



**Financial Services Commission of Ontario**

**STATEMENT OF PRIORITIES**

**June 2007**

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## **Introduction**

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established under the Financial Services Commission of Ontario 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 tenth Statement of Priorities. It identifies key challenges facing FSCO, outlines proposed strategic priorities for the coming year, and notes recent progress on significant projects.

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

As of March 1, 2007, FSCO regulated or registered 394 insurance companies, 8,086 pension plans, 219 credit unions and caisses populaires, 51 loan and trust corporations, 1,007 mortgage brokers, 1,599 co-operative corporations, as well as approximately 36,900 insurance agents, 3,837 corporate insurance agencies and 1,100 insurance adjusters. The regulated sectors represent a large, dynamic and evolving industry that plays a vital role in the economy of the province 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**

FSCO engages in planning exercises to identify current and future strategic priorities to guide activities toward the achievement of its objectives. For this process to be effective, external factors affecting the financial services industry must be considered. FSCO continues to take into account the following challenges.

### **Globalization**

The continuing trend toward globalization and international consolidation in the financial sectors is blurring jurisdictional lines. Today, financial services providers can reach out to consumers via the Internet and e-commerce technologies, depending less on the bricks and mortar based business models of the past. This has led to consolidations and mergers among financial institutions, increases in the number of multi-national companies providing financial services and vast changes in the way these services are delivered. In this online global marketplace, companies are no longer tethered to one or two business lines and can offer a broader range of financial services, many of which are subject to different regulatory regimes.

As a result of these factors, the production, marketing and delivery of financial services products has also changed, resulting in a further multiplication of regulatory issues. The new borderless frontier facilitated by technology challenges financial services regulators to address regulation using a broad cross-jurisdictional, cross-sectoral approach.

### **Regulatory renewal**

Regulators must keep pace with today's rapidly changing financial services marketplace. For FSCO, this requires the adoption of refined methods of multi-sectoral regulation that address issues facing financial services providers both large and small, in a manner that best utilizes resources. Risk-based methods of regulation provide a means to achieve this aim, by using regulatory resources more efficiently and in areas where they have the greatest potential return. To employ these methods in the most effective manner possible, it is essential that regulators have tools at their disposal to collect and analyze relevant data.

### **Market conditions**

Recent shifts in global economic activity have been reflected in the Canadian economy, contributing to uncertain market conditions. Despite the cooler economic climate, Ontario's growth has rebounded and is expected to strengthen as U.S. demand picks up steam and the lower Canadian dollar and oil prices stimulate economic activity. As a result, it is essential that regulators continue to effectively monitor and manage risk to enhance consumer confidence and public trust in the regulated sectors and contribute to a healthy financial services marketplace.

## **Consumer protection and education**

Technological innovation in the financial services marketplace has empowered consumers, providing them with more products and services to choose from than ever before. While providing the benefit of increased opportunities, the complexity of a more diverse marketplace can also make it more difficult for consumers to make informed choices. More than ever, consumers are turning to professionals for assistance when making financial decisions. The expansion in financial services providers requires investment in a variety of initiatives by FSCO, to ensure we have the tools at our disposal to provide consumers with reliable information, protect them from illegal activity and assist them in resolving disputes when they arise.

### ***What this means to FSCO***

To meet these challenges, FSCO is guided by established strategic priorities. These priorities build on the delivery of the core activities FSCO carries out to achieve its mission. As each is significant, FSCO's strategic 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 pace with changes in the marketplace.
- IV. Improve delivery of services.

FSCO believes these strategic priorities and their associated initiatives, which are outlined on the following pages, will have a positive impact on consumers and pension plan beneficiaries. The pursuit of these priorities allows FSCO to fulfill its mandate to protect financial services consumers and pension plan beneficiaries and support a healthy and competitive financial services industry in Ontario.

To fulfill its mandate, FSCO has adopted a culture of partnership and dialogue. FSCO continues to benefit from strong collaboration with consumers, industry and other stakeholders. For this reason, many projects undertaken by FSCO are complex, involving many participants and requiring implementation in conjunction with federal and provincial jurisdictions. As a result, many initiatives span several years, with work continuing on an ongoing basis.

Technology plays an important role in helping FSCO maintain strong connections with stakeholders and provide information and services to them. To this end, FSCO has embraced all aspects of e-communications, conducting business with industry electronically and offering consumers online access to services and information. FSCO believes that with improved access to information, consumers and pension plan beneficiaries will be better equipped to make wise choices and protect their interests.

FSCO's Statement of Priorities includes a report on the progress of key initiatives identified in the previous year's statement. The report back section of this year's statement lists FSCO's accomplishments in the previous year and their intended benefits to stakeholders and the regulatory system.

## ***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), the Canadian Council of Insurance Regulators (CCIR), the General Insurance Statistical Agency (GISA) and the Canadian Insurance Services Regulatory Organizations (CISRO).

FSCO is participating with these national organizations as a member of, or in some cases as lead of, committees and project teams that are mandated to undertake the following initiatives. Some of these projects will result in recommendations to member regulators and governments for statutory changes to achieve implementation. In Ontario, the recommendations will require review and approval by the Ontario government.

#### **Joint Forum**

- Continue work related to assessing and harmonizing point of sale disclosure for Individual Variable Insurance Contracts (IVICs, also known as segregated funds) and mutual funds to ensure consumers are aware of the risks and benefits of these investment products at the time of purchase.
- Work with the Financial Services Ombudsnetwork to define performance standards for dispute resolution services; build appropriate measurement and reporting systems around those standards; and promote harmonization and consistency among the industry level OmbudServices (Ombudsman for Banking Services and Investments, Canadian Life and Health Insurance OmbudService, General Insurance OmbudService).
- Continue to work with stakeholders to identify problems resulting from differences in investment rules for pension funds, mutual funds and other pooled investment funds. Develop recommendations for possible solutions and coordinate the implementation of adopted solutions.
- Examine the regulation of intermediaries and recommend ways to minimize possible conflicts. Promote equivalent consumer protection, focusing initially on intermediaries who sell mutual funds and IVICs.

- Continue to develop mechanisms to allow for more effective sharing of information on regulatory enforcement issues and actions across sectors and jurisdictions.
- Coordinate regulatory efforts on consumer information and education by creating an inventory of existing resources and content, looking at approaches taken in other jurisdictions and making recommendations for improvement.
- Undertake a review of the guidelines for Capital Accumulation Plans (CAPs) released by the Joint Forum in 2004, in an effort to measure the success of their implementation and determine if any additional work is required in this area. Examples of CAPs include: defined contribution registered pension plans, group registered retirement savings plans, group registered education savings plans and deferred profit sharing plans.

### **CAPSA**

- Continue the development of a model pension statute that would serve as a model for federal and provincial governments to consider when they are making amendments to their pension legislation.
- Continue to work on the development of a multi-lateral agreement for the regulation of multi-jurisdictional pension plans to replace the existing 1968 Reciprocal Agreement.

### **CCIR**

- Continue to monitor the achievement of principles for managing conflicts of interest in the insurance industry.
- Carry on efforts to put forward a model for privilege for documents created as part of insurer risk self-assessments and whistle-blower protection for persons who volunteer information about an insurer, insurance agent, insurance broker or insurance adjuster engaged in wrongdoing.
- Assist regulators in the adoption of methods for collecting insurance company complaint data, with the goal of creating a national complaint reporting data system.
- Develop and document a vision of risk-based market conduct regulation and appropriate tools to support such vision that individual regulators can consider for adoption in their jurisdictions or might employ collectively with other regulators in addressing shared market conduct concerns.

## **II. Enhance the risk-based approach to regulation**

- Evaluate the requirement for all defined benefit pension plans registered with FSCO to file an Investment Information Summary to streamline this risk-based approach to the monitoring of pension plan funds.
- Identify new sources and methods for obtaining information about the financial strength of pension plan sponsors, such as commercial credit and rating data services, to evaluate the safety and soundness of plans and enhance protection for plan members.
- Distribute a market conduct questionnaire to auto insurers to assess the risk of non-compliance with rate, risk classification and underwriting requirements under the Insurance Act.
- Develop risk-based compliance examination techniques for pension plans, mortgage brokers and insurance sectors to improve overall market conduct and pension plan governance and enhance consumer and pension plan member protection.
- Develop risk-based tools and criteria for use by staff in the review of applications from the insurance, mortgage broker and co-operative sectors.

## **III. Review and recommend amendments to the regulatory framework to keep pace with changes in the marketplace**

- Continue to review partial pension plan wind-ups affected by the Monsanto decision to ensure compliance with obligations to distribute surplus on partial wind-ups.
- Develop recommendations for changes to the requirements for disclosure of plan information to pension plan beneficiaries to increase transparency and enhance protection for plan beneficiaries.

Work with the Ministry of Finance and FSCO stakeholders to:

- Continue to develop proposed regulations, educational standards and implement licensing requirements under the Mortgage Brokerages, Lenders and Administrators Act, 2006.
- Develop a plan to implement amendments to the Credit Unions and Caisses Populaires Act, 1994, once proclaimed.

- Develop proposals for the implementation of “Prudent Portfolio” rules to provide increased flexibility to provincially incorporated insurers in their investment decisions, while at the same time, maintaining adequate protection for the public.
- Continue to work with the cooperative corporation sector in Ontario to develop Co-operative Corporations Act legislation and regulation amendments.
- Assist the Ontario Expert Commission on Pensions with the examination of legislation that governs the funding of defined benefit pension plans, the rules relating to pension deficits and surpluses and other issues relating to the security, viability and sustainability of the pension system in Ontario.
- Transfer the responsibility for oversight of Statutory Accident Benefits representatives (paralegals) to the Law Society of Upper Canada.
- Continue work with the Facility Association to evaluate proposals for changes to residual market or risk-sharing pool mechanisms to ensure that automobile insurance continues to be available to owners and licensed drivers who are unable to obtain insurance through the voluntary insurance market.
- Develop and implement an assessment process for cost recovery from the pension sector.
- Draft recommendations for the licensing of wholesale brokers to enhance consumer protection.
- Conduct research to determine the feasibility of developing additional Pre-Approved Framework (PAF) Guidelines for the treatment of automobile accident injuries under the Statutory Accident Benefits Schedule (SABS) to improve utilization of health care services and provide certainty around cost and payment for insurers and health care providers.
- Support the implementation of the Health Claims for Auto Insurance (HCAI) database, a system that allows for the electronic exchange of health claim information between health care providers and insurance companies, supporting the need for access to timely, accurate data to monitor the auto insurance system. Full implementation is expected to begin in 2008.
- Make recommendations to the Minister on updating Regulation 283/95, Disputes Between Insurers, to ensure that claimants are appropriately protected and have access to statutory accident benefits when two or more insurers are disputing which one has the responsibility to pay.

- Assist with the introduction of a new proposed Life Income Fund (LIF) that would increase income for seniors in retirement by enhancing access to locked-in retirement savings accounts.
- Commence a five-year review of the auto insurance system to facilitate updates and improvements to the current system.

#### **IV. Improve delivery of services**

- Implement recommendations resulting from an internal review of dispute resolution processes to ensure the delivery of dispute resolution services in the most effective manner possible.
- Proceed with upgrades to compliance and enforcement tracking procedures to enhance the risk-based approach to regulation and improve the delivery of services.
- Analyze opportunities for instituting electronic filing methods to facilitate the submission of filings electronically by the insurance sector.
- Continue with the second phase of enhancements and upgrades to the FSCO website to advance FSCO's provision of electronic services and information to consumers and other stakeholders.

## **FSCO Funding**

Under section 25 of the FSCO Act, 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 and FSCO have incurred. The Minister of Finance is also authorized to establish fees with respect to the 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
- 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.

For the insurance sector, FSCO has moved to quarterly calculation of assessments. This approach provides the insurance sector with estimates of annual costs early in the year and allows for adjustments to be made in a more timely manner.

Effective fiscal 2007-08, FSCO will begin to recover its costs from the pension sector via an annual assessment rather than through Annual Information Return (AIR) fees.

## **Report Back on Key Initiatives from 2006**

### **I. 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 activities:

#### **Joint Forum**

- Continued to work with the Financial Services OmbudsNetwork to define performance standards for dispute resolution services, build appropriate measurement and reporting systems around those standards, and promote harmonization and consistency among the industry-level OmbudServices.
- Developed prototype point of sale disclosure documents to enhance protection for consumers entering into a mutual fund, segregated fund or IVIC to ensure consumers are aware of the risks and benefits of these investment products at the time of purchase.
- Conducted research on problems resulting from differences in investment rules for pension funds, mutual funds and other pooled investment funds.
- Initiated a review of the guidelines for Capital Accumulation Plans.

#### **CAPSA**

- Finalized the non-contentious model law principles identified during stakeholder consultations in 2004. The development of a model pension statute is a step towards addressing requests from industry to improve harmonization and reduce regulatory burden and its associated costs.
- Drafted a framework for the development of a multi-lateral agreement for the regulation of multi-jurisdictional pension plans. The development of a new multi-lateral agreement addresses issues related to the regulation of multi-jurisdictional pension plans, improving the environment for industry and plan members.

#### **CCIR**

- Worked with the Canadian Insurance Services Regulatory Organizations (CISRO) to finalize and endorse principles for managing conflicts of interest. The Industry Practices Review Committee (IPRC), led by FSCO staff, will continue to monitor the implementation of these principles for managing conflicts of interest in the marketplace.

- Worked with CISRO to introduce a reliance model of reciprocal licensing for insurance agents and brokers in Canada to harmonize the requirements for agents who want to be licensed in multiple jurisdictions.
- Prepared a discussion paper for the purposes of obtaining stakeholder feedback on privilege for insurer self-assessments and whistle-blower protection. The Working Group on Privilege received fourteen stakeholder submissions, which will be used to develop a model for privilege and whistle-blower protection.

## **GISA**

- Launched the GISA website on July 1, 2006. The website provides information on GISA's business objectives, governance structure and code of conduct as well as a manual detailing the revised Automobile Statistical Plan requirements. GISA is an independent statistical agency overseeing the collection and analysis of auto insurance statistical data to ensure rates are just and reasonable for consumers.

## **II. Enhance the risk-based approach to regulation**

- Established a research project to identify unlicensed or unregistered activity in the mortgage broker sector to protect consumers and increase awareness of the licensing requirements for mortgage brokers.
- Examined the feasibility of integrating the financial statement and the Investment Information Summary for all defined benefit pension plans registered with FSCO to further streamline the monitoring of the investment of pension plan funds.

## **III. Review and recommend amendments to the regulatory framework to keep pace with changes in the marketplace**

- Reviewed partial pension plan wind-ups affected by the Monsanto decision to ensure compliance with obligations to distribute surplus on partial wind-ups. To date, more than a third of the approximately 300 cases have been resolved and FSCO continues to monitor the situation to promote timely resolution.
- Evaluated the delinquent filing process as it currently applies to pension plans registered with FSCO to enhance risk-based monitoring and protection for beneficiaries.

- Revised Pre-Approved Framework (PAF) Guidelines for the treatment of whiplash-associated disorders (WAD) I and II injuries under the Statutory Accident Benefits Schedule (SABS) with input from stakeholders to improve utilization of health care services for the treatment of automobile accident injuries and provide certainty around cost and payment for insurers and health care providers.
- Participated in a Ministry of Finance-led working group that prepared a consultation draft of proposed amendments to the Credit Unions and Caisses Populaires Act, 1994.
- Worked with the co-operative corporation sector in Ontario to develop Co-operative Corporations Act legislation and regulation amendments.
- Supported the development of the Health Claims for Auto Insurance (HCAI) database, a system that allows for the electronic exchange of health claim information between health care providers and insurance companies, supporting the need for access to timely accurate data to monitor the auto insurance system. A regulation was passed in December 2006 to support a pilot of the system in 2007.
- Reviewed Regulation 283/95, Disputes Between Insurers, with the objective of enhancing protection of claimants and ensuring access to statutory accident benefits when two or more insurers are disputing which one has the responsibility to pay the benefits. FSCO has reviewed the operation of the regulation with stakeholders and developed recommended changes.
- Reviewed proposals from the Facility Association on possible changes to residual market or risk-sharing pool mechanisms to ensure that automobile insurance continues to be available to owners and licensed drivers who are unable to obtain insurance through the voluntary insurance market.
- Worked with the Ministry of Finance to draft “Prudent Portfolio” rules to provide increased flexibility to Ontario incorporated insurers and Ontario-formed reciprocal insurers in their investment decisions, while at the same time, maintaining adequate protection for the public. Bill 151, which includes these amendments, received royal assent in December, 2006.
- Worked with the Ministry of Finance to develop a consultation draft of regulations to support the implementation of the Mortgage Brokerages, Lenders and Administrators Act, 2006.
- Conducted a review of proposed education requirements for those who would be licensed as mortgage brokers and agents under the Mortgage Brokerages, Lenders and Administrators Act, 2006.

- Examined possible options for conducting a five-year review of the auto insurance system to facilitate updates and improvements to the current system.
- Worked with the Ministry of Finance to complete regulation amendments required for the implementation of harmonized classes of insurance and applicable definitions in Ontario.

#### **IV. Improve delivery of services**

- Reviewed the current dispute resolution process to ensure the delivery of dispute resolution services in the most effective manner possible. As a result of the review, modifications aimed at making services more user-friendly and efficient will be made throughout 2007.
- In anticipation of new licensing requirements, developed a single online destination for the processing of licensing applications and renewals from mortgage brokers and agents. The current mortgage brokers case management system was upgraded to capture additional data and provide new functionality.
- Enhanced the current online system for processing licensing applications and renewals from insurance agents. The system, which has been re-branded as Licensing Link, now accommodates a greater range of licensing transactions. Effective July 4, 2006 all licensing transactions for agents must be completed online, eliminating inefficient and costly paper-based processing methods.
- Conducted additional training for auto insurers on the use of the ARCTICS system to facilitate the submission of more auto insurance filings by electronic means to increase efficiency.
- Prepared and posted additional co-operative corporations sector guidance materials on the FSCO website and provided further co-operative corporations support through the FSCO/Ministry of Finance Co-Operative Corporations Sector meeting group.
- Created electronic forms in multiple formats for auto insurance stakeholders. These “smart” forms are automated and interactive, making the submission of information easier and more efficient for stakeholders.
- Launched the Pension Bulletin online in September 2006. This area of the FSCO website delivers pension information that was previously found in FSCO’s paper bulletins, in an easy-to-navigate, electronic format. Subscribers to the Pension e-Bulletin get periodic electronic newsletters listing recent updates to the Pension Bulletin online to ensure they have the most up-to-date information at their fingertips.

### ***The Financial Services Tribunal***

The Financial Services Tribunal (the Tribunal) is an independent, adjudicative body composed of nine to 15 members (14 members as of April 1, 2007), including the Chair and two Vice-Chairs of the Commission.

The Tribunal has exclusive jurisdiction to exercise the powers conferred under the FSCO Act 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 priority:

- Produce literature/brochures to assist parties, particularly those who are unrepresented or unfamiliar with the Tribunal's rules, practices and procedures.

## **Conclusion**

This statement outlines FSCO's proposed slate of activities and projects for 2007. FSCO continues to benefit from strong partnerships with stakeholders to achieve its objectives. We look forward to working with our many partners in the upcoming fiscal year to overcome challenges and accomplish our goals. Together, we can foster a healthy financial services marketplace where consumers are protected and competition thrives.

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