



# 2016 COMPLIANCE MEETING

**BridgeForce Financial Group**

**Anatol Monid**

**March 2016**

**Windsor, Ingersoll, Woodbridge**

# Agenda

About FSCO

Government Reviews

Market conduct compliance



# Financial Services Environment

- Evolving Market
  - Increasing complexity of financial markets, firms and products
  - Consolidation and increasing presence of individuals and entities conducting business in multiple sectors and jurisdictions
  - Greater concentration of risk with wider-ranging effects
  - Increasingly dynamic and innovative firms and products
- International Monetary Fund – Canada 2013 Financial Sector Assessment Program

# About FSCO

FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates.

# FSCO Key Facts

- FSCO presence and responsibilities at a glance

Regulatory Resources (authorized staff)	487
Spending Authority - Budget	\$102.8 million
Sectors Regulated	8
Entities Regulated (individuals, businesses or plans)	86,000 <sup>+</sup>
Pension Plan Members	4 million <sup>+</sup>

# FSCO's Regulatory Role

## Regulatory Supervision

- Ensure compliance with the laws governing each regulated sector
- Administer and enforce statutes and corresponding regulations for the regulated sectors
- Develop and implement administrative and regulatory policies and procedures
- Provide advice and recommendations to government

## Program Administration and Other Services

- Administer special purpose funds
  - Motor Vehicle Accident Claims Fund
  - Pension Benefits Guarantee Fund
- Provide dispute resolution services between accident benefit claimants and insurance companies
- Provide registration services for co-operative corporations

# Legislation Administered By FSCO

- Insurance Act
- Compulsory Automobile Insurance Act
- Automobile Insurance Rate Stabilization Act
- Registered Insurance Brokers Act
- Prepaid Hospital and Medical Services Act
- Motor Vehicle Accident Claims Act
- Co-operative Corporations Act
- Credit Unions and Caisses Populaires Act
- Loan and Trust Corporations Act
- Mortgage Brokerages, Lenders and Administrators Act
- Pension Benefits Act

# Businesses, Individuals And Plans Regulated By FSCO

As of December 31, 2015,

- 327 insurance companies
- 5,511 corporate insurance agencies
- 51,324 insurance agents
- 1,510 insurance adjusters
- 7,059 pension plans
- 1,800 co-operative corporations
- 51 loan and trust corporations
- 1,196 mortgage brokerages
- 2,696 mortgage brokers
- 10,977 mortgage agents
- 143 mortgage administrators
- 4,278 accident benefit service providers
- 110 credit unions and caisses populaires





# 2013 Life Agent Profile

- On average, licensed for approximately 10 years
- 88% are exclusively licensed in Ontario
- 83% are currently actively prospecting or selling products
- 46% also licensed for mutual funds, 14% are licensed to sell securities
- 65% hold NO insurance designation; CFP most common designation, if one is held (17%)
- 78% earn less than \$50,000 annually from the sale of individual life insurance
- Term Life represents two-thirds of the products sold, with Whole Life and UL at just under 15% each
- A little more than half of the policies sold have a face-value of less than \$250,000

# Self-Identified Distribution Channel

- Independent Agent: 48.8%
- Managing General Agency affiliation: 14.5%
- Career/Captive Agent: 27.6%
- National Account Agent: 8.4%
- Call Centre Agent: 0.8%



## Government Reviews related to the Financial Services

The financial services sector is critical to Ontario's economic prosperity. In 2015, it accounted for 390,000 jobs across the province, generating almost 10 per cent of Ontario's GDP. The sector helps finance new investment and economic activity across other sectors of Ontario's economy.

# Review of the Mandates of the Financial Services Commission of Ontario (FSCO), Financial Services Tribunal (FST) and the Deposit Insurance Corporation of Ontario (DICO)

- The Expert Panel proposes significant reforms to the regulatory landscape, including the establishment of a new, independent and flexible regulator with a modernized governance and accountability framework.
- The government is committed to modernizing and strengthening the regulation of financial services and pensions, and to improving consumer, investor and pension plan beneficiary protection.
- Necessary legislative or regulatory changes will be identified and pursued as early as possible.
- The panel's final report will be released this spring.

# Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives

- The Expert Committee has been mandated to provide advice and recommendations to the Ontario government regarding whether and to what extent financial planning and the giving of financial advice should be regulated in Ontario and the appropriate scope of such regulation.

# Current Status – Financial Planning and Advice

- FSCO regulates distribution and providing of advice for insurance products.
- Securities regulators oversee distribution and providing of advice for investment products.
- FSCO's approach to regulation is principles-based and proactive.
- Insurers have statutory duty of oversight (O. Reg. 347/07 s. 12).
- In spite of this, the MFDA, the self-regulatory organization, will develop rule proposals, which will then be subjected to the normal rule development and public comment process.

# FSCO's position on financial planning

- No matter what they call themselves, anyone selling insurance products must be licensed and regulated by FSCO or Registered Insurance Brokers of Ontario (RIBO).
- May be significant differences in insurance and investment products but FSCO supports uniform standards, where they are possible; equivalent protection and clear disclosure for consumers where they are not.
- FSCO works toward alignment with international insurance core principles (international association of insurance supervisors) and consumer protection (G20 High-level Principles on Financial Consumer Protection).

# Market Conduct Compliance

Regulating the conduct of financial institutions and intermediaries' towards their clients – with whom they provide financial products and services.

Strategies include anti-fraud rules, duties of care, loyalty, fair-dealing and best-execution – and variants of these duties.





# Outcomes of Risk-based Market Conduct Regulation

- FSCO's expectations for the conduct of all licensees:
  - Fair treatment of consumers and claimants
  - Disclosure of information to enable consumers to make informed decisions
  - Compliance with laws
  - Good corporate governance
- FSCO's expectation for system level conditions supported by all licensees:
  - Stable marketplace
  - Proactive identification of issues
  - Fair Dispute Resolution

# FSCO works with other Regulators

- Information exchange and cooperation.
  - E.g., Canadian Council of Insurance Regulators (CCIR) Memorandum of Understanding for cooperative market conduct supervision.
  - Sets out protocols for regulators to effectively work together and forms basis of a national market conduct supervisory framework.
- Achieving harmonization across jurisdictions and sectors.
  - E.g., as part of CCIR, FSCO has been working since 1999 with securities regulators on aligning securities and insurance regulation to protect consumers:
    - Jointly developed Point of Sale (POS) disclosure documents and delivery process for both mutual funds and segregated funds (implemented for segregated funds before mutual funds).
    - Revised industry guidelines for IVICs to ensure equivalent consumer protection for both types of fund.
    - 2015-2016 – currently identifying and addressing differences in regulation arising from implementation of the Client Relationship Model 2 (CRM2) in the securities industry.

# Conventional Segregated Funds and Mutual Funds Features

Features	Segregated funds	Mutual Funds
Fund “ownership”	Insurer	Client
Professional portfolio management	✓	✓
Diversification among asset classes and management styles	✓	✓
Grow a portfolio while diversifying risk	✓	✓
Liquidity: easy access to your money through daily price valuations	✓	✓
Potential creditor protection for registered accounts	✓	✓
Potential creditor protection for non-registered accounts	✓	
A guarantee of the principal (or a specified percentage) at maturity	✓	
A guarantee of the principal (or a specified percentage) at death	✓	
Lock in market growth using resets	✓	
Product disclosures	POS	POS + <b>March 2016</b> Post-Sale (2016)

# Life Insurance Agent Compliance Examinations

- Assess Product Suitability Review Findings
- Compliance with the Insurance Act and other relevant legislation
  - Errors & Omissions Insurance and Continuing Education requirements
  - Statutory written disclosures
  - FINTRAC (AML/CTF) and Privacy Protection Laws
- One Day Offsite Examinations
  - Fact Finding Questions
  - Sampling of policyholder files to validate responses to questions
- Individual Findings Report within 30 days

# Life Insurance Agent Compliance Examination Next Steps

- Phase One – April 1, 2015 to March 31, 2016
  - On-site Life Agent reviews to be conducted on a random and targeted selection sample
- After Phase One – life Insurance Agents
  - Communicate overall findings and FSCO's regulatory expectations going forward
  - Use information gathered about agent compliance to inform the development of FSCO's approach to assessing insurer distribution compliance systems and oversight programs
  - On-site reviews to continue to be conducted on a random and targeted basis
    - Continue to assess voluntary adoption of best practices
    - Take regulatory action against Agents that fail to comply with the law (Part XVIII - Unfair or Deceptive Acts or Practices, Part XIX - Examination and Enforcement, O. Reg. 347/04)
    - On-going market intelligence gathering

# Keeping FSCO's Agent Errors and Omissions (E&O) Insurance Records Up-to-date

## STATUTORY OBLIGATION

- Effective June 2015, annual updating of E&O policy number and insurer
- Failure to respond can result in enforcement action (fine, suspension, revocation)
- Failure to update FSCO's E&O records will lead to a public notice on FSCO's website
- Insurers are expected to have a compliance system in place (O. Reg. 347/04, s. 12)



# On-line Licence Renewal Reminders



- Transition to full on-line renewal reminders
- Keep your contact information and email addresses current with FSCO
  - **STATUTORY OBLIGATION** (O. Reg. 347/04, s. 5.1)
  - Failure to do so can lead to enforcement action (fine, suspension, revocation)

# Insurer's Compliance System

## Regulation 347/04 Agent

Section 12.(1) Every insurer that authorizes one or more agents to act on behalf of the insurer shall establish and maintain a system that is reasonably designed to ensure that each agent complies with the Act, the regulations and the agent's licence.

(2) The system referred to in subsection (1) must screen each agent for suitability to carry on business as an agent.

(3) An insurer shall report to the Superintendent if it has reasonable grounds to believe that an agent who acts on behalf of the insurer is not suitable to carry on business as an agent.

- Sponsoring Insurer – first two years or contractual relationship
- Primary Insurer – will be the FSCO's compliance contact non-sponsored agents



# Enforcement Action

Since November 2015, FSCO has:

- Ordered 13 **Administrative Monetary Penalties** (average amount \$1,528)
- Ordered the **revocation** of one agent's life insurance licence
- Ordered a **suspension and conditions** on one agent's life insurance licence
- **Denied** three agents' applications for life insurance licensing

# Key Enforcement Decisions

- Financial Services Tribunal (FST) case law with respect to Life Insurance Agents:
  - “Life insurance agents have voluntarily chosen to participate in a business that requires a licence and involves regulation. They agree to subject themselves to a regulatory regime.” (2015 ONFST 18 Molenda)
  - Confirmed that agents must respond to inquiries made on behalf of the Superintendent of Financial Services on a timely basis
  - “It is not open to the agent or any licensed insurance agent, to plead ignorance of the clear terms of the Insurance Act (Act) and the Regulations made pursuant to the Act. Not knowing the requirements of the governing legislation is simply no excuse.”
  - FST concluded that an AMP was only inappropriate in situations that are “unique and difficult circumstances”. These are considered exceptional circumstances and are not expected to be a common occurrence
  - Penalties assessed at the FST reflect an amount that combines the individual’s wrongful gain (specific deterrence) plus an amount to promote general deterrence

# Life Licence Qualification Program (LLQP)

- 2016 LLQP has been adopted by all Canadian provinces and territories commences January 1<sup>st</sup>
- LLQP continues to meet qualifications for a licence (O. Reg. 347/04, s. 4): course + examination
  - Starting January 2016: 4 modules each 75 minutes in length, 20-30 questions per module
  - List of acceptable courses posted on FSCO's website
  - Ontario's 2016 examination administrator is Durham College



# Pervasive Issue - Complexity

1. Products are targeted and marketed to customer groups for which they are not suitable (mis-selling).
  2. The customer does not understand the product being targeted at them.
  3. The intermediary does not fully understand the product.
  4. The insurer does not fully understand how the product will perform or is unable to monitor the risks to customers.
  5. The insurer cannot fully support a product after it is launched (systems / volumes).
  6. All financial services sector market participants will be affected by global regulatory reforms and market trends.
- Developing trend: Compensation Disclosure.

# Time for questions

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*Thank  
You!*