



Financial Services Commission of Ontario

STATEMENT OF PRIORITIES

June 2003

Introduction

Section 11 of the *Financial Services Commission of Ontario (FSCO) Act, 1997*, requires FSCO to deliver to the Minister of Finance and publish by June 30th of each year a statement setting out its proposed priorities for the year ahead. This is FSCO's sixth Statement of Priorities. It outlines proposed Strategic Priorities, identifies the key challenges facing FSCO, highlights initiatives and notes recent progress on significant FSCO projects. It also identifies how progress on selected priorities will be measured.

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

Each year FSCO works together with stakeholders, including representatives from the regulated sectors and consumers, to identify projects that in their view should be included in our Statement of Priorities.

- - - - -

Our Mandate

To protect the public interest and enhance public confidence in the regulated sectors, FSCO provides regulatory services that protect consumers 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.

- - - - -

Key Challenges

Convergence and Harmonization

The effects of globalization, convergence and consolidation continue to have a profound impact on the financial services sector. Markets are searching for ways to take advantage of rapidly disappearing limitations on what, when, where and how business can take place worldwide. As the pressure for convergence increases, regulators are moving to harmonize operations and offer the financial sectors a more efficient and cost effective regulatory regime.

The challenge is to work together with other regulators and stakeholder groups to harmonize regulation across borders and across sectors. We will continue to work with the Ontario Securities Commission (OSC) on initiatives to coordinate our regulatory activities and on the proposed creation of a new regulatory structure.

Market Conditions

While there exists an element of economic uncertainty, both the Canadian and Ontario financial outlooks remain strong. The regulated sectors are working toward finding innovative, long-term solutions to sometimes difficult market conditions. It is essential that FSCO have a thorough understanding of the realities putting pressure on their industries. These pressures include: rising costs; increased competition; changing demographics; the impact of technology; and the costs and complexities of regulatory structures.

The challenge is to work together with the regulated sectors to respond effectively to current market realities.

Regulatory Issues

The goal of maintaining healthy and dynamic markets while protecting consumers through relevant regulation is central to FSCO. This regulatory responsibility must take into consideration both the realities of an uncertain market and the demands of an effective consumer protection regime.

The challenge is to develop regulatory policy that adequately deals with the complex financial issues facing the regulated sectors while protecting the consumer.

Technology

Changes in technology continue to influence the financial services sector. The sectors regulated by FSCO are making use of advances in electronic communication to better serve their customers. FSCO has a responsibility to maintain our technological expertise in order to provide our stakeholders with reliable and secure electronic service delivery.

The challenge is to enhance the ability of FSCO staff to meet the demands of the regulated sectors for electronic service delivery and that FSCO is in a position to address these demands.

The Consumer

The profile of the financial services consumer has changed with the growing influence of technology and the availability of increasingly sophisticated information. Many consumers have assumed a greater role in the decision making process for their financial services. This shift in responsibility provides a strong incentive for consumers to understand both the markets as well as the role of the regulator. Public confidence in aspects of the financial markets has been shaken in recent years; today's consumer expects the regulator to maintain the integrity of the system.

What this Means to FSCO

In order to meet the challenges listed above, clear priorities must be set. As well, initiatives need to be identified to complete these priorities.

FSCO has identified the following priorities for the coming year. As each is significant for FSCO, they are not ranked in any particular order:

- I. Promote a coordinated national approach to regulatory issues.
- II. Apply risk-based approaches when designing operational policies and procedures.
- III. Amend operational policies and procedures and propose amendments to legislation and regulations to keep up with changes in the marketplace.
- IV. Make effective use of technology in delivering services.

FSCO believes that each of the four key priorities for 2003-2004, and the initiatives associated with them, will have a positive impact on consumers. By pursuing these priorities and initiatives, we are confident that we will meet the needs of well informed financial services consumers.

Our Strategic Priorities

I. Promote a coordinated national approach to regulatory issues

We will undertake the following key initiatives toward achieving this outcome:

- Play a significant role in the following Joint Forum of Financial Market Regulators' (Joint Forum), Canadian Association of Pension Supervisory Authorities' (CAPSA) and Canadian Council of Insurance Regulators' (CCIR) initiatives:

Joint Forum -

- ▶ work toward the further harmonization of the securities and insurance regulatory frameworks for mutual funds and individual variable insurance contracts (IVICs), particularly as they relate to point of sale disclosure requirements;
- ▶ work toward the implementation of harmonized national guidelines for capital accumulation plans (CAPs) across the pension, insurance and securities sectors;
- ▶ conduct consultations on the Principles and Practices for the Sale of Products and Services in the Financial Sector document, which discusses the Joint Forum's project to develop a common set of principles and practices for the sale of products and services by all financial intermediaries operating in more than one sector;
- ▶ work with the industry to further enhance the operation of the Financial Services OmbudsNetwork (FSON);

CAPSA -

- ▶ continue work on regulatory principles for a model pension law;
- ▶ work toward the continued development of a revised reciprocal agreement for multi-jurisdictional pension plans;
- ▶ work toward the implementation of harmonized guidelines for governance of pension plans;
- ▶ conduct consultations on recommended changes to the rules governing the investment of pension funds;

CCIR -

- ▶ increase inter-provincial harmonization in the regulation of agents and brokers;
- ▶ assess whether changes are required in the law to protect the confidentiality of information related to critical self assessment audits conducted by insurance companies;
- ▶ develop the harmonized minimum capital test for property and casualty insurance companies in Ontario; and
- ▶ implement national harmonized classes of insurance and definitions.

- Work toward the harmonization of "Prudent Portfolio" initiatives with the Office of the Superintendent of Financial Institutions (OSFI) and other provinces.
- Work with OSFI on discounting requirements and instructions to financial services institutions.
- Work with the Ministry of Finance to respond to plans by the credit union system to become more efficient on a national basis.

We will measure success in achieving this outcome by the following:

- There will be progress in the coordination and streamlining of regulatory processes across jurisdictions and across sectors.

II. Apply risk-based approaches when designing operational policies and procedures

We will undertake the following key initiatives toward achieving this outcome:

- Develop a risk-based approach to pension fund investment monitoring.
- Develop Dynamic Capital Adequacy Testing (DCAT) requirements and oversee the implementation of Appointed Actuary requirements by Ontario incorporated companies.
- Continue the risk-based approach to licensing, market conduct, monitoring and enforcement in the regulation of insurance companies, credit unions/ caisses populaires, and intermediaries.
- Enhance monitoring and evaluation of the Designated Assessment Centres (DAC) System.
- Increase enforcement addressing abuse in the automobile insurance system.

We will measure success in achieving this outcome by the following:

- There will be a more effective and timely response to high risk situations in the regulated sectors.

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

We will undertake the following key initiatives toward achieving this outcome:

- Work with stakeholders on the development of a database for the Standard Invoice and build an infrastructure to monitor the effectiveness of automobile insurance reforms.
- Make improvements to the DAC System by updating and developing new DAC guidelines and implementing a self-audit program.
- Undertake a review of the automobile insurance risk classification system and underwriting rules.
- Establish a regulatory process for paralegals and monitor the implementation of a regulatory scheme.
- Update both the Automobile Statistical Plan and the Ontario Statutory Accident Benefits Statistical Plan.
- Update the Dispute Resolution Practice Code, forms and relevant procedures to address marketplace pressures and legislative/regulatory changes.
- Continue to work with the Ministry and stakeholders to develop a regulatory regime for viatical settlements.
- Continue to work with the Ministry of Finance and the sector in both identifying and recommending changes to the *Mortgage Brokers Act*.
- Add resources and design enhanced operational policies and procedures to address backlogs in pension plan reviews.
- Continue to work with the co-operative sector in both identifying and recommending changes to update the current legislation.
- Work with the Ministry of Finance and stakeholders to consider removal of occupational restrictions for insurance agents and ownership restrictions for insurance agents.
- Work with the Ministry of Finance to consider the incorporation of Life Licence Qualification Program (LLQP) requirements in regulation.
- Work with the Deposit Insurance Corporation of Ontario (DICO) to enhance the governance of credit unions. This includes ensuring clarity of roles and responsibilities so that the credit union is operated in the best interests of its members and an effective system to resolve disputes within credit unions is in place.

- Work with DICO, its members, industry associations and the Ministry of Finance to consider DICO's responsibilities with respect to solvency of member institutions.

We will measure success in achieving this outcome by the following:

- The sectors will see advances in proposals to change legislation and regulations as well as actual amendments to FSCO operational policies and procedures.

IV. Make effective use of technology in delivering services

We will undertake the following key initiatives toward achieving this outcome:

- Improve stakeholder access to information through the continued redesign of FSCO's web site.
- Implement a link from the FSCO public web site to key fields of the pension plans database.
- Phase out the printed paper version of the FSCO Pension Bulletin and provide stakeholders with electronic, on-line access to its contents on FSCO's redesigned web site.
- Convert the existing DAC reporting system to a web-based system.
- Introduce E-filing for Dispute Resolution forms.
- Develop Phase III of the Internet Application System (IAS), which will allow for E-licensing of other FSCO regulated intermediaries.
- Move the Automated Rates and Classification Technical Information Communication System (ARCTICS) from a pilot project to full production for use by all automobile insurance companies to submit electronic filings.

We will measure success in achieving this outcome by the following:

- Customer service to FSCO stakeholders will be improved through the increased availability of electronic services.

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.

Currently, FSCO collects fees from two regulated sectors: pensions and mortgage brokers. In addition, assessments are made with respect to three of the sectors regulated by FSCO: insurance; credits unions/caisses populaires; and loan and trust.

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 – 2002

Report on Key Initiatives

The Regulatory Framework

- FSCO worked with the Ministry of Finance and industry stakeholders on the implementation of changes to the automobile insurance system. An Implementation Steering Committee and individual working groups were established to deal with the following:
 - the update of automobile insurance forms;
 - the framework for administering a filing process for paralegals;
 - pre-approved framework guidelines for whiplash associated disorders;
 - changes to DAC processes and guidelines; and
 - communication and training issues.
- FSCO established the role of the appointed actuary in insurance companies through changes to the *Insurance Act*.
- FSCO established a role for the Motor Vehicle Accident Claims Fund (MVACF) in delivering Statutory Accident Benefits (SABs) payable by an insurer in respect of which a wind up order has been made through changes to the *Insurance Act* and the *MVACF Act*.
- FSCO expanded the risk-based approach to pension supervision through the initiation of the Investment Monitoring Project.
- FSCO conducted a pilot of the DACs self-audit.

A National Approach to Regulatory Issues

- The Joint Forum released for consultation a statement of Principles and Practices for the Sale of Products and Services in the Financial Sector.
- The Joint Forum developed proposals to harmonize and update the regulation of mutual funds and IVICs, and released the Point of Sale Disclosure Consultation Paper on February 13, 2003.
- The Joint Forum and its constituent groups approved revised principles for investment disclosure in CAPs. Proposed guidelines to implement the principles were developed with the assistance of an industry task force for a consultation targeted for April 2003.
- The Joint Forum worked with the industries in the financial services sector to launch the Financial Services OmbudsNetwork (FSON) - a national, one-step service to assist financial services consumers with complaints. In support of FSON, FSCO modified its Insurance Ombudsman services process.

- CAPSA approved revised principles and guidelines for pension plan governance. An implementation tool was developed with the assistance of an industry task force for approval by CAPSA.
- CAPSA continued to develop proposed principles for a model pension law in preparation for a consultation targeted for 2003.
- CAPSA developed recommendations for changes to the federal investment regulations for a consultation targeted for 2003.
- CCIR and the Canadian Insurance Services Regulatory Organizations (CISRO) implemented the LLQP on a mandatory basis across Canada in January 2003.
- CCIR conducted a national survey on E-commerce.
- CCIR agreed on national harmonized classes of insurance and definitions. Ontario intends to implement the new classes and definitions in 2003.

Effective Use of Technology

- FSCO developed and pilot-tested ARCTICS, a web-based electronic filing system for automobile insurance filings.
- FSCO introduced Phase II of the IAS. Phase II enables insurance company staff to initiate the licensing process for prospective new agents, or to transfer or terminate an agent's sponsorship, via the Internet.
- FSCO introduced the development of E-filing for Dispute Resolution Services (DRS).
- The Automobile Insurance Division (AID) and the Licensing and Compliance Division (L&C) at FSCO, were each awarded Silver Certificates at the Public Service Quality Fair in Toronto. The awards recognized ARCTICS for AID and Phase II of IAS for L&C.

The Financial Services Tribunal

The Financial Services Tribunal (Tribunal) is an independent, adjudicative body composed of nine to 15 members (12 members, as at March 31, 2003), 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 conflict 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, 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.

Bryan P. Davies
Chief Executive Officer,
Financial Services Commission of Ontario
and
Superintendent of Financial Services

Martha Milczynski
Chair,
Financial Services Commission of Ontario
and
Chair, Financial Services Tribunal