CADRI
CANADIAN ASSOCIATION OF DIRECT RELATIONSHIP INSURERS

25 February 2022

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

Via:

https://www.fsrao.ca/engagement-and-consultations/consultation-proposed-guidance-operational-risk-management-framework-rating-and-underwriting-automobile-insurance

https://www.fsrao.ca/engagement-and-consultations/consultation-proposed-guidance-reporting-and-resolution-automobile-insurance-rating-and-underwriting-errors

Dear Mr. White,

Re: Public Consultations:

[2021-023] – Proposed Guidance for Operational Risk Management (ORM) Framework
[2021-021] – Proposed Guidance for Reporting & Resolution of Auto Insurance Rating & Underwriting Errors

Introduction

The Canadian Association of Direct Relationship Insurers (CADRI) is the voice of insurance enterprises that offer automobile, home, and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property, and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

We appreciate the opportunity to review and comment on FSRA's proposed Guidance. We are responding to both guidance documents together to avoid duplication because we see them as being linked.

CADRI welcomes these guidelines as they are stepping stones towards FSRA's 2022-23 Business Plan priority to implement a strategy for auto insurance rates and underwriting reform.

[2021-23] Operational Risk Management

Our members hold that strong ORM practices are in the best interests of customers.

CADRI's members are large, national and international insurance entities. Some are publicly listed companies; others are cooperatives. Each has robust operational risk management defence, governance and control policies and practices supervised by Board members, senior management including legal counsel, shareholders or members. These policies and practices are integrated with business operations, system design and human resources.

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We believe that the value of the ORM guidance is that it enables the regulator to shift to more principle-based regulatory practices. For instance, with a common understanding of ORM in place, companies would be able to adjust their own ORM frameworks and the regulator should be able to move from detailed examination of insurer processes to focus on system outcomes that are important to the public and to the sustainability of the sector.

That said, we have some concerns that the guidance duplicates existing oversight and therefore adds a layer of regulation without substantial benefit to consumers.

Harmonization

Given that our members operate in several jurisdictions across Canada, it would be their preference that a national approach be put in place. Without regulatory harmonization, most insurers will be faced with increased complexity, cost, and potentially-conflicting compliance expectations.

We note that our members have obligations, as financial services, to other regulators, including the Office of the Superintendent of Financial Institutions (OSFI). We understand that OSFI is conducting ORM consultations in the coming year.

Because FSRA's proposed guidance may duplicate existing guidelines at the federal level, we would ask that any ORM guidance from FSRA align with OSFI and mirror its language as best possible.

In this context, our members seek greater clarity as to FSRA's intentions for operationalizing its guideline as some of the information set out in the guidance is already considered by OSFI.

[2021-021] Reporting & Resolution of Errors

From a consumer perspective, it is important that Ontarians have confidence that they are being provided with excellent, trustworthy service from automobile insurers: that quotes are based on solid industry practices and that errors, if any, are corrected and remediated in a transparent and timely manner.

However, given the size and complexity of its members' operations and compliance oversight, CADRI submits that the proposed guidance is very prescriptive. As we will explore further, the proposed threshold for a Major error seems low; timelines to report are tight, and the approach to publishing the information may, without context, damage a company's reputation while providing limited, if any, value to consumers.

We recommend that FSRA set expectations for discovering and remediating rate and underwriting errors and direct insurers to build these into their ORM frameworks for Ontario – if they have not already done so. These expectations could include insurers reporting details for errors discovered and their plans for remediating them. Errors reported would be material ones, depending on the size of the group of companies. Insurers should have a reasonable period to report the remediation plan. FSRA could then assess the adequacy of the insurers' associated policies and practices when examining their ORM frameworks as part of their regular supervisory efforts.

Reporting of errors

As set out in the guidance, the threshold for Major errors is:

- The sum of the absolute value of premium overcharges and premium undercharges resulting from the rating error is equal to or greater than 0.02 percent of the insurer's total written premiums for the category affected.
- The number of written exposures impacted from overcharges and undercharges due to the rating error is equal to or greater than 0.5 percent of the insurer's total written exposures for the category affected.

As a matter of course, members seek to quickly flag and fix errors. They have, however, observed that the thresholds proposed are on the low side and could add significant reporting burden. Using the proposed threshold of 0.02 percent of total written premium, it would only require an error in 1 percent of policies with an average 2 percent premium discrepancy to exceed this threshold. Assuming the error was discovered two weeks after implementation, and took two weeks to correct, the four elapsed weeks would have impacted 8 percent of exposures. An average premium discrepancy of $10 in this case would bring an insurer over the 0.02 percent threshold. This is an optimistic scenario, as errors can take longer to discover and to devise a fix. Therefore, we recommend that FSRA re-examine its own assumptions and raise the threshold for major errors accordingly.

Moreover, as it pertains to interest, it should not be applicable if the correction refund amount is provided within the policy's initial annual term.

CADRI also would like to draw FSRA's attention to the practicalities of imposing processes on Minor errors. If an error is so small that most policies are only nominally impacted, sending out refund cheques is costly, and can be confusing to the consumer. CADRI members suggest FSRA explore alternatives such as a lump sum donation to a charity. FSRA would set a reasonable threshold, and anything less than that threshold would be sent to a charity and above would trigger a refund. We believe this is an approach has been used in other jurisdictions, including New Brunswick, when a policy holder could not be located.

Relative to reporting minor errors, our members have suggested that in place of annual reporting through ARCTICS that these be covered in annual compliance reports subject to periodic FSRA market conduct audits. In the alternative, if FSRA proceeds as proposed with reporting through ARCTICS, it would be more efficient for the report to be filed on a certain date for the previous calendar year, to provide adequate time for documentation and review.

CADRI members do not support the reporting of 'near miss' events. Rather than being errors, the discovering of 'near misses' demonstrates that the insurer has good processes in place to prevent against such errors. CADRI suggests that insurer and regulator resources potentially devoted to examining 'near miss' events are best directed elsewhere.

Timelines

In many cases, the 25 business days from discovery of a Major error will not be sufficient give the complexity and scope of the analysis. As outlined above, CADRI's members propose that an insurer provide FSRA with an action plan for error correction and remediation within a reasonable period – 45 business days or more. This approach will ensure more timely reporting to FSRA and the insurer the ability to appropriately response to the circumstances.

Publishing

We refer FSRA to CADRI's 2021 comments on Enforcement Communications, embedded here and published on cadri.com.

Echoing sentiments submitted previously, we do not believe the proposed approach would significantly strengthen insurer accountability or consumer confidence in the property and casualty insurance industry.

The transparency FSRA is seeking could be satisfied through the reporting and remediation process. As CADRI understands it, remediation plans for rating and underwriting errors must include a communications plan to notify affected customers. Publishing errors by company name, as a matter of course, and without context, could result in reputational harm to the insurer specifically and to the regulator and the system generally.

Conclusion

CADRI supports FSRA's aims to put in place a principle-based approach to regulating auto insurance in Ontario. One that serves the public interest.

In bundling our comments on the ORM and errors, we seek to connect the building blocks FSRA is putting in place. Once an ORM guidance is published, CADRI recommends that FSRA would be able to be less prescriptive about other aspects of its mandate including rate regulation and, more immediately, the reporting of errors.

We welcome your comments and questions,

Yours sincerely,

Geoff Beechey
Chair and CEO, CADRI

cc:
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