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

Re: Proposed Guidance - Automobile Insurance Rating and Underwriting Supervision Guidance

Thank you for providing Insurance Bureau of Canada (IBC) with the opportunity to comment on the first three chapters of FSRA's proposed Automobile Insurance Rating and Underwriting Supervision Guidance (guidance document). IBC supports the work that FSRA is undertaking to shift towards a more streamlined rate filing framework for accredited insurers. Doing so will help ensure that the rates charged to consumers are as accurate as possible, and that insurers are more able to gradually adjust premiums in response to changes in claims expectations. IBC's feedback on the guidance document is below.

Profitability

This guidance document is the first time that FSRA has clearly outlined its profitability framework for Accredited insurers. The framework will include both the requirement that existing rates continue to be subject to a profit provision, and that prior year profits be reviewed and validated for reasonableness.

<u>Profit Provision</u>

We believe that the continued existence of a profit provision is unnecessary and counterproductive. Due to competitive forces, profit levels for much of the past decade, with the exception of two COVID-impacted years, have been below the 5% underwriting profit threshold. Insurers should be permitted to target a profit provision based on its business strategy. Depending on its strategy, this number may be above or below the current 5% threshold for a given year. There are several reasons why FSRA should feel comfortable giving insurers the authority to determine this target for themselves:

- Through its jurisdictional comparisons on several topics, FSRA would have noted that internationally, very few jurisdictions place a cap on insurer profitability. This is because over the long-term, market forces push down profitability to an acceptable level, which makes a profit cap unnecessary;

- To receive Accredited status, insurers will need to have satisfied FSRA's expectations around fairness and Operations, Controls and Governance. This includes, critically, proof that insurers are meeting FSRA's desired consumer outcomes. FSRA should feel comfortable if, for example, an Accredited insurer seeks a higher profit margin in a given year, as the insurer will still be required to adhere to FSRA's target outcomes; and

- As with any business, all else equal, higher input costs equal higher prices. In an insurance context, this is true whether in relation to claims costs, broker commissions, insurer overhead, or profitability. Consumers have access to multiple options for comparing premiums across insurance companies, including through FSRA's recently-launched premium comparison tool. Insurers are aware that price-conscious consumers will take their business elsewhere if profitability targets are too high. But if an insurer, for example, adheres to all of FSRA's Accreditation expectations and expected outcomes, it should be permitted to target a higher profit margin in a given year. This should be permitted whether those profit margins are higher due to, for example, an ability to lower its operating expenses, or because it charges higher premiums because it believes that it offers consumers a better claims handling experience. A truly competitive market means that insurers should be able to make these types of business decisions.

IBC recommends that FSRA remove the profitability cap from its upcoming guidance.

Prior Year Profitability

Finally, we believe that the requirement for insurers to review prior-year profit levels will create extra work for both insurers and FSRA without any benefit to consumers. If, for example, prior year rates turn out to have been inadequate (as they have been during most non-COVID-impacted years), neither insurers nor consumers would support consumers being expected to pay higher premiums to cover prior-year rates. Likewise, consideration of one profitable year does not necessarily indicate that premium reductions will follow. We believe that including this provision risks politicizing a process that is supposed to be largely actuarial in nature.

IBC recommends that FSRA remove this provision.

Target Filings

We support FSRA's goal that for insures that have received Accredited status, the majority of future rate filings should qualify for the File-and-Immediate-Use framework. In discussions between FSRA, IBC, and member insurers, FSRA has referenced its unofficial target that between 75% and 80% of Accredited insurer rate filing should go through this framework. We recommend that FSRA both publicly commit to a specific target and be transparent on the actual share of rate filings that are going through this expedited framework.

Scope

Regarding the scope of rate regulation, the guidance document outlines that the proposed framework applies to many third party actors that insurers engage with. Specifically, it applies to insurance brokers. In Ontario, insurance brokers are regulated by the Registered Insurance Brokers of Ontario (RIBO). We recommend that FSRA align its guidance with expectations of other regulators, such as RIBO. FSRA should also ensure that any requirements are not a duplication of existing requirements of other regulators, such as OSFI.

The guidance document references that fleets would be within scope of rate regulation. We do not believe that fleet rates should be regulated in the same way as private passenger vehicle rates. Unlike with private passenger vehicle insurance, fleets are purchased by businesses that are large and sophisticated enough to support multiple vehicles. Businesses are used to reviewing legal contracts, unlike consumers, who generally need greater protections. We recommend that fleet rates not be subject to the same degree of scrutiny as private passenger vehicle rates.

Targeted Consumer Outcomes

Many of the targeted fair consumer outcomes are unclear. For example, there are references that insurers must address a number of factors, including:

- Balancing the need for profitability with fair treatment of consumers; and
- That insurers must mitigate bias and conduct assessments for 'disparate impacts'

We recommend that FSRA add more clarity around its expectations for how insurers can demonstrate these types of outcomes. During FSRA's October 16th webinar on this topic, FSRA referenced that as part of its ongoing territorial rating Test and Learn Environment, many insurers have been successful in demonstrating these types of outcomes to FSRA's satisfaction. This illustrates that FSRA has identified insurer actions on fairness to be acceptable. While respecting insurer confidentiality, we recommend that FSRA provide high-level examples of insurer actions that could satisfy FSRA's expectations around fairness.

The proposed document also states that in relation to the absence of unfair discrimination, bias or proxies, a targeted outcome is that "Rating and underwriting decisions, if applied across the sector, would not unfairly impact the ability of consumers to access critical automobile insurance coverages." IBC believes that this targeted outcome is unnecessary. There is already a separate targeted outcome that rating and underwriting decisions are not directly or indirectly influenced by protected human rights grounds.

A key consumer benefit of the competitive market is that insurers target different market segments to offer products that meet the needs of that group. If taken literally, the inclusion of this targeted outcome means that insurers would no longer be permitted to focus on certain legitimate consumer segments, such as retirees, for example. In this example, if *all* insurers targeted retirees, there would not be sufficient capacity to serve the remainder of the province. But this is not how the competitive market works, as other insurers would no doubt fill the non-retiree need for insurance. We recommend that this target outcome be removed.

Accreditation Status

The guidance document does not yet outline certain key details. It would be helpful for the guidance document to be clear on the estimated length of time that the Accreditation process is likely to take, as well as the length of time for which Accreditation is valid. As outlined in previous submissions, IBC recommends that Accreditation status last for several years, as choosing a short duration (for example, one year) has the potential to lead insurers to determine that applying for Accredited status is too resource-intensive for the perceived benefits.

In addition, as proposed, the number of items for which insurers may lose Accredited status is unnecessarily broad. For example, according to the guidance document, a change in an insurer's business strategy or a change in senior leadership may cause it to lose Accredited status. A critical part of a competitive market is that insurers are able to adapt to new business opportunities. This ensures that consumers have access to a range of insurance options. We recommend removing this provision. Including it will act as a disincentive for insurers to seek Accreditation, as they would be unable to modify their business plans without losing this status.

Thank you for the opportunity to comment on Chapters 1 to 3 of FSRA's Automobile Insurance Rating and Underwriting Supervision Guidance. We believe that the improvements outlined will help FSRA reach the goal set out in its 2024 – 2027 Business Plan of promoting a more competitive and sustainable auto insurance market.

Sincerely,

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