

June 1, 2020

Mr. Tim Bzowey
Executive Vice-President, Auto/Insurance Products
Financial Services Regulatory Authority (FSRA)
5160 Yonge Street, 16th Floor
Toronto, Ontario, M2N 6L9

Re: Request for comment on Take All Comers Rule

Dear Mr. Bzowey:

On behalf of Desjardins General Insurance Group (DGIG), I am pleased to respond to your request for comment on the Take All Comers rule.

Desjardins Group provides Canadians with wealth management, life and health insurance, property and casualty insurance, and personal, business and institutional services including payment processing.

DGIG, a subsidiary of Desjardins Group, has become the 2nd largest property and casualty insurer in the country and is the personal use auto insurance market leader in Ontario. We market under the *Desjardins Insurance* brand with two underwriting companies: Certas Direct and Certas Home & Auto which reflects our Desjardins insurance agent network in the province. We also serve the group insurance market through *The Personal* insurance company.

Desjardins: Exceptional Client Growth - Visible & Accessible to Ontario Communities

Our premium volume growth in the province has significantly exceeded the industry market average over the past 3 years according to MSA Research. Our auto insurance application sales results have consistently exceeded the client sales expectations we have set at the beginning of each year.



Desjardins remains highly visible and easily accessible to Ontario insurance consumers through over 400 exclusive Desjardins agents who are small business owners with offices located in communities throughout the province. These agents employ 1,360 employees who are licenced to sell and service auto insurance coverage to prospective and existing clients.

For our prospective and existing clients who do not choose the assistance of an assigned local insurance agent, we have over 800 licenced agents responding in our call centres located in large branded offices in Aurora, Mississauga and Ottawa, Ontario.

In total, there are over 2,600 licenced agents representing Desjardins property & casualty insurance coverage brands who are focused and motivated to respond to the auto insurance needs of Ontarians.

Compliance Oversight and Accountability Protocols

Desjardins employs a multi-faceted and rigorous approach to safeguard that everything we do is in the best interests of our clients. We view being customer-centric and treating customers fairly as a continuous journey, it is not a destination. We need to continuously improve and to adapt to changes in the marketplace and to client and regulatory expectations. As a result, our oversight process includes:

1. **Code of Professional Ethics** – All employees must understand and uphold the rules and principles of DGIG professional conduct and act and make decisions in line with the values these rules and principles are based on.

It preserves and reinforces a corporate culture that promotes fair treatment of customers. Naturally that includes compliance with laws, regulations, and regulator-issued guidelines.

The principles of professional conduct guide the decisions and conduct of Desjardins directors, officers, employees and components, particularly in situations not covered by rules. Those values include *Respect for Others*, among its expectations are: *Treat everyone with fairness, respect and courtesy; always do what's best for members and clients; and provide others with accurate, useful and understandable information so they can make informed decisions.*

2. **Compliance by Design** - *Commitment and visibility of its importance from executive leadership; Staff who are informed on the latest legislation and regulation expectations, including the use of tools created by the firm, Ethidex to help us identify and meet our risk management and compliance expectations; Consistent training programs to ensure familiarity of eligibility rules and to keep compliance top of mind; and Specialized teams focused on the integration of compliance directly into everything our organization does.*
3. **Client Information Accuracy** - The integrity of our pricing and underwriting model is highly dependent on accurate customer and risk information. We rely on our agents to ensure we offer insurance to all eligible prospects; deter fraud, charge the correct rate and apply appropriate discounts based on each customer's unique qualifications. Through continuous monitoring of data collected by our agents, we benchmark against predictions and provide feedback reports and coaching to ensure accurate risk assessment, pricing and underwriting decisions are made.
4. **Client Feedback** – We use the Net Promoter System which provides more than a simple measurement of client satisfaction — it covers everything from listening to what our clients are saying, to taking concrete steps to do what's best for them. We use technology to survey our clients, analyze their feedback, and then quickly react. We can gather survey feedback through a unique tool, quickly process it and get the word out across the organization to drive major change. We also leverage learnings from the Complaint Liaison Process that is common to most P&C insurers.
5. **Accountability** – Employees and agents are expected to meet our high standards. They are provided with education, training and coaching to meet those expectations. This includes compliance with laws and regulation such as the Take All Comers rule. Performance management actions up to and including termination are taken as appropriate. We will terminate sponsorship for a licenced agent if we have lost confidence in their suitability for the high standards expected of that role.

Recommendations to Enhance the Take-All-Comers (TAC) Rule

We support FSRA’s stated ambition to align with principles-based and outcomes-focused regulation. We are encouraged that it intends to shift its activities and oversight from the traditional prescriptive approach (e.g. detailed processes, legislation/regulation/inherited guidance hierarchy) to one that supports a principles-based approach.

FSRA recognizes that given the rapidly evolving nature of financial services, and the opportunities to enable innovation and to encourage new entrants to the market, there is a need to move away from ‘one-size-fits-all’ solutions. FSRA has already developed a new Guidance Framework and is building expertise to be able to apply the judgment needed to evaluate whether principles are being applied in a way that is delivering desired outcomes.

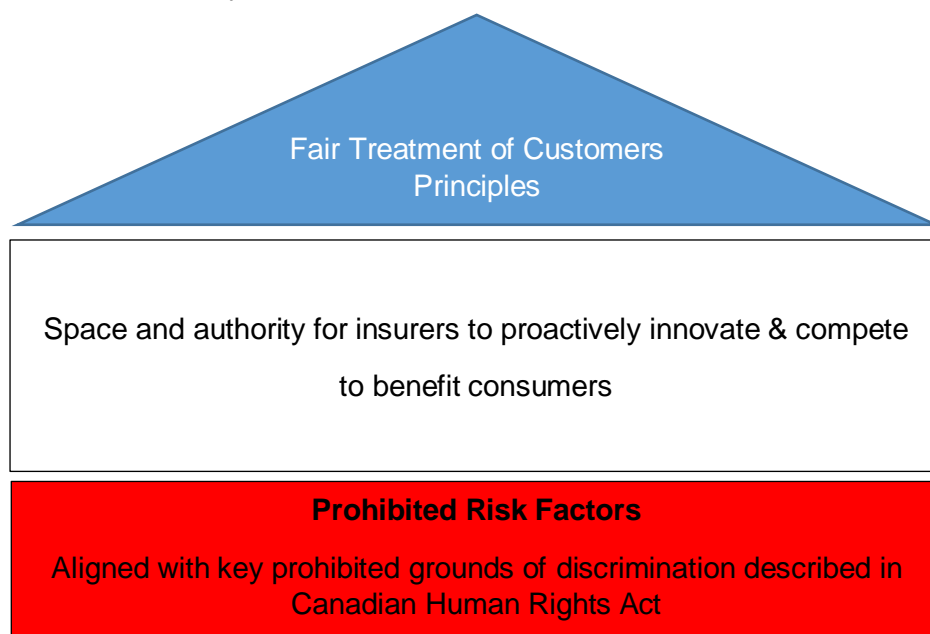
Fair Treatment of Customers Guidance – Game Changer for TAC Rule & UDAP Regulation

The consumer protection themes contained in UDAP and TAC, for example, fairness and transparency are also contained within the comprehensive consumer protection guiding principles introduced recently by insurance regulators across Canada. The [Fair Treatment of Customers \(FTC\)](#) guidance lessens the need for the continued existence of prescribed process-focused rules, as seen in UDAP and TAC.

To support a shift to a principle-based approach, we recommend that the [Unfair or Deceptive Acts or Practices \(UDAP\) regulation](#) be repealed and that the prohibited risk factors section of [Regulation 664](#) of the insurance act be streamlined to those unfairly discriminatory and clearly not in the public interest. Such factors as found as prohibited grounds of discrimination of the [Canadian Human Rights Act](#) (e.g. race, national or ethnic origin, colour, religion, sexual orientation).

By doing so, we focus on consumer outcomes that support regulatory intent (the What & Why) while creating space and authority for insurers to proactively innovate and compete (the How) for consumers.

In North America, only Alberta and North Carolina have also chosen to have Take-all-Comers rules. There appears to be no evidence that greater auto insurance availability or affordability for consumers exists in these jurisdictions to justify these added layers of regulation. In fact, the evidence suggests that the opposite conclusion may be made.



There is value in maintaining some aspects of UDAP but integrated into principle-based guidance elsewhere. For example, the Towing and Storage provisions found in section 3 may be incorporated into a provincial licensing and oversight guidance. Similarly, provisions in UDAP governing providers of goods or services in relation to a claim under the Statutory Accident Benefits Schedule (SABS) could be combined into principle-based guidance for those goods and service providers.

Examples of the Consumer Benefits:

- **Pricing & Insurance Coverage Availability** – By repealing section 2 of UDAP we will see a greater diversity of rate factors introduced in the marketplace leading to more competitive pricing for consumers and greater matching of price to risk encouraging rate stability and financial sustainability. This leads to enhanced and consistent insurance coverage availability for consumers.
- **Premium Rebates & Rewards** – Repealing section 2 (2) would enable consumers to employ their informed consent to select options that allow them to earn rewards and policy rebates. This is a consumer right that commonly exists in most other industries that serve them.
- **Regulatory Burden Reduction** – FSRA has recognized that unnecessary or unclear guidance increases costs and reduces innovation for consumers. It has made tangible progress towards [regulatory burden reduction](#). Given the existence of Fair Treatment of Consumers guidance, repealing the UDAP regulation and streamlining the prohibited risk factors section of Regulation 664 of the insurance act to those that are unfairly discriminatory and clearly not in the public interest would be strong steps towards the government's regulatory burden reduction goal.

Thank you for the opportunity to provide our commentary.

Sincerely,



Christian Jobidon
Vice-President, Actuarial & Underwriting Services, and Analytics
Desjardins General Insurance Group