

June 3, 2015

Expert Advisory Panel – FSCO/FST/DICO Mandate Reviews
Ministry of Finance
Financial Institutions Policy Branch (FIPB) & Income Security & Pension Policy Division
Frost Building North, Room 424
95 Grosvenor Street, 4th Floor
Toronto, Ontario

The Canadian Institute of Actuaries (CIA) is the national organization of the actuarial profession. It establishes the Rules of Professional Conduct, guiding principles, and monitoring and discipline processes for qualified actuaries. All members must adhere to the profession's Standards of Practice. The CIA follows its Guiding Principles, including Principle 1, which holds the duty of the profession to the public above the needs of the profession and its members. The CIA also assists the Actuarial Standards Board in developing standards of practice applicable to actuaries working in Canada.

We are pleased to offer the following comments on the Review of the Mandate of the Financial Services Commission of Ontario (FSCO). We do not have any feedback on the mandates of the Financial Services Tribunal or Deposit Insurance Corporation of Ontario. Our comments will be limited to the practice areas of pensions and property and casualty (P&C) insurance.

Our responses to the first four mandate review questions are as follows. Please note that for our pension-related comments, we refer back to recommendations contained within the 2008 report entitled *A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules*, otherwise referred to as the *Arthurs Report*.

1. *Whether, and to what extent, each agency's mandate continues to be relevant to Ontario's goals and priorities?*

We feel that the current FSCO mandate to “protect the public interest and enhance public confidence” is very broad, and would be improved by adding statements specific to each of the regulated sectors. For example, on the pension side, we believe that the mandate of the prior Pension Commission of Ontario to “promote the establishment, extension and improvement of pension plans throughout Ontario” would be appropriate, as it specifically references the maintenance and improvement of the pension system. Recommendation 7-17 of the *Arthurs Report* makes reference to a “purpose clause”, which should be considered in setting FSCO's mandate. Recommendation 10-5 also calls for a pension champion, and the CIA continues to support the development of this role.

2. *Whether the agency is carrying out the activities and operations as required in its mandate?*

We have three areas in which FSCO could improve the fulfilment of its mandate regarding pensions:

- a) Recommendations 7-7 and 7-9 of the Arthurs Report call for the development of policies addressing filing requirements, processes, and review procedures. We support these recommendations.
- b) We would like to see an improvement in the delays affecting asset transfers.
- c) We also feel that the auditing process does not currently effectively identify issues. Recommendation 7-11 of the Arthurs Report offers suggestions in this area.

Regarding the regulation of automobile insurance rates, we see vulnerability in FSCO's current functioning, in that FSCO does not operate independent of government. (Consider, for example, sections 2.1 (1) and 2.1 (2) of the Automobile Insurance Rate Stabilization Act and the Ontario Regulation 237/13 Industry-Wide Rate Reduction Target.) It would be in the public interest to allow FSCO to "provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors" as per its mandate, while free of any constraint to remain "relevant to Ontario's goals and priorities" as set by government.

3. *Whether all or part of the functions of the agency are best performed by the agency, or whether they might be better performed by a ministry, another agency or entity?*

The Arthurs Report (recommendations 7-18, 7-20, 7-22) calls for a separate Ontario pension regulator. We support this idea, and suggest that this be an entity separate from the other operations of FSCO.

4. *Whether changes to the current governance structure and associated accountability mechanisms are necessary to improve mandate alignment and/or accountability?*

With respect to the regulation of pensions and based on our response to question 3, the suggested changes to the regulatory body will necessarily require changes to the governance structure. Recommendations 7-19 and 7-27 of the Arthurs Report provide suggestions in this area.

With respect to the regulation of automobile insurance rates, FSCO releases technical notes, which include benchmark assumptions of an actuarial nature for reference in preparing rate level indications. Limited documentation is provided by FSCO in support of these benchmark assumptions, and no individual, whether an actuary or not, is identified as the author of this work. The public interest could be better served in this regard. If this work is not being done under the oversight of an appropriately qualified actuary, then it should be. These assumptions are clearly actuarial in nature. If this work is being done under the oversight of an appropriately qualified actuary, then release of its results should be considered an external user report and the work and its release should be brought into compliance with section 1800 and other relevant sections of the Standards of Practice of the CIA.

For the P&C side, we also have comments regarding question 10:

10. *What areas of responsibility could be removed from or added to the mandate of FSCO?*

With respect to the regulation of solvency of Ontario-registered P&C insurers, FSCO largely defers to the practices set by the Office of the Superintendent of Financial Institutions (OSFI), the comparable federal regulator. While harmonization of inter-jurisdictional regulatory requirements is definitely a positive consequence of this, the public interest would be better served by more active participation of FSCO in reviewing the work of, and communicating with, the Appointed Actuaries of the P&C insurers it regulates or, alternatively, by FSCO contracting with OSFI to provide solvency regulation services for Ontario-registered P&C insurers.

The CIA hopes its comments provided herein will be of value.

Yours truly,

A handwritten signature in black ink that reads "Jacques Tremblay". The signature is written in a cursive, flowing style.

Jacques Tremblay, FCIA
President