.

In response to our last report, RIBO has taken steps in addressing FSCO and IMF recommendations that related to improving market monitoring mechanisms and combating fraud in insurance. RIBO, by sending emails or by discussing these issues in its quarterly bulletins as well as in its the annual report, has communicated the need for brokers to discuss product options with the customers at the point of sale. They have also asked that brokers report any potential fraud schemes in the market. These reports are shared with other members as alerts.

I recommend that RIBO take pro-active and more measurable actions regarding the Ontario government efforts to reduce auto insurance premiums, combat fraud and to assess broker's efforts in addressing product suitability at point of sale, with the following:

1. Improve the spot check examination program to ensure that the brokers are taking the proper action by:

    - explaining features and documenting discussions with consumer's regarding product options at the point of sale
    - documenting due diligence in detecting and combating insurance fraud
    - ensuring brokers have included fraud detection and measures in their policies and procedures

2. Evaluating the opportunities and risks associated with new products, such as Usage Based Insurance (UBI) platforms for privacy and personal information confidentiality. RIBO should communicate risk potential to members, prior to initiation of a product change.

3. Development of a fraud protocol or guideline to assist brokers in identifying potential frauds in the auto insurance sector.

4. Conducting a review of RIBO's operational policies and procedures to reflect the recent implementation of mandatory broker on-line registration and licence renewals.

5. Evaluating its network security from cyber-attacks and making enhancements where required by through regular penetration/vulnerability tests.

6. Development of a capitalization policy, to enhance RIBO's controls and protection of assets. The policy should distinguish what should be recognized as an asset or an expense. In addition, RIBO should develop an asset register for monitoring of assets.

Based upon the scope of the examination, we concluded that RIBO is fulfilling its regulatory responsibilities and operates with policies and procedures that protect the interest of members of the public who rely on the services of general insurance brokers.

Attached is RIBO's Annual Report for its fiscal year ended July 31, 2014.