

October 15, 2024

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

Dear Mr. Chris Georgakopoulos:

RE: Travelers Canada Comments on FSRA's *Consultation on Proposed Fraud Reporting Service Rule and Guidance*

I am writing on behalf of The Dominion of Canada General Insurance Company, Travelers Insurance Company of Canada, and St. Paul Fire and Marine Insurance Company (Canada Branch) (collectively, "**Travelers Canada**") to provide our feedback on the ***Consultation on Proposed Fraud Reporting Service Rule and Guidance ("FRS Rule and Guidance")*** recently released by the Financial Services Regulatory Authority of Ontario ("**FSRA**").

Travelers Canada respectfully requests that the information contained in this submission be kept strictly confidential by FSRA pursuant to its discretion under Subsection 22 of the Financial Services Regulatory Authority of Ontario Act, 2016, S.O. 2016, c. 37, Sched. 8. Information in this submission discloses sensitive, proprietary and market-competitive information. If FSRA does intend to disclose all or any part of this submission, Travelers Canada further requests it be contacted, in writing, by FSRA prior to any such disclosure as to the recipient of such disclosure and the reason for such disclosure in order that Travelers Canada may make further submissions as to the reasons for restricting such disclosure.

Although Travelers Canada recognizes and supports the importance of a reporting system as proposed in Phase 1 of FSRA's FRS Rules and Guidance, we are concerned that the costs and time to undertake the development of such an extensive reporting tool could outweigh the potential benefits, particularly as insurers already undertake significant initiatives to address fraud. Furthermore, insurance crime is highly complex, with new technologies emerging at a pace which makes it more difficult for insurers to detect and prevent. We are concerned that FSRA's proposed FRS Rule and Guidance will be duplicative in nature to existing industry initiatives, taking time and costs away from initiatives that can be actioned more immediately to address fraud. We recommend that FSRA consider leveraging the existing industry efforts to date and continue working with the industry and key stakeholders to identify additional opportunities for addressing fraud beyond those already underway.

Below, please find Travelers Canada's comments and feedback.

Leveraging Existing Sources of Data

We support the need for FSRA to collect industry data and believe that a significant amount of high-level information could be obtained from insurers who are already measuring the impact of their current fraud detection and prevention measures to achieve a baseline understanding. We encourage FSRA to consider collecting data directly from P&C insurers providing auto insurance in Ontario to better estimate the volume of fraud and nature of fraud cases, as well as the outcomes of fraud investigations.

Further, we strongly recommend that FSRA work with Équité Association (“Équité”) to leverage the operational efficiencies that could be achieved by adopting the existing infrastructure of Équité’s ÉQ Insights database, which incorporates Équité’s advanced analytics tools. Équité supports Canadian property and casualty insurers to address insurance crime by collaborating with law enforcement, industry organizations and other stakeholders to protect Canadians against exploitation. Through ÉQ Insights, Équité can deliver advanced analytics and integrate the network of fraud across all insurers that are a part of the program. The work of Équité harnesses the power of the collective efforts of the industry to address fraud, which complements Travelers Canada’s own fraud prevention practices.

Travelers Canada’s Fraud Prevention Practices

Travelers Canada shares in FSRA’s desire to focus on fraud prevention and detection, and we support FSRA’s crucial role in maintaining the integrity of the insurance market and ensuring that deceptive practices intended to secure an undeserved benefit are eradicated. Elevated fraud costs are reflected in higher claim costs that must be borne by all Ontario drivers through premiums they pay. Working together, FSRA and insurers can improve outcomes, and enhance public trust and credibility in our business.

While FSRA establishes the guidelines and standards aimed at minimizing fraud, insurers are responsible for developing robust anti-fraud programs to demonstrate accountability and commitment to addressing fraud. At Travelers Canada, we are actively employing various strategies to address fraud and collect data with respect to trends and suspected fraud that we have detected. We also have developed internal policies and governance procedures that facilitate the identification of potential fraud quickly and efficiently.

Our dedicated fraud investigation unit is at the forefront of these efforts, ensuring that we stay ahead of emerging threats and maintain the integrity of our operations by employing various strategies, including those such as the following:

- **Advanced Data Analytics:** We leverage cutting-edge data analytics to detect and prevent fraudulent activities. By analyzing vast amounts of data, we can identify patterns and anomalies that may indicate fraud, allowing us to take proactive measures before issues escalate.
- **Collaboration with Équité, Law Enforcement, and Regulators:** We work closely with industry partners such as Équité, law enforcement agencies, and regulatory bodies. This collaboration enhances our ability to share information, coordinate investigations, and implement best practices across the industry.
- **Consumer Education:** We believe that informed customers are our best defense against fraud. We invest in consumer education initiatives to build awareness and empower our customers with the knowledge they need to recognize and report fraudulent activities.
- **Corporate Training on Fraud:** Continuous education and training for our employees are critical components of our anti-fraud strategy. We conduct regular training sessions to ensure that our staff is well-equipped to identify and respond to potential fraud, fostering a culture of vigilance and accountability within our organization.

Furthermore, we are continuously monitoring our practices around fraud prevention to ensure that we are implementing best practices. By integrating these tools and strategies, we are committed to maintaining a robust defense against fraud and protecting the interests of our customers and stakeholders.

Travelers Canada volunteered to be a part of the pilot of ÉQ Insights in order to leverage the intelligence and data analysis capabilities that would enhance our own efforts in detecting and combatting fraud. We are also actively engaged with the

Insurance Bureau of Canada (“IBC”) and Équité on enhancing industry efforts to address fraudulent activity within auto insurance and other lines of business where fraud is prevalent in the insurance industry.

Additional Opportunities to Improve and Support Fraud Detection and Prevention

While we are dedicated and focused on the fight against fraud, there are structural issues in the insurance system that need to be addressed to improve the industry’s ability to detect, prevent and address fraud. Bad actors engaged in fraud are adept at exploiting limitations in the system and benefit from a lack of sufficient consequences.

We strongly recommend that FSRA take further action to equip insurers with the ability to identify and reduce fraud in the insurance system by focusing on additional tools beyond our existing capabilities. Our suggestions are below.

1. Permit Insurers to Take Underwriting Action Against Bad Actors/Amend Take All Comers (“TAC”) Rule

Currently, insurers in Ontario can cancel an auto policy when an insured misrepresents material facts in their application for insurance. An insurer cannot, however, decline or cancel a policy when it only has reasonable grounds to suspect that a consumer will use the coverage for illegal or fraudulent activities or if a customer has as a prior history of fraudulent activity.

Reform is necessary to make it more difficult for those with fraudulent motives to secure a policy. Insurers ought to be able to vet customers in good faith to help prevent the issuance of policies to bad actors, thereby resulting in reduced fraud risk.

We respectfully request that FSRA adopt Alberta’s Adverse Contractual Action Regulation (“ACAR”) to complement the existing TAC rule¹. We believe that adding the ACAR will enhance the TAC rule by empowering insurers with ACAR exceptions strictly for limited cases of fraud. Such exceptions would permit insurers to cancel a contract or refuse to issue/renew a contract in limited fraudulent cases. Examples of fraudulent activity that could permit an insurer to apply an adverse contractual action are the following:

- providing false information on the approved application form;
- making any misrepresentation in the information provided for the purposes of obtaining, updating, or renewing an automobile insurance policy, including on the application form; and
- a history of fraudulent activity in relation to an automobile insurance policy, where the most recent instance of such activity occurred less than 7 years before the day of the request to obtain, update or renew an automobile insurance policy.

¹ [Superintendent of Insurance Interpretation Bulletin: Auto Insurance Take All Comers Rule Interpretation](#)

In this scenario, TAC would continue to protect the rights and interests of automobile insurance consumers and contribute to public confidence, while ACAR would also deter deceptive or fraudulent conduct. This would allow insurers to impact automobile insurance fraud at the organizational level and enhance consumer confidence in the industry by ensuring that premiums are being used to fund legitimate claims.

Enhancing the questions related to misrepresentation and fraud in the Ontario Application Form 1 (OAF 1) would also allow insurers to better understand the history of the applicant and listed drivers. For example:

- During the last 7 years, has any automobile insurance policy issued to the applicant or any listed driver been cancelled or has any claim been denied for material misrepresentation or material change in risk?
- During the last 7 years has the applicant or any listed driver had a claim denied for making wilfully false statements in respect of a claim under the contract?

2. Limited Liability Protections and Amend Ontario Application Form (OAF 1) Consent

Insurance fraud is an area where the ability of insurers to collect, use, disclose and pool data can significantly impact the ability to combat this illegal and costly activity. However, insurers continue to take a conservative approach in sharing data for the purposes of detecting and suppressing fraud due to the risk of attracting significant penalties and costly lawsuits. This encourages insurers to tread carefully in their data collection practices, potentially compromising their fraud detection efforts.

We encourage FSRA and the Government of Ontario to provide expansive limited liability protections for industry stakeholders and others including, but not limited to, industry stakeholders and their respective personnel, who act in good faith while performing due diligence and risk assessment/mitigation activities.

FSRA should also modify the current OAF1 to provide insurers with meaningful and broad consent, for both underwriting and claim contexts, to collect, analyze, use and disclose personal information for the purposes of detecting, suppressing and preventing insurance fraud.

3. Creation of suspicious provider lists, created both individually by insurers and centrally by FSRA, allowing the identification of bad actors and facilitating enforcement of penalties against them

Travelers Canada proposes that FSRA introduce a two-part delisting system to ensure fraudulent behaviour by service providers can be properly addressed: insurer delisting and regulator delisting.

The Minister of Finance should add a provision to s.38 of the Statutory Accident Benefits Schedule (SABS) to grant insurers the explicit authority to be able to place service providers they have sufficient evidence to believe are repeatedly engaging in fraud or abuse on a suspicious provider list (the program would have to have the proper checks and balances in place – there will be requirements such as acting in good faith, having supporting objective evidence, exercising due diligence, etc.).



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Fraud-related limited liability protections should extend to the following: (a) decisions by an insurer to place suspected bad actors on a suspicious provider list, provided such decisions are: (i) reasonable in light of the evidence, (ii) based on objective criteria, (iii) made in good faith; and (iv) made solely for the purpose of curtailing a repeat suspicious provider; and (b) Équité, as the industry's third-party not-for-profit fraud fighting entity, for the purpose of posting/circulating a consolidated list of suspicious service providers, while still requiring each individual insurer to do its own due diligence before choosing not to use a suspicious provider.

Conclusion

In conclusion, Travelers Canada supports FSRA's initiative to track fraud activity across the industry to address fraud in the long term. Though, we also strongly recommend that FSRA leverage the existing capabilities of Équité ÉQ Insights.

We must also emphasize the urgency of addressing current fraud challenges. While we await the developments on the proposed fraud tracking database, we require immediate access to additional tools and resources to effectively tackle fraud today. Without prompt action, we risk falling behind the increasingly complex network of fraudulent activity.

We appreciate your attention to this critical matter for Travelers Canada and look forward to working together to strengthen our defenses against fraud.

Regards,

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