AVIVA

Aviva Canada Inc. 10 Aviva Way, Suite 100, Markham, ON, L6G 0G1 Tel: +1 (800) 387 4518 www.avivacanada.com

25 February 2022

Mr. Mark White, CEO,
Financial Services Regulatory Authority (FSRA)
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Re: Public Consultations:

[2021-023] – Proposed Guidance for Operational Risk Management (ORM) Framework
[2021-022] – Proposed Automobile Insurance Non-Standard Forms, Endorsements and Certificates of Insurance Approval Filing Process Guidance
[2021-021] – Proposed Guidance for Reporting & Resolution of Auto Insurance Rating & Underwriting Errors

Dear Mr. White:

Thank you for the opportunity to comment on the Financial Services Regulatory Authority of Ontario's (FSRA) proposed Error Reporting Guidance. No guidelines on rating errors exist today and it is good to have a guideline as it provides clarity and consistency. Aviva supports FSRA's commitment to improving the rate regulation operating environment while balancing consumer protection.

Please note that we broadly support the ORM and Forms proposal with no material concerns, so consequently this submission only includes our notes on the Error Reporting Guidance.

<u>Rating and Underwriting Errors</u>

Reporting Threshold

Major- The proposed threshold is 0.02% of insurer's total written premium for the category affected. We recommend that additional criteria around number of customers be added to the threshold so that if the insurer has a small line of business, the error is not treated as a major error if only a small number of customers have been impacted – we propose an error be classified as Major, only if 100 customers or more are impacted, regardless of the % of written premium affected.

Similar to the threshold for written premium, the threshold for written exposures is 0.5%. We recommend a customer limit be placed on the threshold for written exposures as well. We propose an error be classified as Major only if 100 customers or more are impacted, regardless of the % of written exposures impacted.

Minor- Aviva opposes the inclusion of "near misses" in the definition of "Minor Error". There is no value in requiring an insurer to report an error that the insurer caught and remedied before any customers were impacted.

Underwriting Errors- The draft Guideline defines Major Underwriting Error as "more than 100 policies are affected by the underwriting error". This threshold is sufficient. Identification of underwriting errors will be largely isolated to system generated errors. Minor underwriting errors need to be better defined than "less than 100 policies". There is little value to report one-off errors. We recommend eliminating any requirement for reporting underwriting errors that are minor or to better define a minor error to capture systemic problems rather than one-off incidents.

Reporting Timelines and Mechanism

Major- The requirement to report within 25 days is too short. Some errors can take time to identify and understand. At 25 days, we often don't know fully know the number of customers impacted and would not be able to determine if the error is major or minor. We recommend either 25 days from time error is quantified or a higher threshold such as 50 days.

Minor – While we propose not to report minor errors, if required, once a year would be acceptable.

Resolution of Errors

The draft Guidance requires insurers to correct errors within 45 business days from the time the error is first discovered. The 45-day timeline is too tight to fix an error especially if complex systems are involved. We recommend that this section be changed to require insurers to report and agree on a remediation plan with FSRA within 60 days. We support the requirement to have remediate all customers within one year after approval of the plan.

For errors that are caught after a number of years, we recommend that FSRA include a "limitation period" in its Guidance. It can become very difficult to identify or remedy an error after the passage of a significant amount of time.

Inclusion of Interest

The draft Guidance proposes the payment of interest on overcharges. In the past, FSRA has taken the position that if the error is rectified within the same policy term, there is no interest payable. We recommend that this rule be included in the guidance. The calculation of interest when the error and rectification occur within the same policy term adds complexity and time, thereby delaying the refund to our customers. We propose to explicitly state that no interest is payable if the error and refund occur within the same policy term.

We would also recommend that a threshold for errors where refunds are not needed – for example, for errors less than $5 or $10 we could send the cumulative amount of small errors to charity.

Publishing of Errors

FSRA is recommending a "name and shame" approach. We don't support this approach because we believe that it will undermine confidence in the system.

Conclusion

Thank you again for the opportunity to comment on these guidelines. If you have any questions or would like clarification on any discussion points, you are welcome to contact us at any time.

Contact info

Erica Kelsey
Assistant Vice-President, Government Relations
Aviva Canada
erica.kelsey@aviva.com