

February 25, 2022

Financial Services Regulatory Authority (FSRA)
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

Re: Consultation on Proposed Guidance for Automobile Insurance Non-Standard Forms, Endorsements and Certificates of Insurance Approval Filing Process



On behalf of Desjardins General Insurance Group (DGIG), I am pleased to respond to your request for comment on the [Proposed Guidance for Automobile Insurance Non-Standard Forms, Endorsements and Certificates of Insurance Approval Filing Process](#).

Desjardins is the leading cooperative financial group in Canada serving over 7 million members and clients across the country. For over 120 years, Desjardins has listened and responded to its members' needs and adapted to change. We provide Canadians with banking, wealth management, life & health insurance, property & casualty insurance, and personal, business, and institutional financial services.

There are approximately 6,000 Ontarians across the province serving their communities and representing the Desjardins brand. In Ontario, the Desjardins Ontario Credit Union (DOCU) is the second largest credit union in the province and the fastest growing credit union in the country. Desjardins General Insurance Group (DGIG) is a subsidiary of Desjardins Group and proud to be the leading personal use auto insurer in Ontario. Desjardins Financial Security (DFS) is the fifth largest Life and Health insurer in the country.

We are members of the Insurance Bureau of Canada (IBC) and Canadian Association of Direct Relationship Insurers (CADRI) and have contributed to and are in support of their detailed recommendations on this topic.

We appreciate FSRA's efforts to try to introduce a more streamlined filing process approach. We see this effort as consistent with FSRA's regulatory modernization objectives.

In our response we would like to share a few comments related to the proposed guidance and filing process improvements for policy documents. We also identify further opportunities in this space and encourage a critical thinking exercise and resulting transformational change that should be implemented within the next couple of years as part of your rate and underwriting regulation strategy being discussed in your technical advisory committee.

Proposed Guidance Key Features

1. One single filing process in place of multiple filings

We applaud FSRA for recognizing the integrated nature of some form filings that naturally require supporting rate filings. Creating an integrated single filing process in place of multiple filings will simplify the process for insurers and we trust will result in accelerated total approval cycle times compared to the multiple standalone filings process that is currently required.

2. Streamlined review process with standardized service standards to help insurers anticipate timelines

We appreciate the intention to create standardized service standards. In our view, form approvals are a relatively straightforward task, and it should generally not take 25 business days to notify the insurer in writing of the decision to either reject or approve the filing.

As insurers manage major projects intended to better meet the needs of their clients and to manage their internal capacity constraints, it is critical to understand the timeline range for the uncertainty that regulatory approvals present. In our view, and as FSRA allows with standard rate filings, the non-standard form request should be deemed to be approved if FSRA does not respond within an agreed upon period (e.g., 25 business days).

While we acknowledge that it is the responsibility of the insurer for complete information to be provided with the submission, we recommend that filings be pre-screened within 3 to 5 business days of receipt and that insurers immediately be notified if FSRA staff feel additional information is required for the decision to be made.

We agree that there can be value from insurers contacting their FSRA analyst to discuss plans to develop a non-standard form or endorsement. Given the time sensitivity of these types of projects it will be important in these instances that FSRA respond promptly and within its established service standards to the insurer's request for collaboration.

We could foresee situations where additional information for review is identified during the conversation, resulting in the insurer delaying their filing until that information is compiled. However, we feel it should be extremely rare that following that conversation that FSRA would need to establish a longer review timeline and workplan than the standard approval period.

3. Improved transparency through publication of non-standard forms where relevant

We assume that the intention for the publication of non-standard forms is to notify other insurers of the possibility of regulatory flexibility for approval of a non-standard approach. Given that these are client-facing documents that will ultimately be in the public realm, we do not see any concerns with this transparency from an innovation, competition, or proprietary property perspective.

It would be instructive for FSRA to also publish its rationale for approving the non-standard form. If, because of a recent case approval, FSRA chooses to alter expectations for all future filing procedural requirements or for form related insurer controls, this should be noted in the approval publication and integrated into the ARCTICS online filing system process for the benefit of all insurers.

If a significant number of insurer form requests are rejected and patterns emerge, we recommend that information guidance, that removes insurer identifying information, be periodically shared by FSRA with all insurers.

Opportunities for Greater Regulatory Effectiveness

It is our understanding that this guidance is intended to introduce timely procedural improvements to an existing regulatory practice. We have tried here to offer constructive feedback towards that objective even though we are anxious to see changes of a more transformative nature.

We have consistently supported FSRA's publicly stated ambitions to move to a more principle-based and consumer-outcome focused regulatory environment. We need to move away from prescribed rules-based and process-focused approaches to enable innovation and improve regulatory effectiveness while still maintaining consumer protections. We are aware that FSRA is formulating a strategy for rate and underwriting regulation modernization, and we remain optimistic about the future.

An important conversation should occur about the value provided to consumers by having prescribed insurance forms and/or by having a regulatory approval process for insurance forms. We note that the auto insurance market in Ontario is characterized by mandatory prescribed policy wordings that virtually eliminate unique coverage choices and a rate regulation framework that limits the ability for insurers to offer dynamic pricing choices to clients.

Requiring insurers to offer identical auto insurance products not only diminishes innovation, choice, and competition for consumers but it also creates systemic risk. Policy terms create expectations for coverage which form the basis of pricing and claim benefit responses. Court and Licence Appeal Tribunal (LAT) decisions are made involving cases with one plaintiff and one insurer with one set of facts, but they tend to affect all insurers because of the common contract language and common law doctrine of precedent. The impact often not only affects claims going forward but also claim settlements for all similar open cases going back in time.

When premiums rise, due to the higher-than-expected costs, this naturally causes consumer dissatisfaction. Since the standard policy is mandated by government, policy wording adjustments cannot immediately be made by insurers to create clarity and avoid price increases. Instead, a process of government advocacy begins that often requires years of discussion to gain the necessary legislative or regulatory attention and resources.

This rigid and slow to respond environment does not exist in the property insurance market where, often the same P&C insurers, are empowered to create, and when necessary, quickly adjust their policy coverage and pricing terms, that still include consumer protection-focused statutory conditions.

Interestingly it appears that mandating all insurers to use identical auto insurance policy wordings has not led to greater consumer understanding of their auto insurance coverage compared to their understanding of their property insurance. Mandated uniform wordings have also not led to fewer disputes. In fact, [reports](#) commissioned by government have shown that the Ontario auto insurance market suffers from very high levels of dispute.

We would look forward to participating in a reflection on the value to consumers of prescribed policy, endorsement, and form wordings and/or the need for a continued regulatory approval process.

Thank you for the opportunity to provide our commentary.

Sincerely,



Sam Palmerio
Manager, Government Relations
Desjardins Group