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February 25, 2022

Financial Services Regulatory Authority of Ontario
Auto Insurance Sector
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Re: *Consultation on Proposed Guidance for Operational Risk Management Framework in Rating and Underwriting of Automobile Insurance* and ***Proposed Guidance for Reporting and Resolution of Automobile Insurance Rating and Underwriting Errors***

The Insurance Bureau of Canada (IBC) and its member property and casualty insurers welcome the opportunity to comment on the Financial Services Regulatory Authority of Ontario's (FSRA) proposed operational risk management guidance (ORM Guidance) and reporting rating and underwriting errors guidance (Error Reporting Guidance). IBC supports FSRA's commitment to improving the rate regulation operating environment while maintaining adequate consumer protection.

Auto insurance rating and underwriting continues to evolve. Consumers increasingly expect that their premiums will reflect their actual risk level as closely as possible. The proliferation of online shopping extends to insurance; consumers expect access to tailored products as quickly as possible. As insurers work to satisfy these changing consumer demands, as in any business, unintended errors may occur. To minimize the frequency and severity of these errors, insurers have developed internal ORM frameworks. IBC supports FSRA's vision that all insurers have a strong ORM framework. This will help clarify FSRA's expectation for the industry and will increase consumer confidence in Ontario's auto insurance system.

While IBC broadly supports FSRA's proposed ORM Guidance, we believe that the proposed Error Reporting Guidance will not lead to improved consumer outcomes. As currently proposed, it will create a considerable administrative burden and could often force insurers to release proprietary business information. Critically, it will not improve the consumer experience in a meaningful way. IBC's specific responses to both consultations are outlined below.

ORM Guidance

The proposed ORM Guidance references existing gaps in many insurers' existing ORM frameworks, which necessitates the development of a standard for the industry. We disagree with this assertion. Insurers develop robust internal ORM frameworks to ensure that rating and underwriting is as accurate as possible and that errors are minimized. The sizable number of insurers operating in Ontario's auto insurance market mean that internal ORM frameworks can take on different forms commensurate to the size and business model of each insurer. Nevertheless, we welcome FSRA's proposed ORM Guidance while offering two recommended changes:

- Insurers already have internal ORM frameworks. For some insurers, it may closely resemble FSRA's ORM Guidance. For others, particularly smaller insurers, there may be slight differences. While all insurers will likely need to make changes to more closely align with FSRA's proposal, some may require additional time to make the necessary changes. For this reason, IBC recommends that FSRA be flexible on the effective date; and

- While insurers generally follow robust ORM processes, some insurers may have procedures in place that are just as effective as those outlined in the ORM Guidance. IBC recommends that FSRA be willing to permit reasonable differences in insurers' ORM frameworks.

Finally, OSFI is conducting its own ORM consultations over the next year. This is an excellent opportunity to ensure a consistent principle-based and risk-based regulatory ORM approach across Canada. Needing to adhere to multiple ORM frameworks is a considerable burden for insurers and creates unnecessary costs which must be borne by consumers.

IBC recommends that FSRA harmonize its insurer ORM expectations with those of other regulators.

Error Reporting Guidance

IBC recognizes the importance to consumers of transparency in auto insurance. This is why IBC develops and publishes extensive resources to help consumers increase their understanding and comfort with insurance products and the insurance process. Examples include IBC's Insurance 101 website, which educates consumers on automobile, home and business insurance issues, as well as our annual Financial Literacy Month campaign, held each November.

However, the Error Reporting Guidance as currently proposed will increase transparency without meaningfully improving the consumer experience; it could have the opposite impact. As outlined, insurers work to satisfy consumer demands for customized service on condensed timelines. In the process of designing products to meet these demands, unintentional errors may occur. Consumers are indeed compensated and made whole when errors occur. However, publishing specific names of insurers for unintentional errors have the potential to threaten the reputation of both individual insurers and the industry as a whole.

This will have unintended consequences. Consumers benefit when insurers develop new products and services. The reputational risk that could result from a public 'naming and shaming' due to an accidental error in the launch of a new product will cause many insurers to think twice before launching in Ontario. Many insurers will continue to develop new products and services – they will just choose to launch them in other jurisdictions prior to introducing them in Ontario. This runs counter to the stated goals of FSRA's Innovation Framework, which seeks to make Ontario a go-to place for financial innovation in Canada.

IBC's additional commentary on the proposed Error Reporting Guidance is listed below:

<u>Reporting Thresholds</u>

According to the proposed Error Reporting Guidance, insurers must report underwriting errors when more than 100 policies are impacted. This is a very small threshold that can be easily reached for even the most minor errors. There is also no stated maximum number of years for which insurers must go back and investigate errors. This means that a small number of exposures that faced underwriting errors across several years would count as a 'major' error and must be reported to FSRA, despite only impacting a tiny fraction of the hundreds of thousands of policies underwritten by many insurers each year. IBC recommends that FSRA increase the threshold for underwriting error reporting.

For rating errors, the guidance document proposes a threshold of 0.02% of the insurer's total premiums for the category affected. We believe that this is also too small. For many insurers it would only take a small number of policies impacted by a $5 or $10 rating error for a few weeks to reach this threshold. Given that errors such as the one described can often be rectified fairly quickly, we believe it is unnecessary to classify these as Major errors.

IBC recommends that the Major rating errors premium threshold be increased to 0.1% of an insurer's total premiums for the affected category.

Reporting Deadlines

The Error Reporting Guidance requires insurers to correct a discovered Major error within 25 days and report it to FSRA. Due to the resources required to fully assess the scope of an error upon discovery, this timeline will be very difficult, if not impossible, for insurers to adhere to.

When an error is discovered, insurers investigate the full extent of the error. This requires looking into several aspects including, but not limited to, how long the error has been occurring, applicable jurisdictions, impacted vehicle categories, and determining whether the error is considered Major or Minor, as per FSRA's definition. This investigation will generally take longer than 25 days.

Instead, IBC recommends that within 45 days of insurers' internal confirmation that a Major error occurred, insurers report the error to FSRA. Following this, insurers will approach FSRA in a timely manner with its **plan** for how it will rectify the error and any further necessary steps. This will ensure that FSRA is presented with all important details related to the error.

Time Limitation on Error reporting

The Error Reporting Guidance does not reference a limitation on how far back in time insurers must go when an error is discovered. As insurers continuously upgrade their IT systems, there are often multiple systems operational at any one time. This can result in situations where policy details after a certain date are digital, but those before a certain date are paper-based.

If errors are discovered, the requirement that insurers go indefinitely back in time will create an incredible burden for what is often a minor error. We believe that it is not FSRA's intent, for example, to require an insurer to go back decades across multiple IT/filing systems to investigate an error upon discovery.

IBC recommends that FSRA work with insurers on a case-by-case basis when insurers are investigating the full extent of a rating or underwriting error. Some errors may only necessitate going back a single policy year, while others may necessitate a longer investigation. Permitting this flexibility is in line with FSRA's shift towards a principles-based regulatory framework.

'Near-Miss' Reporting

The document outlines that insurers must report 'near misses' to FSRA. We believe that this is unhelpful to consumers. A near-miss means that an insurer has identified and corrected an error before it impacts consumers. This is the exact purpose of insurers' internal ORM frameworks. **IBC recommends that FSRA remove the requirement that insurers report near-misses to FSRA.**

Interest Calculation

IBC agrees that consumers who are overcharged due to rating errors should be made whole for the specified overpayment. The low interest rate environment in recent years means that many consumers often receive a negligible interest payment on top of the premium overpayment. IBC recommends that the government eliminate the requirement for interest payments under a certain amount, such as a couple of dollars. It can cost insurers up to $30 to send an interest payment cheque to consumers, many of which only have a value of a few cents.

We recognize that this recommendation is beyond the scope of this consultation. However, IBC encourages FSRA, as the governmental organization with detailed knowledge of the auto insurance product, to educate the government on why this is a considerable burden to Ontario's auto insurers without adding meaningful benefits to consumers.

Consumer Reporting Errors

Consumers may have been subject to rating or underwriting errors for reasons beyond insurers' control, such as consumer delays in providing the insurer with updated information. IBC recommends that the Error Reporting Guideline clarify that errors due to circumstances outside the insurers' control do not need to be reported.

Vehicle Categories

According to the Error Reporting Guidance, thresholds apply to each vehicle category. IBC interprets this to mean that, for example, an error impacting 60 PPV policies and 60 motorcycle policies would **not** be considered a Major error.

IBC requests confirmation that its interpretation that a Major error would only be considered for 100 policies of the same vehicle category, is correct. Requiring insurers to investigate all vehicle categories upon the discovery of an error would create a considerable burden for insurers.

Conclusion

While insurers already have strong internal ORM frameworks, introducing an industry standard while permitting reasonable flexibility should give both consumers and FSRA confidence in the accuracy of rates being charged to consumers. The sequencing of FSRA's reforms is critical. IBC recommends that FSRA first implement its ORM Guidance after working with individual insurers, then subsequently introduce any rating and underwriting reporting guidance. As outlined, IBC recommends that FSRA make several revisions to its proposed Error Reporting Guidance document to ensure that insurers are able to offer Ontario drivers the most innovative products and services possible.

Finally, we believe that the presence of strong internal insurer ORM frameworks should give FSRA confidence to accelerate the introduction of an expedited rate filing process ahead of its current two- to three-year proposed timeline. As FSRA works with the industry in transitioning to a principles-based regulatory framework, IBC recommends that it concurrently introduce a more expedited rate filing process alongside its ORM Guidance.

Thank you for the opportunity to provide comment. If you would like to discuss this further please do not hesitate to contact me.

Yours sincerely,

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