

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 March 1, 2022 to February 28, 2023

Date: August 8, 2023

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, 2022.

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 has contracted third parties to administer its licensing examination writing function; as such, RIBO receives a fee from the service providers for each examination that is written. 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 \$40,216 in fiscal 2022, compared to loss of \$162,582 in fiscal 2021. The year-over-year difference was largely due to extraordinary expenses in fiscal 2021 which did not recur in fiscal 2022 (e.g., costs related to transitioning the administration of its licensing examination writing function to third parties). RIBO's Operating Fund (akin to equity) serves as a buffer to cover any shortfall in revenues over expenses. As of July 31, 2022, its Operating Fund was \$3.7 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 2023 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 plan and priorities, with emphasis on conduct oversight and consumer protection. This included RIBO's review of selected brokerages to test broker compliance with the Take-All-Comers requirements for automobile insurance.

The examination included, but was not limited to, a review of the implementation of FSRA's prior year recommendations, including outcomes of its enhanced strategic planning and priority setting process; a review of RIBO's 2021-2022 Annual Report and the external auditor's reports; a review of the minutes of the Annual General Meeting and the Council meetings; a review of management changes

at RIBO; a review of RIBO's monthly bulletins; and a review of RIBO's Take-All-Comers focused spot check (audit) program and the interim results of its related brokerage reviews. Discussions were also held with RIBO senior management on recommendations made by the Office of the Auditor General of Ontario in its [2022 Annual Report](#) (section 4.1.3) and on RIBO's current and future initiatives, including its continuing digital transformation.

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 2021-2022 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 (CIRDA) database; however, the Discipline Committee retains discretion on whether to grant a request for non-publication. RIBO's website includes a "Disciplinary Decisions" link to CIRDA for consumer awareness; a link to these decisions is also included in RIBO's monthly bulletins which are publicly available on its website.

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. We also note that RIBO is licensing certain property & casualty Managing General Agents which may, depending on their activities, go beyond RIBO's legislative authority – this is an area we will review further in future examinations. Based on the results of FSRA's examination of selected requirements of the Act, there are opportunities for RIBO to increase its proactive supervisory role regarding the market conduct of brokers and consumer protection (see Recommendations below).

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

Recommendation 1: FSRA recommended that RIBO update its Business Continuity and Disaster Recovery Plan (BCDR Plan) to incorporate changes in RIBO's practices and processes.

Status: Completed.

Recommendation 2: FSRA 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.

Status: Partly Completed. (See follow-up in Recommendation 1 below.)

Recommendation 3: FSRA 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 initiated by brokerages/brokers and/or insurers.

Status: Completed.

This year, FSRA has the following five recommendations for RIBO:

Recommendation 1: It is recommended that RIBO develop, publicly consult on, and publish its desired consumer outcomes (e.g., from the Act and CISRO¹ and IAIS² guidance) and related

1 Canadian Insurance Services Regulatory Organizations

2 International Association of Insurance Supervisors

measures of success that demonstrate its effectiveness in achieving its mandate, particularly with regard to broker conduct activities that could potentially cause consumer harm.

Recommendation 2: To promote the fair treatment of consumers and to assess broker/brokerage compliance with the Take-All-Comers requirements for automobile insurance, it is recommended that RIBO include in its spot check program a procedure to identify whether a broker/brokerage is able to add filters to screen out consumers when using either its own broker management system or the service of an automobile insurance quote aggregator and to review those filters for compliance where applicable.

Recommendation 3: To assist RIBO in meeting its statutory mandate of consumer protection, it is recommended that RIBO explore additional oversight measures that may be needed to ensure brokers/brokerages adequately disclose any conflict or potential conflict (including financial ownership by insurers) and compensation structures when transacting with consumers. This aligns with a recommendation made by the OAGO in its [2022 Annual Report](#) (section 4.1.3).

Recommendation 4: To strengthen RIBO's risk-based approach to regulating brokers/brokerages, it is recommended that RIBO consider mechanisms to collect and risk-assess data on commission structures with respect to automobile insurance transactions. In turn, such data may assist RIBO in identifying potentially higher-risk brokerages for supervisory reviews (spot checks). This aligns with a recommendation made by the OAGO in its [2022 Annual Report](#) (section 4.1.3).

Recommendation 5: To assist RIBO in developing its measures of success, it is recommended that RIBO establish meaningful targets related to its supervisory reviews (spot checks) of brokerages and that adequate supports (e.g., resources) are available to ensure that targets are achieved within the context of its statutory mandate. This aligns with a recommendation made by the OAGO in its [2022 Annual Report](#) (section 4.1.3).

We thank RIBO for its constructive assistance during our review. We note that RIBO management is aware of the issues giving rise to these recommendations and is considering how they may be addressed within the context of its current strategic plan.

Attached is RIBO's Annual Report for its fiscal year ended July 31, 2022.