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Autorité des marchés financiers
Direction de l'encadrement des intermédiaires
Québec, Québec

Dear Sirs/Mesdames,

Re: AMF Consultation on Governance, Compliance and Responsible Officer Framework (Distribution Act)

Thank you for the opportunity to comment on the AMF's regulatory project regarding the governance and management of registrants and the duties of responsible officers (the "**Project**").

Financial Horizons ("**FH**") is Canada's largest life and health managing general agent ("**MGA**"), supporting over 8,000 independent agents ("**Agents**") across the country. FH has longstanding relationships with all major Canadian life and health insurers ("**Insurers**"), and plays a central role in the distribution of life and health insurance, providing intermediary services including recruitment, training, supervision, and compliance support to Agents.

FH fully supports the AMF's objectives of strengthening governance, improving accountability, and enhancing consumer protection. We believe the Project is an important step forward in achieving these goals. At the same time, we respectfully submit that several aspects of the Project would benefit from further clarification and refinement, to ensure the framework is practical, effective, and aligned with the operational realities of our industry.

While the Project is far-reaching in scope, our comments focus on the following key issues:

- Recognition of MGAs as a distinct category within the regulatory framework
- Standard of responsibility for Registrants with respect to Representatives
- Additional measures to strengthen the distribution framework against Emerging Threats

1. Recognition of MGAs as a distinct category within the regulatory framework

FH believes that MGAs should be formally recognized within the regulatory framework, either as a separate class of licensee or as a distinct sub-category within the existing "Firm" framework, separate from Insurers, individual Agents, and other types of firms.

We recognize that the AMF's existing "Firm" framework is a thoughtful and effective regulatory construct, and in many respects provides a more sophisticated foundation than frameworks in other Canadian jurisdictions. FH's recommendation is not intended to diminish that framework. Rather, we believe it could be further strengthened by either recognizing MGAs as a separate class of licensee or by establishing a specific MGA sub-category within the existing Firm framework, distinct from other types of Firms such as corporate advisory firms.

The Project notice describes MGAs as "general agents to whom insurers outsource activities" and as "general agents positioned between insurers and other registrants," which is confusing wording, particularly when embedded in a complex regulatory framework.

We respectfully disagree with the suggestion that more formally recognizing MGAs within the regulatory framework would diffuse accountability. To the contrary, formal recognition would enhance clarity by clearly delineating the roles and responsibilities of the three principal participants in the distribution of life and health insurance, being: Insurers, MGAs, and Agents. Absent such recognition, the framework risks imposing MGA-relevant obligations without clearly defining the MGA's role within the regulatory structure.

By clearly distinguishing the three types of entities, the AMF would be better equipped to create clear rules to govern each type of entity. Today, FH and many other MGAs operate primarily as intermediaries supporting Insurers and Agents, including through recruitment, training, supervision, compliance support, and other distribution-related services. Although the precise role of an MGA may vary by business model and by jurisdiction, MGAs generally do not provide insurance advice directly to consumers unless they are separately licensed to do so. We believe that where an MGA becomes involved in giving advice to consumers, that activity should be governed by the appropriate Agent licensing requirements.

The approach of recognizing MGAs as a distinct class of licensee would be consistent with the regulatory direction emerging in other Canadian jurisdictions, including New Brunswick, Saskatchewan, and Ontario. We note that one of the stated objectives of the Project is to "take formal note of regulatory amendments by other Canadian regulators," and to ensure consistency with other regulatory frameworks.

Recognizing MGAs as a distinct regulatory category would enable the AMF to establish clear, tailored obligations that reflect the MGA's actual role, thereby reducing ambiguity, avoiding duplication, and strengthening accountability across the distribution chain.

2. Standard of responsibility for Registrants with respect to Representatives

The Project proposes that registrants "ensure" that representatives are competent, know applicable standards, and have completed relevant training. The actual wording of the AMF proposal is as follows:

> *"[...] it is proposed that registrants ensure that the representatives acting on their behalf are competent, know the applicable standards and the products they are offering and have completed any training pertaining to their obligations where such training exists."*

The above wording, when applied to MGAs and Agents, may result in the unintended consequence of making the MGA liable to clients for any advice given by the MGA's Agents to their clients.

FH is concerned that the use of the term "ensure" may inadvertently elevate the MGA's legal standard of care to a level that's not practical. As examples, we believe it would be acceptable wording to say that the MGA "shall take reasonable measures to ensure" or "shall be retained to help ensure" certain outcomes, while stronger wording to say that the MGA "must ensure" or "shall ensure" the outcomes could result in increasing the MGA's legal standard of care.

Today, the applicable standard for MGAs is to make training available to its Agents and to take reasonable steps to monitor and supervise its Agents, often taking a risk-based approach to such activities. By contrast, an obligation to "ensure" knowledge and competency could be interpreted as requiring continuous verification of proof of understanding by each Agent. This would create a significant new operational burden for MGAs, and could effectively shift responsibility for individual Agent conduct away from the Agents and onto their MGAs.

FH recommends that this requirement be reframed as an obligation for MGAs to implement reasonable measures to promote competence, awareness, and compliance, consistent with the risk-based supervisory model of Agents that currently exists.

3. Additional measures to strengthen the distribution framework against Emerging Threats

The AMF describes the Project as "transformative." We agree, and therefore we urge the AMF to take this opportunity to introduce new rules which would greatly alleviate issues currently faced by the industry. We offer the following three suggestions.

a) Primary MGA Model

FH supports the adoption of a primary distribution model for MGAs. Under this model, an Agent may have one primary MGA, and could contract with a second MGA only to access insurer products that aren't offered by the primary MGA. The primary MGA would therefore have primary responsibility for monitoring and supervising the Agent. In the absence of this protection, it would be impossible for the MGA to discover churning activity and other misconduct between Insurers through different MGAs.

b) Licensing requirement for Commission Entitlement (Orphan Client issue)

FH recommends introducing a requirement that entities must be appropriately licensed in order to receive commissions in connection with the distribution of insurance. While this may seem intuitive, such a requirement does not currently exist, which has resulted in an "Orphan Client" problem that Insurers, MGAs and regulators are all struggling to solve.

Because many Insurers offered "vested" renewal commissions to Agents who sold life insurance, today there are thousands of clients who don't have a licensed Agent because their renewal commissions are being paid to a retiree or to the estate of an Agent who passed away. As a result, there are thousands of Orphan Clients (being clients without a licensed Agent) because the Insurers and MGAs cannot find Agents to service those clients as the renewal commissions, which typically compensate for such servicing, are being paid to other entities who are no longer involved or no longer alive. This problem would be solved by the regulators introducing a reasonable rule requiring entities to be licensed in order to receive commissions for the distribution of insurance.

c) Mandatory Cyber Insurance

In today's environment of increasingly sophisticated cyber threats, including organized cybercrime, phishing, ransomware, and AI-fueled attacks, we believe that cyber insurance is as important (or possibly more important) as E&O insurance to the protection of consumers. The AMF clearly recognizes the importance of such protections, as the Project includes several provisions designed to enhance information security and to react to the emerging threats and opportunities of artificial intelligence. We think Mandatory Cyber Insurance should be added to these new provisions.

From the 1970s through the early 2000s, E&O or professional liability insurance became mandatory profession-by-profession through regulators, as regulators recognized that the consumer risk associated with not having such insurance outweighed the financial and administrative burden placed on licensees to procure such insurance. This applied to doctors, lawyers, accountants, engineers, architects, real estate brokers, financial advisors, insurance agents, and other licensed professionals. Today, all of these professions in Canada require their licensees to maintain a minimum level of E&O insurance as a condition of their licensing. FH believes that cyber risk has reached a similar level of materiality across regulated industries.

In the world of insurance distribution, cyber insurance is not merely complementary to E&O insurance, it is equally essential. Just as regulators previously recognized that professional liability risks required mandatory coverage to protect consumers, today's environment warrants a similar approach to cyber risk.

Conclusion

FH appreciates the opportunity to participate in this consultation and supports the AMF's efforts to modernize the governance framework applicable to registrants. FH would welcome the opportunity to discuss these comments further.

Yours truly,
FINANCIAL HORIZONS

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