



**Canadian Life
and Health Insurance
Association Inc.**

**Association canadienne
des compagnies d'assurances
de personnes inc.**

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Sent by e-mail to: jim.fox@fSCO.gov.on.ca

Mr. Jim Fox
Senior Policy Analyst
Licensing and Market Conduct Division
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
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Dear Mr. Fox:

FSCO Consultation on Insurance Disciplinary Hearings

The Canadian Life and Health Insurance Association (CLHIA) is pleased to provide comments on FSCO's Consultation on "Modernizing Disciplinary Hearings for Insurance Agents and Adjusters."

Established in 1894, the CLHIA is a voluntary association with member companies accounting for 99 per cent of Canada's life and health insurance business. The life and health insurance industry protects about 10.6 million Ontario residents and makes more than \$33 billion a year in benefit payments to Ontario residents (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health or other benefits and the remaining 10 per cent goes to beneficiaries as death claims). In addition, the industry has \$240.3 billion invested in Ontario's economy. A large majority of life and health insurers that carry on business in Canada are licensed to operate in Ontario and 61 of them have their head offices in the province.

To begin, we appreciate the process that FSCO has used in this consultation, which has included the opportunity for bi-lateral discussions with the industry.

The CLHIA supports the proposal to replace the current Advisory Board (AB) hearing process with the Financial Services Tribunal (FST) process for disciplinary hearings for agents and adjusters. As indicated in the Consultation Paper, the decision-making process under the FST model is more streamlined, less complicated, and is used in other regulatory processes at FSCO, including the process for administrative monetary penalties implemented under the Insurance Act earlier this year.

The Consultation Paper also proposes amendments regarding interim orders, continuing jurisdiction, and surrendering a licence. Our comments on these proposals are as follows.

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Interim Orders

The industry supports the proposal for the Superintendent to have explicit authority to issue an interim order to suspend an agent's licence where there is a risk of harm to the public.

The industry strongly believes that it is important to have complaints about agents investigated and dealt with in a timely manner. The use of interim orders as outlined in the Consultation Paper is a good step in this direction.

Continuing Jurisdiction

The proposal calls for the Superintendent's authority to continue if, after a Notice of Proposal (NOP) is issued by the Superintendent, the license expires, is surrendered or is suspended.

We believe that this proposal has merit as it would address situations in which an agent deliberately tries to avoid disciplinary actions. It would also more clearly establish the status of the person if he or she tries to obtain or maintain another licence in the financial services sector.

It does not appear that the current proposal would address situations where misconduct is not detected or completely investigated prior to the expiry or surrender of the licence. This appears to be left to the current rules. While there is a need to have limitations on when a disciplinary action can commence, please consider how the Superintendent's authority could be made more effective to address misconduct that occurred while the individual was licensed.

Surrendering a Licence

The proposal calls for the Superintendent to approve the surrender of a licence. We understand that the process is expected to be the same or similar to the one now used by the Superintendent when he approves the surrender in other areas over which FSCO has jurisdiction (e.g., mortgage brokers). It would involve the agent answering questions in a declaration. If the Superintendent did not want to approve the surrender of a licence, he would have the onus of demonstrating why the surrender should not be granted. There is no expectation that the sponsor of the agent would need to be involved in the surrender process. We welcome the opportunity to provide feedback on the declaration and surrender process once details are available.

Thank you once again for the opportunity to comment on your proposals. Should you have any further questions, we would be pleased to hear from you.

Yours truly,

Original signed by

Peter B. Goldthorpe
Director, Marketplace Regulation Issues