



Financial Services Commission of Ontario
STATEMENT OF PRIORITIES

June 2006

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 ninth 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 or Board; the Superintendent of Financial Services and staff; and the Financial Services Tribunal. FSCO regulates insurance, pension plans, loan and trust companies, credit unions/caisses populaires, mortgage brokers and co-operative corporations in Ontario.

As of March 1, 2006, FSCO regulated or registered 402 insurance companies, 7,881 pension plans, 239 credit unions and caisses populaires, 51 loan and trust companies, 947 mortgage brokers, 1,767 co-operative corporations, as well as approximately 35,446 insurance agents, 3,806 corporate insurance agencies and 1,208 insurance adjusters. The regulated sectors represent a large, dynamic and evolving industry that plays a vital role in the provincial economy 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 better direct FSCO's activities toward the achievement of its objectives. For this process to be effective, it cannot take place without consideration of external factors affecting the financial services industry. FSCO continues to take into account the following key challenges in the environment.

Convergence and structural change

There is a continuing trend toward consolidation and mergers of financial institutions, globalization of the marketplace and convergence of the financial services industry. Increasingly, initiatives exist within national and multi-national firms to provide a broad range of in-house financial products such as loans, wealth management and insurance. Often these products are subject to different regulatory regimes. This trend challenges financial services regulators to address issues facing the financial services industry using a cross-jurisdictional, cross-sectoral approach.

Market conditions

Rising costs, increased competition and changing demographics are just a few of the factors influencing market conditions and affecting the fiscal outlook of financial institutions and pension plans. As the baby boom generation retires, there will be increasing focus on retirement and pension issues. Consumers and pension plan beneficiaries also continue to express concern about the implications of fluctuating market conditions. Recent periods of variable investment returns coupled with low long term interest rates have negatively impacted the solvency of many pension plans. The cyclical nature of the insurance industry, meanwhile, can result in periods of premium increases, followed by intervals of price softening. As a result, consumers and pension plan beneficiaries can find themselves subject to market forces over which they have little control. To address these concerns, it is essential that regulators have a thorough understanding of market realities to effectively manage and measure risk, anticipate changes in market conditions and respond effectively to them.

Evolving regulatory environment

Regulators need to keep pace with, and have adequate regulatory instruments to respond to, the changing regulatory environment. A number of initiatives are underway to streamline legislative and regulatory structures to align the regulation of financial services with evolving market realities. In pursuing this objective, FSCO will also need to respond to any changes that may occur in the regulatory systems for financial services not regulated by FSCO. By adequately regulating and supervising financial institutions, FSCO enhances public confidence in Ontario's financial institutions and pension plans, a key factor in determining Ontario's current and future economic success.

Impact of technological change

Emphasis on electronic communication in Canadian society, and globally, requires that regulators be equipped to conduct business with stakeholders electronically and provide information and services to consumers and pension plan beneficiaries online. Similarly, the growth in the volume of data available to FSCO from stakeholders requires investment in a sustainable infrastructure that allows FSCO to effectively manage this information to support decision making, service delivery and the achievement of its strategic priorities.

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 business 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 up 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.

That said, FSCO cannot achieve its goals alone. 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, most 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. In this year's Statement, the report back section lists FSCO's accomplishments over 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) and the General Insurance Statistical Agency (GISA).

FSCO is participating with these national organizations as a member of, or in some cases as a lead of, committees and project teams that are mandated to undertake the following initiatives:

Joint Forum

- Continue to work with the Financial Services OmbudsNetwork and relevant industry groups to: define performance standards for dispute resolution; build measurement and reporting systems around those standards; and promote harmonization and consistency in these areas among the Ombudsman for Banking Services and Investments (OBSI), the Canadian Life and Health Insurance OmbudService (CLHIO) and the General Insurance OmbudService (GIO).
- Continue work related to assessing and harmonizing point of sale disclosure for Individual Variable Insurance Contracts (IVICs) and mutual funds.
- 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.

- Explore 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 the implementation of the guidelines and determine if any additional work is required in this area.

CCIR

- Continue work with the Canadian Insurance Services Regulatory Organizations (CISRO) to finalize the development of principles on the management of conflicts of interest and continue to monitor the achievement of these principles in the insurance industry.
- Implement a reliance reciprocal licensing model to streamline agent and broker licensing across Canada. The reliance model would build on harmonization in three areas: application forms, continuing education and errors and omissions insurance.
- Continue to work on a model for privilege and whistle-blower protection for documents created as part of insurer risk self-assessments and persons who volunteer information about an insurer, insurance agent, insurance broker or insurance adjuster engaged in wrongdoing.

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.

GISA

- Develop and launch a GISA website providing information about GISA and its role as an independent statistical agency to oversee the collection and analysis of auto insurance statistical data, its governance structure, membership and contact information.

II Enhance the risk-based approach to regulation

- Develop and put into place risk-based examination processes for mortgage brokers and insurance companies. The objective of these assessments is to evaluate the safety and soundness of companies to enhance consumer protection and identify ways to improve market efficiency.
- Examine the feasibility of integrating the financial statement and the Investment Information Summary for all Defined Benefit pension plans registered with FSCO to further streamline this risk-based approach to monitoring the investment of pension plan funds.

III Review and recommend amendments to the regulatory framework to keep up 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.
- Evaluate the delinquent filing process as it currently applies to pension plans registered with FSCO.
- Develop additional Pre-Approved Framework (PAF) Guidelines with input from stakeholders.

Work with the Ministry of Finance and FSCO stakeholders on the following priorities:

- Assist with a review of the Credit Unions and Caisses Populaires Act, 1994, to improve consumer protection and enhance and modernize regulations.
- Continue dialogue with the co-operative corporation sector in Ontario on regulatory issues affecting the sector.

- Support the development of the Health Claims for Auto Insurance (HCAI) database, an electronic 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.
- Review Regulation 283/95, Disputes Between Insurers, to ensure that claimants are appropriately protected and have access to statutory accident benefits where two or more insurers are disputing which one has the responsibility to pay accident benefits.
- Review and work with the Facility Association to develop proposals outlining possible changes to residual market or risk-sharing pool mechanisms.
- Develop proposed “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.
- Develop proposed regulations to support the adoption of Bill 65, Mortgage Brokerages, Lenders and Administrators Act, 2006, currently before the provincial legislature.
- Review the education requirements for mortgage brokers for the purpose of licensing brokers/agents under the proposed Mortgage Brokerages, Lenders and Administrators Act.
- Evaluate the current auto insurance system as part of a five-year review.

IV Improve delivery of services

- Proceed with the second phase of enhancements and upgrades to the FSCO website to advance FSCO’s provision of electronic services to consumers and other stakeholders.
- Conduct a review of current dispute resolution processes to ensure the delivery of dispute resolution services in the most effective manner possible.
- Develop a single online destination for the processing of licensing applications and renewals from mortgage brokers and insurance agents.

- Conduct additional training for auto insurers on the use of the ARCTICS system to facilitate the submission of more auto insurance filings by electronic means.
- Upgrade compliance and enforcement tracking procedures to enhance the risk-based approach to regulation and improve the delivery of 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.

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.

This year, FSCO is moving to quarterly assessments, rather than annual assessments, for the insurance sector. This approach will provide the insurance sector with estimates of annual costs early in the year and will allow for adjustments to be made on a more timely basis when necessary.

FSCO is also developing an Activity Based Costing (ABC) model. Once implemented, using specialized software, ABC will assist FSCO's ability to better formulate and verify the costs recovered through the FSCO fee schedule and assessments.

Statement of Priorities – 2006

Report Back on Key Initiatives from 2005

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 develop a model for point of sale disclosure for mutual funds and segregated funds. The purpose of the model is to establish harmonized standards for point of sale disclosure, ensuring consumers across Canada have the information and assistance they need to make informed investment decisions.
- Continued to create appropriate linkages between regulators and the Financial Services OmbudsNetwork (FSON) with the overall goal of improving the efficiency and effectiveness of the FSON to enhance consumer protection and enhance regulator's confidence in the system.
- Established an Investment Rules Committee to work with stakeholders to identify differences in investment rules for pension funds, mutual funds and Individual Variable Insurance Contracts, problems resulting from these variances, and options for addressing them. The purpose of this initiative is to reduce the regulatory burden on the industry, while at the same time, continuing to protect pension plan beneficiaries and consumers.

CAPSA

- Worked with the Stakeholder Task Force on Common Pension Standards to finalize standards for plan administration and basic entitlements as part of a proposed model pension law to assist in the harmonization of pension legislation across Canada.
- Pursued, through the CAPSA Reciprocal Agreement Committee, the development of a revised reciprocal agreement to streamline regulation and administration of multi-jurisdictional plans to improve overall regulatory efficiency and effectiveness.

CCIR

- Instituted an amended governance model for oversight of the Automobile Insurance Statistical Plan with the incorporation of an independent entity, the General Insurance Statistical Agency (GISA), on June 28, 2005. GISA was created to improve the timeliness, quality and value of statistical data generated by licensed insurers. It acts as the statistical agent designated by eight provincial and territorial jurisdictions to collect data and report information about the automobile insurance industry in Canada.
- Developed a harmonized framework for the collection and reporting of company complaint data. In October 2005, FSCO and the Quebec Autorité des marchés financiers (AMF) launched SRP-CRS, a complaint reporting system which provides a single entry point for companies to submit complaint information electronically to the AMF and FSCO. Companies have begun reporting data they have collected for the six months ending December 31, 2005, using SRP-CRS. The data will be used by regulators to identify emerging issues as part of a risk-based approach to regulation. In future, the system will be made available to regulators in other jurisdictions.
- Worked with the Reciprocal Licensing Committee to introduce common insurance intermediary application forms to streamline agent and broker licensing and facilitate cross-jurisdictional licensing.
- Issued two market conduct questionnaires, one for property and casualty insurers and the other for life and health insurers, to obtain information about their relationships with brokers, agents and other sales intermediaries. Under the auspices of the joint CCIR-CISRO Industry Practices Review Committee (IPRC), released a consultation paper entitled *Relationships Between Insurers and Sales Intermediaries—Achieving Best Practices*. The paper outlined survey results and solicited input from stakeholders on best practices for managing conflicts of interest between insurers, agents and brokers. A paper summarizing stakeholder responses was released in November 2005, followed by a consultation paper seeking comments on recommendations designed to enhance consumer confidence in the industry.

II Enhance the risk-based approach to regulation

- Implemented an investment monitoring model, with the aims of protecting the interests of pension plan members and promoting strong governance for pension fund investments. The model and the accompanying Investment Information Summary (IIS) form, designed to monitor pension fund investment activity, were revised based on suggestions received during consultations with stakeholders. The IIS was issued to all defined benefit pension plans registered with FSCO in 2006.

- Introduced a self-assessment questionnaire related to the Statutory Accident Benefits Schedule (SABS) in November 2005. The questionnaire focuses on SABS, as well as internal systems that have a bearing on the way companies interact with consumers. The questionnaire replaces expensive and complex transactional audits. It was developed with the assistance of the Insurance Bureau of Canada, who invited their member companies to participate in a pilot of the survey. As a result of input from companies in the pilot group, the questionnaire was refined further before being launched industry-wide.

III Review and recommend amendments to the regulatory framework to keep up with changes in the marketplace

- Contacted the approximately 300 partial pension plan wind-ups affected by the Monsanto decision to request updates on the financial position of the wound-up portion of the plan and a timetable for the distribution of remaining assets to ensure compliance with obligations to distribute surplus on partial wind-ups. To date, more than a quarter of all cases have been resolved and FSCO continues to monitor the situation to promote timely resolution.
- Undertook a review of policies related to the distribution of surplus on partial pension plan wind-up. As part of the review, two issues have been identified as requiring new policies: how to accommodate a split in assets across jurisdictions if a plan has members outside of the province of Ontario and whether or not an employer's share of surplus resulting from a partial wind-up can remain in the ongoing portion of the plan. FSCO staff are currently in the process of finalizing new policies to address these issues.
- Formed a Pre-Approved Framework (PAF) Project Advisory Committee comprised of stakeholder representatives to oversee the expansion of PAF Guidelines for the treatment of common auto accident injuries. Expanding the guidelines has the potential to facilitate better use of health care resources, speed access to rehabilitation and provide increased cost certainty for insurers. A health management firm has been contracted to work with FSCO staff on the project and the advisory committee has held its first meeting. So far, four new PAF guidelines have been targeted for development over the next three years.
- Provided support for the winding down of the Designated Assessment Centre (DAC) system. Regulatory amendments to eliminate DACs took effect March 1, 2006. FSCO staff worked with industry stakeholders to design forms that reflect the elimination of DACs.

- Worked with the Facility Association (FA) on measures to enhance the effectiveness of the residual auto insurance market mechanism. An in-depth examination of the FA has been undertaken and based on recommendations from FSCO, further enhancements to the FA process will be implemented.
- Worked with the Office of the Information and Privacy Commissioner (IPC) on the proposed Health Claims for Auto Insurance model. As a result of IPC feedback, the model was refined further to ensure the needs of all sectors are being met.
- Advised and assisted Ministry of Finance staff in the review of the Mortgage Brokers Act and the drafting of new legislation — the Mortgage Brokerages, Mortgage Lenders and Mortgage Administrators Act. The objective of the proposed act is to enhance consumer protection and create a climate in which the industry can grow under responsive, fair, and modern regulation.
- Worked with Ministry of Finance staff and the Deposit Insurance Corporation of Ontario to modernize the regulation of credit unions and caisses populaires in Ontario. This led to the government's release of a consultation paper entitled *Modernizing the Credit Union and Caisses Populaires Act* to gather stakeholder input.

IV Improve delivery of services

- Created a new organizational structure in the Motor Vehicle Accident Claims Fund (MVACF) Claims Business Unit to improve the delivery of claims services to the public and upgrade IT systems, including the development of electronic MVACF forms.
- Revised consumer information about the dispute resolution process and improved navigability of the Dispute Resolution Practice Code and associated forms on the FSCO website to assist insured persons, insurers and their representatives in understanding and accessing FSCO's dispute resolution services.
- Participated in outreach activities to increase awareness of dispute resolution services at FSCO. Staff from FSCO's Dispute Resolution Services Branch were active as speakers at conferences and other events, making presentations aimed at explaining the dispute resolution process at FSCO and obtaining feedback from stakeholders.

- Launched a new FSCO website with upgraded forms, enhanced features and online tools to assist consumers and other stakeholders in locating current information on the regulated sectors.
- Introduced web-based electronic automobile insurance filing system (ARCTICS) industry-wide in May 2005. The system allows insurance companies to submit filings electronically, increasing efficiency through single-entry of information with data verification rules included and the reduction of paper and mailing costs.
- Released a series of consumer brochures to address issues in FSCO's regulated sectors, particularly insurance. The brochures respond to a need within the sectors to mitigate the risk of poorly informed consumers, while at the same time, raising consumer awareness of the services provided by FSCO.

The Financial Services Tribunal

The Financial Services Tribunal (Tribunal) is an independent, adjudicative body composed of nine to 15 members (13 members as of April 1, 2006), 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:

- Adopt and implement Conflict of Interest Guidelines; and
- Develop and maintain an index of Tribunal decisions.

Conclusion

This Statement outlines FSCO's proposed initiatives and projects for 2006. FSCO continues to benefit from strong collaboration with consumers, industry and other stakeholders. FSCO looks forward to working with stakeholders in 2006 to achieve our objectives and meet the challenges of today's rapidly changing financial services environment. Together we can foster a fair, efficient and effective financial services marketplace where consumers are protected and competition thrives.

Bob Christie
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Ontario and
Superintendent of Financial Services

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