Ontario

Financial Services Commission Of Ontario

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

Date: March 31, 2016

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Of Ontario

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, 2015.

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, 2015, RIBO's Operating Fund was $3.9 million or 0.95 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 licence 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, 2015 (attached) as well as its quarterly bulletins. The examination also encompassed a review of the Minutes of Council meetings, its committee meetings and the 2015 Annual General Meeting. In addition, discussions were held with various RIBO representatives with respect to Information Technology and asset general controls as well as cyber security. Furthermore, the examination evaluated how RIBO assesses brokers' efforts in determining product suitability at the point of sale, what anti-fraud tools brokers are utilizing at the point of sale and other market conduct practices to promote consumer protection. RIBO's action plan for the upcoming automobile insurance reforms was also considered.

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 four public members appointed to Council, thus, meeting the regulatory requirement of Ontario Regulation 308/98. Such appointments are made by the Lieutenant Governor in Council. In addition, there is a sufficient number of public members appointed to serve on RIBO's committees.

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.

In response to our last report, RIBO has taken steps to address FSCO's recommendations that related to improving market monitoring mechanisms and combating fraud in insurance. RIBO addresses regulatory and marketplace issues in emails to the broker community as well as in its quarterly bulletins and annual report. RIBO has also published guidelines on best practices for the broker community in its Principal Broker Handbook as well as in Policies and Procedures. As such, RIBO has communicated the need for brokers to discuss product options and client needs and to document such discussions accordingly, along with broker recommendations and the rationale. RIBO has also communicated the importance of data protection and anti-fraud measures. Brokers are encouraged to report any potential fraud schemes in the market to RIBO which, in turn, will share with other members as alerts.

Concerning the upcoming automobile insurance reforms, RIBO last sent an email blast to the broker community in January 2016 which included a link to FSCO's website. In addition, RIBO's General Counsel and the Manager, Complaints and Investigations are tasked with developing a best practices guideline on the reforms which will be posted on RIBO's website.

I recommend that RIBO undertake the following measures, including those which address the Ontario government's efforts to combat automobile insurance fraud and to assess broker's efforts in addressing product suitability at the point of sale:

1. The Council formally affirm that the current Chief Executive Officer (CEO) is also the Manager of RIBO, given that the Manager role holds special meaning within the context of the Act. Council approved the current CEO of RIBO, following the retirement of his predecessor who held both positions.
2. The Council reaffirm each year who is the chair of the Discipline Committee and that it be recorded accordingly in the Council minutes which is the practice for appointing the chairs of other committees. In practice, the Council-appointed chair of the Professional Development Committee holds the dual role of chairing the Discipline Committee.
3. Complete a cyber security assessment, as planned for this year, and make any necessary enhancements.
4. Enhance its spot check / broker review program to formally capture key elements of the best

practices in the Principal Broker Handbook and the Policies and Procedures for brokers, such as product suitability, anti-fraud and cyber security measures undertaken by the brokers.

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, 2015.