August 13, 2021

Mr. Tim Bzowey
Executive Vice President, Auto/insurance Products
Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

Subject: Request for comment on the Ontario Private Passenger Vehicles Annual Review

Dear Mr. Bzowey,

On behalf of Desjardins General Insurance Group (DGIG), I am pleased to respond to your request for comment on the proposed Auto Insurance Benchmark Loss Trend Rates for Private Passenger Automobile Major Rate Filings.

DGIG is a subsidiary of Desjardins Group, which is the leading financial cooperative group in Canada with over 7 million members and clients. We are the leading insurer of personal use vehicles in Ontario and the 2nd largest Property & Casualty insurer in Canada.

As members of the Insurance Bureau of Canada (IBC) we have also contributed to their submission and are in support of their observations and recommendations. We wish in this submission to bring our emphasis to several key considerations.

General Comments

Under the specific objectives of the Annual review, it states that the review includes:

> "*The determination of loss trend rates and the cost impact of recent reforms that FSRA will use as benchmarks in its review of private passenger vehicle rate applications." (pg. 1)*

In our opinion it can be valuable to conduct an industry loss trend benchmarking exercise to assess the change in average claims inflation over time and to understand the drivers of change. However, industry cost benchmarks are not valuable or appropriate for evaluating *individual insurer rate change applications.* The differences in client profiles, pricing and claims business practices, and a variety of other factors can lead to unique and legitimate cost needs.

Actuaries who have years of close working experience with the underwriting company and with access to internal subject matter experts should be relied upon to evaluate an insurer's cost needs.

This is especially important in cases where changes in data or insurer's practices makes it difficult to use past trends for the future. We should acknowledge the power of consumers making choices in a competitive marketplace as the best and ultimate regulator of auto insurance rates.

We support FSRA's decision to add into this years' analysis an assessment of the impact of COVID on claim costs and claim cost trends in the future.

Bodily Injury (BI)

Oliver Wyman's report observes the declining ultimate frequency and resulting loss cost for Bodily Injury (BI) since 2015/2016 and mentions that it is plausible that this is due to Bill 15 that included a change to the Dispute Resolution system (DRS) that ended access to courts for Accident Benefits (AB) disputes and that may be leading to fewer BI claims as there may be less legal representation. In our own experience at DGIG, we don't find this to be the case. We find that most applicants at the License Appeal Tribunal (LAT) are represented.

BI coverage is a significant proportion of loss cost and premiums for Private Passenger Vehicles (PPV) in Ontario. The estimate for past and future trends therefore is important as it can have a significant and material impact on the rate needs and ultimate rate adequacy of an insurer. FSCO benchmark trends from March 2019 estimated future BI trend at +2.3%. In last years review, this dropped drastically to -7.5%. While the future BI trend has increased to -6.2% in the latest review, in our opinion it is still too optimistic.

The overall negative trend is driven by a declining claims frequency, which the report notes cannot be definitively explained by Bills 15/91. The report also notes that the DRS change may have contributed to the observed decline, but that ultimately the cause of the decline is unknown. We have the following comments with respect to conservatism in trend selection, given the current level of understanding of the observed BI frequency:

1. BI is a long-tailed coverage where claims are reported over a longer period of time. Considering the nature of BI, relying on 4 years of data to select future trends that may have a significant impact on rate adequacy assessments may not be appropriate.
2. Without understanding the reason for the declining frequency and relying on age-to-age development factors that may not reflect any changes in the reporting pattern of claims, the ultimate frequency estimates relied on for the trend analysis may not be appropriate.
3. The 2020 GISA Actual Loss Ratio Report specifically mentions that due to several changes the selection of loss development factors, for Bodily Injury in particular, at early ages of development is subject to even greater uncertainty than usual.

As we look at our own claims experience, we have the following highlights to share that further point towards caution when selecting BI trends.

- **Reporting lag time** – Over the last 5 years, we have seen a significant increase of over 40% in lag time between the accident date and opening of BI claims. From our experience, we saw the lag increase from 130 days in 2014 to about 185 days in 2018. This is worrisome and points to delayed claims rather than reduced claims. Additionally, provincial shutdowns and court closures in response to the pandemic have further increased the reporting lag time over the last year. Since April 2020, there has been an increase in new claims resulting from older accidents. From our experience, we saw an increase of 60% in claims with an opening delay of >12 months, between January 2019 to December 2019 compared to April 2020 and March 2021.

- **Backlog from court closures –** With the closure of the courts during COVID lockdowns, some backlog has developed which is likely to slow resolution of BI claims. Claims which pend longer generally increase in cost.

- **BI Threshold** - There may be some decline in frequency that may be attributable to the 'threshold' position in the industry. In Ontario, the threshold is largely settled law, which we believe reduces the number of marginal cases being presented in the hope that the risk of a case exceeding threshold will lead to settlement. Insurers are less likely to offer economic settlements in this environment, which should dissuade the presentation of such claims. We also note a trend of slow production of material from plaintiff representatives as we try to assess and resolve BI cases, which will offset some of the expected decline in frequency. Based on this, we are unable to conclude whether the 'threshold' position is reducing the frequency with a material impact or delaying the reporting of BI claims

As remarked in our response to the prior trend review as at 2019-12-31, there is some indication that the decline in frequency may largely be linked to a slowdown in claims reporting and we may need more time to conclude the impacts given the long tail nature of BI. Additionally, the slowdown in claims reporting has been further exacerbated during Covid due to court closures and the extension of limitation periods. Even with the additional year since the last report we likely still don't know the full impacts.

Given the number of years since Bill 15/91, and the impact of BI on overall loss cost/premium estimates, we suggest understanding the frequency better and adjusting accordingly before making a final selection for future trend on BI.

Given the limited data period and the high degree of uncertainty, we recommend a 0% selected trend rate.

Accident Benefits (AB)

The combining of Kinds of Losses for Accident Benefits Medical and Rehabilitation including Attendant Care seems appropriate to us. There is limited data for post Bill 15 and Bill 91 years when considering the long development patterns of the Accident Benefit coverage and its overall impact on premium adequacy calculations.

We suggest caution when selecting the future trends from June 1, 2016 onwards. We share some of our thoughts for consideration when selecting the future trend:

- **License Appeal Tribunal (LAT) performance** – While case volumes remain lower than in the former FSCO Dispute Resolution System (DRS), LAT volumes have been increasing over the past few years. These trends give us concern about the LAT's ongoing capacity to deal with volume, which could lead to longer decision cycle times, in turn leading to higher claims costs for accident benefits.

- **Recent decisions with respect to 'Discoverability'** – There have been recent decisions of the LAT and Court of Appeal (Tomec v Economical) upholding that the SABS limitation is not a 'hard' two-year limitation. This brings uncertainty to the ultimate claim costs, given the possibility of new entitlements arising some time after an initial denial that past claim count (frequency) development factors may not have reflected.

- **Catastrophic (CAT) Claims** – Since 2016 reforms, there have been limited cases moving to the hearing stage of the LAT on the new definition of catastrophic impairment. While CAT claims are a small proportion of overall claims, their financial impact is significant. Cases are now getting to the hearing stage and that should provide some guidance for the future.

In our view, the selected future accident benefits trend of -1.4% is optimistic. Given the above considerations which contribute to claims uncertainty, it is not clear that we will see a continued decline in accident benefits lost costs. We recommend a 0% future trend rate for accident benefits.

Physical Damage coverages

New collision avoidance technology and increasing driver distraction is putting an upward pressure on severity and frequency physical damage trends. As a result, loss trends for the physical damage continue to increase which we urge FSRA to reflect in each subsequent update.

We also recommend that the comprehensive trend analysis be split into theft and non-theft to properly account for dramatic increase in thefts in Ontario.

Profit Provision

In this review, a high-level comparison of the profit provision to the realized profit was included. With respect to the calculation of the discount rate used to calculate the realized profit provision, OW makes the following assumption:

> *"The actual pre-tax ROIs over 2016 to 2020 we presented in Section 4.4 are reasonable estimates of the investment income earned on the cash flow for calculating the discount factor for each year assuming the 2.66 claim settlement duration period."*

To this point, we recommend providing further details about the calculation of the discount rate, and the appropriateness of the assumption of using ROI's as a discount rate. We note that the discount rate used to discount claims payment patterns should be based on the interest rate on the *appropriate portfolio*. For many insurers, this is a matched portfolio, which typically has a greater proportion of bonds and a lower investment return compared to the overall ROI of the company. We recommend caution in using the ROI as a discount rate, and that the limitations of this approach be explained in the review.

Investment Income

In section 4.4 Investment Income, the report notes that

> *"FSRA is considering replacing its current minimum benchmark ROI of 2.25% for rate application with a rate selected by each individual insurers that reflects its own unique investment portfolio of assets."*

We would like to express our strong support for this proposal, and comment that transitioning from a minimum benchmark to an experience informed selection is aligned with FSRA principles-based guidance framework. We agree that selecting an ROI specific to the insurer would more accurately reflect the risk tolerance and experiences of that insurer.

Thank you for the opportunity to provide our commentary.

Sincerely,

Anson Wong
Manager, Ontario Ratemaking
Desjardins General Insurance Group