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

**Re: Consultation on FSRA's Proposed Approach to Strengthening Protection of Vulnerable Consumers**

Insurance Bureau of Canada (IBC) and its member property and casualty (P&C) insurers welcome the opportunity to comment on the ideas proposed in the Financial Services Regulatory Authority of Ontario's (FSRA) consultation document pertaining to strengthening the treatment of vulnerable consumers. As the needs and expectations of consumers are constantly evolving, the P&C community supports FSRA's goal of ensuring that vulnerable consumers have access to products and services while protecting the privacy and security of their information.

FSRA, the government and Ontario's P&C insurers worked together to develop an extensive regulatory landscape, centred around the protection of consumers. This landscape includes the *Unfair or Deceptive Acts or Practices* (UDAP) Rule, the Take-All-Comers framework, and the Canadian Council of Insurance Regulators (CCIR) Fair Treatment of Customers Guidance (FTC). These guidelines create a significant level of protection for all consumers, including those considered vulnerable. Given the breadth of existing consumer protection framework, as well as other protective regulations focused on privacy, cybersecurity, operational and third party risk management, and incentive management, among others, IBC and its members are of the view that any additions to this framework must minimize overlap and contradiction with the existing framework, so as to not create a regulatory landscape that is unduly onerous and stiles competition in the marketplace, which is equally, if not more beneficial, for consumers. Industry is willing and eager to work with the regulator to address these concerns from a principles-based approach.

In addition, and particularly as it relates to the proposed definition of "vulnerable consumer" as someone at higher risk of experiencing "financial hardship or harm", it is important to recognize the principle of "risk-based pricing" at the heart of insurance underwriting. While there may be differences in, for example, average premiums among groups of consumers with similar characteristics, such as age or sex, these differences are based on objective risk factors, supported by actuarial science and claims experience, and are applied in the same manner to all consumers. It is important that FSRA remain cognizant of the fact that differences between consumer's auto insurance premiums will always exist as rates reflect, in part, risk profiles of the insured.



IBC's responses to FSRA's specific questions are below.

**1. To what extent does this topic require more attention from FSRA?**

FSRA has a critical role in monitoring the market conduct of regulated entities and promoting consumer confidence in the P&C insurance sector. In fulfilling this function, FSRA must also take into account existing rules and restrictions related to the use of personal characteristics in pricing. In determining any expanded role for FSRA in this space, it is important to remember that insurers are only permitted to use certain identifiers in their operations. Generally speaking, these are criteria outlined on FSRA-approved auto insurance forms. Therefore, certain personal characteristics that could lead to the classification of consumer as 'vulnerable' are not collected by insurers and are thus unknown. For this reason, we encourage FSRA to only undertake new initiatives in this area if insurers are able to identify which consumers are experiencing vulnerability.

Any directive or requirement to collect personal information in order to identify a person as 'vulnerable' could create significant risk to insurance carriers from both a cybersecurity perspective and a privacy perspective, as this information is not required to provide insurance products or services. If insurance carriers were directed to collect this information, many consumers may believe that it is being used in rating or other decision-making to their disadvantage. Any such collection could make insurance companies a larger target for ransomware or cybersecurity attacks, or could open the door to potential litigation, including class actions, related to any perceived use of this information for insurance purposes. These increased risks could, in turn, potentially increase pressure on auto insurance costs, as defending such actions or recovering from potential ransomware or cybersecurity attacks would expend significant resources.

If FSRA decides to expand its role in this area, we believe that the greatest benefits would result from a focus on consumer education and ensuring transparency in the dissemination of product information. A greater selection of easy-to-understand materials on common aspects of the insurance process including purchasing, high-level explanations of how premiums are set, and common steps in the claims process, could help those consumers experiencing vulnerability understand the insurance process.

Finally, we strongly recommend that FSRA not take any steps whereby consumers would be asked - be it compulsory or voluntarily - for additional personal information that is not required to provide the product or service. Doing so could erode trust in the auto insurance system vulnerable consumers, even if this data collection was well-intentioned. While we recognize that FSRA is aiming to protect those experiencing vulnerability, FSRA must balance this objective by not being overly prescriptive in order to remain within the confines of its principles-based regulatory environment.

**2. In addition to the activities proposed in the chart under Section A, are there any additional activities, such as outlining a set of expectations or defining specific requirements for entities across all of its regulated sectors that FSRA should consider for its approach to strengthening protection of vulnerable consumers?**

FSRA has spent the last several years working collaboratively with industry towards introducing a more principles-based regulatory environment and shifting away from the prescriptive rules-based environment. We



believe that defining a set of expectations specific to groups classified as ‘vulnerable’ would be a shift away from this principles-based approach. Instead, there are several initiatives that FSRA could undertake that could improve the consumers’ auto insurance experience:

- The mandatory auto insurance product is complicated. This is due, in part, to the nature of the product itself. However, part of the resulting consumer confusion is also due to the complex regulatory environment. For example, insurance documents, such as mandatory pink slips and the documents provided to consumers once a policy has been written, are highly prescribed by the government or the regulator. There are opportunities to make this process simpler for consumers, such as permitting companies to develop more clear policy documents; and,
- The existing contract language mandating that insurers pay for treatment that is ‘reasonable and necessary’ is a source of confusion for consumers. Giving insurers greater ability to tailor their contract language regarding treatment entitlements could make it easier for consumers to understand which benefits/limits they are eligible for.

Improvements such as these would lessen the need and frequency of engaging in disputes, which will facilitate greater trust in the auto insurance system. If FSRA does make changes, we recommend that it do so in a format that will allow for regulatory harmonization with other provinces. For example, any information requests of insurers related to vulnerable consumers should be in a format that could then be adopted by other regulators, if those other regulators chose to undertake a similar initiative.

Lastly, we recommend that if FSRA develops expectations for insurers regarding their treatment of vulnerable consumers, it consult on the process for measuring company compliance. This is especially important if FSRA were to use compliance with this framework as a criteria for determining whether insurers can access the upcoming streamlined rate regulation framework.

**3. Do you have any comments on FSRA’s proposed approach to defining vulnerable consumers in Section B? Do you think it is useful to have a definition of vulnerable consumers? Are there any other factors that FSRA should consider in better understanding vulnerability in its sectors?**

As outlined in several past submissions, IBC is supportive of FSRA’s shift towards a more principles-based regulatory environment. While the industry supports a less-prescriptive regulatory approach, we do believe that the definition of ‘vulnerable consumer’ should be clearly outlined by FSRA. Yet, the current proposed definition of a ‘vulnerable consumer’ is notably broad. Although it appears that the definition is intended to capture the full breadth of circumstances that could lead to vulnerability, it is unclear how insurers could feasibly develop policies and procedures to help these customers, given the ambiguity surrounding the proposed definition. Specifically, the language that vulnerability can be due to “...various factors and personal circumstances” could likely characterize most policyholders at one point over a 12-month policy cycle. It is critical that FSRA consider that a consumer’s vulnerability may change over their lifetime.

Other regulators working within a principles-based regulatory environment have adopted a more focused approach to defining vulnerable consumers that FSRA could consider. For example, the Financial Conduct Authority (FCA) in the U.K. provides guidance that outlines principles to support consumers experiencing



vulnerability and to provide direction to its regulated entities. This includes, for instance, ensuring that vulnerable consumers “experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors” that are under the regulator’s authority. Similarly, the L’Autorité des marchés financiers (AMF) in Quebec speaks to situations that may lead to consumer vulnerability, outside of personal characteristics. FSRA could look to these regulators to refine its definition of vulnerable consumer, finding the right balance between ensuring consumer protection and clear guidance for regulated entities.

If FSRA believes that there is a public policy gap in the existing regulatory framework, we recommend that it clearly outline where that gap persists, through a clearer definition of ‘vulnerable consumer’. This would ensure industry is best-positioned to support FSRA’s efforts in this capacity. There are several benefits to this approach. For example, insurers will be able to clearly design policies and procedures to support these vulnerable consumers, to the extent that information is available.

In addition to increased clarity in the definition of ‘vulnerable consumer’, we reiterate our concern mentioned above that insurers are generally prohibited, through legislation or regulation, from collecting personal information that may speak to vulnerability, such as income, home ownership, race or religion. It is absolutely necessary that the identification of ‘vulnerable consumer’ work within these constraints for insurers, or their agents or brokers.

Finally, it is critical that FSRA does not equate vulnerability with affordability concerns. Insurance premiums are set using risk-based pricing and factors that are actuarially justified. In the competitive insurance market, consumers, including those experiencing vulnerability, are able to ‘shop around’ for insurance to find the best available rate that matches their risk profile. It is imperative that any regulator guidance relating to the vulnerability of consumers not impact the core function of insurance as a mandatory social protection mechanism, ensuring that it remains priced based on a multitude of risks.

**4. If you are from one of FSRA’s regulated sectors, what should FSRA know about how you, your firm, or your industry serves marginalized, underserved, and/or vulnerable consumers? For example, do you have any targeted programs or communications tactics or controls in place to reduce risk of unfair outcomes for these groups?**

While we believe that individual insurers themselves would be in the best position to answer this question, insurers abide by many regulations that have elements of consumer protection, including those that contain elements of protecting vulnerable consumers. These include the UDAP, the Take-All-Comers framework, and the CCIR FTC Guidance.

Additionally, IBC undertakes several free initiatives designed to increase consumer education and comfort level with their insurance products and the insurance process. For example, the IBC [website](#) contains several resources to educate consumers on automobile, home and business insurance issues. IBC also [publishes](#) its list of top ten ways that consumers can drive down their insurance rates. And, several times throughout the year, IBC launches its #KnowYourPolicy campaign to encourage consumers to review their policies and understand the importance of having the right level of coverage(s). Such examples demonstrate IBC’s efforts, on behalf of the P&C industry, to reduce the risk of unfair outcomes for vulnerable consumers, particularly through published materials by IBC.



**5. What additional information, (such as leading practices, tools, opportunities or risks) should FSRA be considering to inform its approach?**

It is important to keep in mind the unique nature of insurance products as compared to other FSRA-regulated financial products. For example, unlike mortgages, credit unions and pensions, insurers often deal with customers when they are already facing a difficult situation and may fall within the definition of ‘vulnerable consumer’ if they are experiencing a natural disaster which has impacted their home, vehicle or business. As a result, unless the definition of ‘vulnerable consumer’ is more clearly defined, insurers may find that the majority of their customers may fall under the category of ‘vulnerable’ at one point or another.

FSRA may also want to take into account the CCIR’s ongoing work with industry to close the consumer awareness and protection gap as it relates to natural catastrophe risk. In response to a finding by CCIR that consumers may not know the full extent of their natural catastrophe risk, or may not have in place the appropriate coverage to address their risk, the industry has been working with CCIR to close this gap through increased consumer education. If the definition of ‘vulnerable consumer’ is to include consumers “experiencing natural disasters/catastrophes”, as is currently contemplated, it would be beneficial for FSRA to take into account the ongoing work being done on this topic.

**6. Do you have suggestions for particular vulnerable communities or public interest groups representing vulnerable consumers that FSRA should directly engage with?**

As previously noted, we see a considerable opportunity for FSRA to enhance its consumer education initiatives aimed at supporting individuals experiencing vulnerability. This can be achieved through platforms that will effectively outline and clarify any insurance-related issues to consumers in a simple, clear, and accessible manner. IBC supports FSRA’s proposed goal of improving consumer education, engagement, and awareness of business efforts, such as through focused campaigns to educate vulnerable consumers.

Benchmarking the sentiment of vulnerable groups towards the P&C industry has the potential to be a beneficial exercise. In 2022, FSRA released its Consumer Research Study that focused on consumer attitudes, how consumers are engaging with financial services, and consumer characteristics including vulnerability. This provided the regulator with an initial perspective of consumer attitudes. It would be similarly helpful to consider measuring consumer sentiment towards *other* industries and public services beyond the scope of FSRA oversight. Determining the gap in vulnerability across many industries should help determine inform FSRA’s efforts in determining if new regulation is necessary.



Thank you for the opportunity to comment on FSRA's proposed approach to strengthening protection for vulnerable consumers. We would welcome the opportunity for industry to be part of future conversations pertaining to vulnerable consumers. If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, which appears to read "Amanda Dean". The signature is fluid and cursive.

Amanda Dean

AD/jw