

FSRA

Financial Services Regulatory
Authority of Ontario



ARSF

Autorité ontarienne de réglementation
des services financiers

**Report of the Chief Executive Officer of the
Financial Services Regulatory Authority of Ontario
as required by the Registered Insurance Brokers
Act, R.S.O., 1990**

Examination Report

Period of February 1, 2021 to February 28, 2022

Date: August 16, 2022

This report is made in compliance with the requirements of subsection 10(2) of the *Registered Insurance Brokers Act, R.S.O., 1990* (the Act) which requires the Chief Executive Officer (CEO) of the Financial Services Regulatory Authority of Ontario to make an annual examination of the affairs of the Registered Insurance Brokers of Ontario (RIBO) and to report the results to the Minister of Finance. This report is submitted in conjunction with RIBO's Annual Report covering its fiscal year that ended July 31, 2020.

MANDATE

RIBO's mandate, through self-governance, is to protect the public when conducting insurance transactions with general insurance brokers in Ontario. Subject to the Act and regulations, RIBO regulates the licensing, professional competence, ethical conduct, and insurance-related financial obligations of all independent general insurance brokers in the province.

ABOUT RIBO

RIBO is a self-regulatory organization (SRO) whose members are property and casualty (general) insurance brokers in Ontario. RIBO was established, under the Act, by the Ontario government in 1981.

RIBO is a non-profit organization that is financed by its members, primarily through annual registration fees. RIBO also generates fee income from applicants writing the qualifying examinations. In addition, RIBO collects fees from course providers that ask to have their courses reviewed and accredited by RIBO for continuing education options for its members. Collectively, these revenue sources generally cover RIBO's operating expenses.

RIBO incurred a net operating loss of \$162,582 in fiscal 2021, compared to loss of \$84,379 in fiscal 2020. The year-over-year difference was partly due to some extraordinary expenses which are not expected to recur. RIBO's Operating Fund (akin to equity) serves as a buffer to cover any shortfall in revenues over expenses. As at July 31, 2021, its Operating Fund was \$3.8 million.

The Act provides for the establishment of a governing Council of RIBO, a Qualification and Registration Committee, one or more Complaints Committees, a Discipline Committee and any other committees as necessary to fulfil its obligations under the Act. At least one member of the public, appointed by the Lieutenant Governor in Council, sits on every RIBO committee. The public members serve to represent the interest of insurance consumers and the public in general.

The Council is the governing body and the board of directors, with responsibility to manage and administer the affairs of RIBO. Its main activity is to provide oversight and guidance over the day-to-

day activities of management to ensure efficiency, sustainability, and advancement of RIBO's mandate.

The Qualification and Registration Committee is responsible for determining the eligibility of individuals and firms as applicants for a licence or renewal of a licence. Accordingly, the committee sets and reviews RIBO's qualification standards for brokers and brokerages in Ontario. It is also responsible for ensuring that individuals and businesses comply with these standards.

The Complaints Committee evaluates the merit of allegations of professional misconduct against a member to determine whether there is sufficient evidence to warrant referring the complaint to the Discipline Committee.

The Discipline Committee conducts hearings on matters referred to it to determine whether allegations of misconduct or incompetence against a member have been proven. Where a member is found guilty, based on the evidence presented, the Discipline Committee has the authority to impose an appropriate penalty, ranging from a reprimand to licence revocation.

REGULATORY CO-ORDINATION

RIBO monitors developments within the insurance industry by participating in industry events and meetings of various organizations. In addition, RIBO meets regularly with other regulatory bodies and stakeholders regarding regulatory changes that could affect RIBO's mandate.

EXAMINATION

Pursuant to subsection 9(1) of the Act, the CEO of FSRA is deemed to have an interest in RIBO as the representative of all persons who may be served by registered insurance brokers.

FSRA's 2022 examination of RIBO focused on assessing compliance with selected requirements of the Act, as well as RIBO's regulatory approach to strengthen market conduct expectations of brokers. The examination considered RIBO's strategic planning and priority setting processes, with emphasis on conduct oversight and consumer protection. This included RIBO's oversight and validation of broker conduct activities concerning the Take-All-Comers requirements for auto insurance.

The examination included, but was not limited to, a review of the implementation of FSRA's prior year recommendations, including selected policies and procedures manuals; a review of RIBO's 2020-2021 Annual Report and the external auditor's reports; a review of the minutes of the Annual General Meeting, the Council meetings, and certain committee meetings; a review of management changes at RIBO; a review of the monthly bulletins; a review of RIBO's spot check (audit) program used for brokerage reviews; and a file sample review of selected spot checks. Discussions were also held

with RIBO senior management on industry issues and RIBO's current and future initiatives, including its continuing digital transformation and its plan to conduct a Take-All-Comers focused review of selected brokerages.

FINANCIAL STATEMENTS

FSRA relied upon the work of the external auditor, who did not raise any issues or concerns in its year-end report to the Council and issued an unqualified opinion that the 2020-2021 financial statements present fairly.

REGULATORY OVERSIGHT

The Qualification and Registration Committee meets monthly to address such items as industry standards, applications for secondary business exemptions, applicants who have attempted the equivalency examination, continuing education issues and RIBO management proposals to refuse or revoke registrations.

Brokerages are required to carry errors and omissions insurance and a fidelity bond. There is additional consumer protection by way of RIBO's Professional Indemnification Fund, which was established in 1992 to cover losses on claims for premiums misappropriated by brokers.

Complaints against brokers may arise from members of the public or from the spot checks or broker reviews that are conducted by RIBO investigators. The Complaints Committee evaluates the merit of investigated complaints that are presented to it by RIBO staff and determines if there is sufficient evidence to refer the matter to the Discipline Committee for further action.

In considering an allegation of misconduct or incompetence against a member, the Discipline Committee may offer a resolution on a consent basis or conduct a hearing. In the event a member is found guilty, the Committee may impose an appropriate penalty or combination thereof, as set out in the Act. Penalties vary, including the revocation or suspension of the member's licence, restrictions placed on the member's licence, and/or the imposition of a fine. Disciplinary decisions are posted in the Canadian Insurance Regulators' Disciplinary Actions database; however, the Discipline Committee retains discretion on whether to grant a request for non-publication.

CONCLUSION

Subject to the Act and regulations, RIBO is responsible for the licensing, standards of practice, prevention of misconduct, and the disciplining of its members to thereby protect the public when it is conducting insurance transactions with brokers. Based on the results of FSRA's examination of

selected requirements of the Act, we identified opportunities for RIBO to enhance consumer protection and to bolster RIBO's effectiveness when regulating the registered insurance broker industry (see Recommendations below). While RIBO is operating within the requirements of the Act and the regulations, timely action on these recommendations is important for RIBO to fully achieve its statutory mandate.

Below is a status update on FSRA's prior year recommendations for RIBO:

Recommendation 1: (i) Continue to update the policies and procedures manuals for Qualification and Registration and for Complaints and Investigations, as planned, to ensure they are completed by the end of 2021 and (ii) provide written confirmation to FSRA when this is achieved.

Status: Completed.

Recommendation 2: Update the Business Continuity and Disaster Recovery Plan to incorporate changes in RIBO's practices and processes.

Status: Not started.
RIBO's initial target for completion – fiscal year-end 2022.

Recommendation 3: Conduct a cybersecurity test of RIBO's systems by the end of its 2022 fiscal year.

Status: Completed.

Recommendation 4: Include on RIBO's website information on the decisions of its Discipline Committee.

Status: Completed.

This year, there are three recommendations for RIBO, as noted below:

Recommendation 1: To ensure that RIBO is better able to fulfil its statutory mandate (including proactive reviews of brokerage activities and consumer outcomes) regardless of disruption, it is recommended that RIBO (i) update its Business Continuity and Disaster Recovery Plan to ensure that it is finalized by the initial target completion date of fiscal year-end 2022 (i.e., July 31, 2022) and (ii) provide written confirmation to FSRA when this is achieved. This is a follow-up recommendation from the prior year but should include the capability to maintain effective

supervision (including review of brokerage operations and client files), complaint handling, discipline and governance processes during a disruption such as the COVID-19 pandemic.

Recommendation 2: To assist RIBO in fulfilling its statutory mandate (including the proactive identification of activities or circumstances which could potentially result in consumer harm caused by brokers, and of regulatory activities to better understand, assess and address such potential consumer harm), it is recommended that RIBO delineate priorities and specific outcomes and timelines in its strategic plan; thus, enabling a robust assessment of progress, challenges/constraints, and key measures of success as they relate to broker conduct. For example, evaluate how RIBO identifies key areas of (potential) consumer harm by a specific date and include specific success measures for the evaluation.

Recommendation 3: To strengthen RIBO's ability to fulfil its statutory mandate (including the proactive supervision of brokers to assess compliance by brokers with insurance law requirements), it is recommended that RIBO's Take-All-Comers focused spot checks include (i) an assessment of the brokerage's compliance regimes/controls and (ii) measures to identify non-compliant activities and practices that are initiated by brokerages/brokers and/or insurers. Such activities could include providing incomplete and/or inaccurate underwriting information, deflecting or slowing down quotes to meet specific sales targets/goals, complaint handling, disclosure where quotes are not provided by insurers, and other actions that contravene Take-All-Comers requirements.

We thank RIBO for its constructive assistance during our review. We note that RIBO management has self-identified, or is aware of, many of the issues giving rise to these recommendations and that RIBO has in many instances already commenced processes and remediation activities towards addressing these recommendations.

Attached is RIBO's Annual Report for its fiscal year ended July 31, 2021.