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Ministry of Finance, Financial Services Policy Division
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Re: Proposed Life and Health Managing General Agent Legislative Framework in Ontario

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent, non-profit organization known for independent and thoughtful commentary on public policy matters. Our work includes advancing the rights of investors and financial consumers in Canada through:

- Informed policy submissions to governments and regulators
- Relevant research focused on retail investors
- Public outreach, collaboration, and education
- Proactive identification of emerging issues.¹

A. FAIR Canada Supports the Proposed Framework

We are pleased that the Ontario Ministry of Finance (the Ministry) is consulting on a licensing regime for life and health managing general agents (L&H MGAs). L&H MGAs have become a vital part of Canada's L&H insurance distribution network. Over the past few decades, there has been a move away from the model where insurers directly employ agents to distribute their products. Instead, there has been a rise in MGAs that provide services to insurers and contract with agents who sell L&H insurance. As the Consultation notes, L&H MGAs are now the principal distribution channel for L&H insurers, representing 65% of all new individual L&H insurance premiums in Canada.

Despite their key role in insurance sales, L&H MGAs are not defined or contemplated in the *Insurance Act* (Ontario) (the Act). The proposed legislative framework addresses this gap, reflecting the evolution of the industry and how L&H insurance is primarily distributed today.

FAIR Canada fully supports the proposal for directly regulating L&H MGAs. As the Consultation aptly states, Ontarians may have entrusted a considerable amount of their life savings to L&H insurance companies, relying on them to provide protection from unexpected events. Given this relationship of trust and

¹ Visit www.faircanada.ca for more information.

reliance, a robust regulatory regime that protects L&H insurance consumers and instills public confidence is critical.

The proposal is consistent with our prior recommendation that the Ontario government consider amending the Act to regulate MGAs.² It also aligns with the Financial Services Regulatory Authority of Ontario's (FSRA) commitment in its 2020 – 2023 Annual Business Plan to develop a regulatory framework and supervisory approach for distribution channels that rely on MGAs.³

We are pleased that the licensing regime is grounded in legislative changes that will be accompanied by FSRA rules. We understand that the Ministry was considering only relying on guidance. Although guidance can help promote best practices, it is not legally binding. Given L&H MGAs' prominent role in insurance distribution and the many consumer protection issues that have arisen under the L&H MGA model (discussed below), a legally binding framework is imperative.

B. The Proposed Framework is Necessary to Address Serious Consumer Protection Concerns

The proposal addresses troubling issues regarding L&H MGAs and the insurance regulatory framework in Ontario. FSRA examinations have linked L&H MGAs to serious consumer protection concerns.

FSRA investigated 130 life agents contracted with three MGAs using a tiered-recruitment business model (the Life Agent Review) and found “unacceptable levels of life agent non-compliance.”⁴ In particular, half of the agents were cited with a total of 184 violations of the Act.⁵ The investigation also revealed insufficient disclosure of how agents managed conflicts of interest and many failures to complete required continuing education and follow industry best practices.⁶ FSRA concluded that the insurers and L&H MGAs discussed in the report may not have effective oversight processes to manage potential consumer risks and show that sales of complex insurance products were suitable.⁷

Additionally, as the Consultation notes, FSRA's supervisory reports from 2018 to 2023 highlight significant problems with how L&H MGAs distribute insurance, including:

- Sales of insurance products (e.g., universal life insurance) to consumers that were not appropriate for the customer's needs
- Insufficient provision of information to enable customers to make informed decisions
- Sales targeted at vulnerable customers (e.g., lower-income earners and immigrants)
- Failure of insurers to monitor and assess whether MGAs could discharge their obligations to insurers, including monitoring, training and supervising agents.

² FAIR Canada, Submission to the Financial Services Regulatory Authority of Ontario - [2023-015 – Consultation for Proposed Guidance on Life Insurance Agent & MGA Licensing Suitability](#), February 9, 2024, at 3.

³ FSRA, [2020 - 2023 Annual Business Plan](#), February 28, 2020, at 37.

⁴ FSRA, [Life Agent Thematic Examinations: Tiered-Recruitment Model MGAs](#), October 2023, at 3.

⁵ *Ibid.*, at 6.

⁶ *Ibid.*, at 3.

⁷ *Ibid.*, at 42.

These dubious practices could harm consumers and produce poor financial outcomes. The proposed licensing framework is essential in enabling FSRA to address these concerns. By establishing professional standards and requirements for compliance, record-keeping, and reporting, the framework will help improve consumer outcomes and public confidence in the insurance sector.

C. Robust Enforcement is a Cornerstone of an Effective Consumer Protection Framework

As a result of the violations FSRA uncovered in its Life Agent Review, it took enforcement action against 65 life agents. In addition, in October 2023, FSRA began implementing a six-point action plan that includes enforcement to better protect L&H insurance customers.⁸

Robust enforcement is critical to an effective consumer protection framework and the insurance regulatory structure. FAIR Canada supports FSRA’s enforcement efforts and encourages it to continue to act when insurance industry participants fail to meet their obligations. For instance, the Agents Regulation requires insurers to maintain a compliance system to ensure their agents are fit to carry on business and comply with their legal duties.⁹ We urge FSRA to use the tools at its disposal, such as administrative monetary penalties and imposing conditions on an insurer’s license, to enforce all such existing obligations.

Thank you for considering our comments on this important issue. We welcome any further opportunities to advance efforts that improve outcomes for consumers. We intend to post our submission on the FAIR Canada website and have no concerns with the Ministry publishing it on its website. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.bureaud@faircanada.ca or Tasmin Waley, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,

Jean-Paul Bureaud
President, CEO and Executive Director
FAIR Canada | Canadian Foundation for Advancement of Investor Rights

⁸ FSRA, [Strengthening Oversight and Accountability of the Life Insurance Sector](#), October 3, 2023.

⁹ [O. Reg. 347/04: Agents](#) under the *Insurance Act*, R.S.O. 1990, c. I.8, section 12(1).