Quebec City, February 23, 2024

Submitted to: Tim Miflin, Senior Manager, Insurance Policy, FSRA

Via Email: Tim.Miflin@fsrao.ca

Subject: Consultation on proposed Guidance: Life Insurance Agent and MGA Licensing Suitability (2023 – 015)

Dear Sirs/Mesdames,

On behalf of iA Financial Group ("iA"), please find below our feedback in response to the FSRA Consultation on the proposed guidance on licensing suitability.

iA is headquartered in Quebec City and one of the largest insurance and wealth management groups in Canada, with operations in the United States. Founded in 1892, it is listed on the Toronto Stock Exchange. Today the company is worth more than $9 Billion in capitalization, serves over 4 million clients and is supported by more than 9,400 employees across North America.

First and foremost, we would like to express our support for and alignment with the response submitted by the Canadian Life & Health Insurance Association (CLHIA) in the context of this consultation.

We strive to work with the industry and regulators to help advance the interests of our customers and we welcome the opportunity that this consultation provides us to do so.

Our submission focuses on our own observations as industry leader in the life insurance market in Canada and is based on extensive experience partnering with independent distribution networks, including MGAs and National Accounts. iA currently partners with over 85 MGAs and 18 national accounts across the country. This independent distribution network includes players of all sizes. iA also owns PPI Management Inc. ("PPI"), one of the largest MGAs in Canada. We are therefore well positioned to discuss the challenges and opportunities with respect to regulatory supervision of independent networks.

The proposed guidance does not go far enough

We agree with FSRA that clarifying the roles of insurers, MGAs and agents will serve to optimize the fair treatment of customers ("FTC") and we applaud the steps taken to explore ways to get there. Given the importance of this objective, we however believe that FSRA must go further than issuing guidance. In our view, the clarification that is sought will be more effective with the introduction of clear amendments to the Insurance Act.

While the draft guidance provides further clarity on FSRA's approach when assessing an agent's suitability, we remain deeply concerned that it will not lead to material changes to the current environment and will

not create a level playing field unless it is accompanied by a clear legislative framework equally applicable to all market participants.

The proposed guidance may lead to regulatory misalignment

Our experience leads us to believe that requiring carriers to take the responsibility to enforce regulator expectations through their contractual agreements opens the door to different interpretations and misalignment between them.

Moreover, a reliance on varying contractual obligations and interpretations creates inefficiencies and uncertainty in the distribution network and adds significant delays and pitfalls in achieving uniform FTC aligned outcomes for all consumers.

For example, each insurer has its own standards, requirements, processes and appreciation when dealing with agent suitability. Practically speaking, this means that one individual bearing a unique working experience, financial health, criminal and disciplinary history, will be treated differently depending on the insurers they approach to be contracted with.

The same observation applies when a carrier delegates agent suitability functions to MGAs. Even if insurers set baseline expectations, every MGA will execute agent suitability functions differently thereby increasing the inconsistent approach referenced earlier. In a context where an MGA holds a contractual relationship with many carriers, one carrier cannot simply force an MGA to adopt and execute its own standards and requirements having no consideration for the MGA's situation. As such, expecting carriers to enforce regulatory requirements through their contractual agreements with MGAs while preserving competitive business relationships has not proven to be effective.

The proposed guidance could be perceived as unfair for all market participants and clients

Regulation does not currently recognize MGAs, who are not bound by a clear framework that would positively impact their mobilization, their accountability in the distribution chain and their overall reactiveness, as a group, in a uniform way.

Individual, corporate and partnership agents are recognized by the regulation and, as such, MGAs need to be equally recognized in view of their actual role and responsibilities in the distribution chain. FSRA applying a distinctive “guidance” approach with respect to the obligations and the suitability of MGAs without directly regulating them as accountable participants in the distribution of life insurance puts industry participants in a difficult position while having little positive effect on consumer outcomes.

A guidance can be an effective tool when there is a clear underlying legislative framework. The current approach may limit FSRA’s ability to take effective, direct action in regard to an MGA when a suitability concern arises with the MGA or their agents. As FSRA highlighted in its draft guidance, the suitability criteria for an MGA differs from that of an individual, corporate or partnership agent.

More importantly, we strongly believe the current approach significantly hinders the effectiveness of FSRA's initiative and is ultimately not the best path to attain our common ultimate objective – the fair treatment of customers.

The agent-principal relationship should not be included in the guidance

In addition to the above comments, we want to highlight our strong concern with respect to the inclusion of FSRA's position that the principal-agent relationship exists between agents and insurers and/or agents and MGAs. Whether an agency relationship exists is a function of the application of the common law. A regulatory guidance should not be used to pre-determine whether this legal test has been met (or that it is even relevant). Its inclusion is prejudicial to both insurers and MGAs. In our view, this is a matter that should properly be left for the courts.

Conclusion

Our vast experience with various distribution networks over many years leads us to propose the following overarching recommendation: **direct regulation of MGAs trough legislative changes will have the most positive impact on the fair treatment of customers.**

Such amendments will not only serve to modernize the Insurance Act in a way that better reflects the reality of insurance distribution in Ontario, but they will also serve to provide all stakeholders with a clear expectation within the existing regulatory framework of the Act and its Agents Regulation. We remain concerned that the introduction of a guidance without the appropriate legislative foundation will create unnecessary confusion and inconsistencies for stakeholders and is not fair for all market participants. Moreover, the inclusion in the guidance of the agent-principal relationship is of concern and should be taken out entirely.

In the end, a clarification of the role of MGAs in legislation would put customer interest at the center of this reform. Indeed, customers will benefit the most from a clear supervisory framework that includes MGAs as full fledge market participants with direct accountabilities applied by all in a consistent manner.

Should you have any questions regarding this submission, please feel free to contact me.

Regards,

Renée Laflamme
Executive Vice President, Individual Insurance, Savings and Retirement
iA Financial Group