



Mark White
Chief Executive Officer
Financial Services Regulatory Authority of Ontario

By email

March 7, 2019

Re: CARP'S Comments on FSRA Consultation

Thank you for giving us the opportunity to comment on FSRA's priorities and to participate in the recent consumer roundtable. We would be pleased to answer any questions on this submission or speak further to assist you with your critical role.

Begin with the risks in mind

FSRA's consultation document on priorities and budget issued January 21, 2019, notes that a top priority for its first year will be burden reduction (page 10). In section 7.1, the consultation document notes that "FSRA will examine all inherited guidance to ensure clarity and consistency, to eliminate overlapping and potentially inconsistent requirements and to ensure that its intended impact is clear".

CARP submits that FSRA begin by identifying the greatest risks to the public interest and only then review existing guidance; anything that seems reasonable but isn't in the risks identified either points to a risk that has been missed, or should be dropped.

Focus on mitigating risks at the highest level

There is a (surely apocryphal) tale of regulation in India. If a builder builds a house that collapses and kills the occupants, the builder is hung. This tale has an important message for FSRA: regulate at the highest possible level.

While not all remedies are within FSRA's mandate, burdens can readily be reduced by mitigating risks at the highest level. For example, the risk to pensioners of a pension plan failing could be readily mitigated by ensuring the Pension Benefit Guarantee Fund is solvent and all Ontario sponsors are full members. The risk of an insurance agent miss-selling can be mitigated by holding insurers and reinsurers responsible for losses incurred by policy holders due to agent malpractice.

Consider enhancing as well as cutting regulation

Be open to where **more** information is needed. For example, why are pension balances still reviewed once every three years? An annual mini-review, such as updates on investments with readily available market values, would catch problems and allow corrections much earlier.

Supporting plan evolution risks pensioners' benefits and rights

CARP notes that the Statutory Objects included in Appendix 1 with respect to pensions include: "to protect and safeguard the pension benefits and rights of pension plan beneficiaries".

CARP submits that *supporting plan evolution (section 8.5.1)* does not actively protect pension benefits or beneficiary rights and may in fact conflict with this object. Efforts to dilute solvency funding (as done in Ontario and currently contemplated in B.C.) or convert defined benefit to target benefit plans (as attempted federally) are often justified as a means of increasing pension plan offerings. In the absence of evidence, CARP submits that such changes dilute pensioner rights and increase risks associated with pension benefits without any benefit to current plan members, and do not increase the likelihood of future plan membership increases.

FSRA notes that "*Some pension plan sponsors are looking at new and innovative ways to provide pensions*" (page 30). CARP submits that some plan sponsors are looking at ways to **avoid onerous contracts**. A defined benefit pension in a low interest rate environment is very expensive. That doesn't mean it should be overturned. If a company entered into a long-term fixed-price contract for transport or commodities (or electricity) they couldn't simply rip that contract up. No one should have the mindset they can do that with pensioners. **Abandoning seniors is not a Canadian value.**

Accepting plan evolution as a priority contradicts FSRA's mandate to protect pension benefits and beneficiaries.

There is however legitimate scope to think about ways to increase access to pensions for Ontario residents. For example:

- Small business pension plans (as an alternative to individual RRSPs)
- Public pensions (such as the Saskatchewan Plan)
- Group TFSAs, and
- Deferred annuities

Such options may provide Ontario residents with better retirement security at considerably less than the traditional investment options currently available. As noted in the retirement security analysis commissioned by HOOPP and undertaken by Common Wealth and Ryerson's National

Institute on Aging, one dollar invested in a typical retirement plan yields \$1.70, whereas one dollar invested in a Canadian model pension plan yields \$5.32.ⁱ

Increase protections for pensioners in bankruptcies.

Developments in other Canadian jurisdictions highlight the real and significant risks pensioners face in times of corporate bankruptcy or insolvency. One source for this risk is that court-appointed monitors have close relationships with banks as both monitors and banks are involved in multiple mutual dealings. This may cause monitors to unconsciously (or consciously) undermine the position of pensioners in these proceedings.

Protect financial consumers

CARP supports coordination of regulation between Canadian regulators for all those providing financial information and selling financial products to consumers. CARP submits that FSRA seek not only harmonized conduct regulations, but also rights of reciprocal expulsion. If a financial advisor loses the right to sell the products of one regulator, whether it be stocks, mutual funds or segregated funds, they should be barred from selling the products of all regulators.

Enhance stakeholder collaboration

Consider receiving input from both industry and consumer advocates at the same time to help build consensus within each of FSRA's areas of responsibility. Where this is not possible, ensure that equal time and access is provided to industry and consumers for each area of responsibility. For example, if there are one-hour roundtables with industry experts on three separate topics, there should be three hours allotted to consumer advocates too.

If you have any questions about this submission or would like to speak further, please don't hesitate to contact me or my colleague, CARP's Chief Public Officer, Laura Tamblyn Watts.

Sincerely,

A handwritten signature in blue ink that reads "Wanda Morris".

Wanda Morris
Chief Advocacy and Engagement Officer

cc. Judy Pfeifer

ⁱ The Value of a Good Pension, <https://hoopp.com/docs/default-source/about-hoopp-library/advocacy/the-value-of-a-good-pension-102018.pdf>, accessed March 6, 2019.