



November 7, 2024

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

Re: Consultation on Proposed Automobile Insurance Rating and Underwriting Supervision Guidance

Definity appreciates the opportunity to contribute to the design of FSRA's proposed auto insurance rating and underwriting supervision guidance. As supporters of principles-based regulation, we believe that supervising insurers' operations, controls, and governance frameworks, as outlined in the guidance, is a major step forward in modernizing the regulation of auto insurance. The chapters on fairness, operations, controls, and governance, and accreditation are comprehensive and almost ready for publication. Except for a few changes to those chapters noted in the appendix to this letter, our commentary focuses on the forthcoming chapter about the streamlined filing process.

We are committed to the consumer outcomes underlying FSRA's supervision guidance and are undertaking an enterprise-wide project to enhance our policies and procedures for managing auto insurance rate and underwriting risks. This project is a substantial investment aimed at achieving and maintaining FSRA's accreditation standards and our corporate promise of making insurance better. Investments like those that Definity is making in operations, controls, and governance frameworks, driven by the accreditation program, will foster a more competitive and fairer market for Ontarians. More insurers will compete on price, product, and service. Consumers will pay premiums that more accurately reflect their risk profile. And FSRA will be able to focus its resources on insurers that present a higher risk to consumers.

To ensure the supervisory guidance's success and to maximize these consumer benefits, we offer two recommendations.

- **An ambitious streamlined filing process for accredited insurers:** The streamlined filing process for accredited insurers should reflect the comprehensiveness of the expectations set in FSRA's fairness and operations, controls, and governance chapters within the supervision guidance. With these high standards, only a limited number of rate or underwriting rule changes for accredited insurers should require FSRA approval through a traditional filing process. Because insurers achieving accreditation have demonstrated their commitment to FSRA's outcomes for consumers, FSRA should reciprocate this commitment with a streamlined filing process that acknowledges the investments made in enhancing their operations, controls, and governance frameworks and the low risk these insurers present in the market.
- **Elimination of profit provision for accredited insurers:** The profit provision is a key feature of rules-based regulation that serves a political purpose at the expense of investments that improve the customer experience. Accredited insurers that demonstrate their commitment to achieving optimal consumer outcomes should be able to earn a fair return on their investments without artificial profit restrictions. By removing the profit provision within the streamlined filing process, FSRA will incentivize insurers to make the investments in their operations, controls, and governance frameworks necessary to achieving accreditation, in addition to other initiatives, such as improving fraud detection, streamlining claims, and developing new products. We note that this recommendation is consistent with statements from Jordan Solway, FSRA's Executive Vice President, Legal and Enforcement, where during the October 7, 2024, webinar "Want to learn more about FSRA's principles-based approach to regulation?", he stated the following:

"Our role as the regulator is not to restrict business practices with a view to increasing costs or reducing profits, but to ensure that there are high standards of business practices that enable success in a stable, sustainable environment that of course protects the rights and interests of consumers....we

DEFINITY INSURANCE COMPANY, HEAD OFFICE

111 Westmount Road South, P.O. Box 2000, Waterloo ON Canada N2J 4S4

T 519.570.8200 | T VOICEMAIL 519.570.8500 | F 519.570.8389

definityinsurance.com



would be happy if your business grows and you're incredibly profitable, provided you're achieving the right outcomes vis-à-vis the consumer".

With these recommendations, we are not trying to advance de-regulation or even full principles-based regulation for auto insurance rates and underwriting rules. We anticipate that meeting FSRA's expectations for fairness and operations, controls, and governance and becoming an accredited insurer might be a more comprehensive form of supervision than the current process of FSRA reviewing and needing to approve all rate and underwriting rule changes. The benefit of an accreditation program with an equally ambitious streamlined filing process over this current prior approval process is that Ontarians win by FSRA improving its oversight of the market without stifling competition and innovation. By requiring accredited insurers to proceed through a prior approval process for a material number of rate and underwriting rule changes and applying a profit provision, fewer insurers will invest in achieving accreditation and, even if they do, FSRA will have added to the industry's regulatory burden while watering down the benefits to consumers from better price, product, and service as well as more accurate premiums.

We hope FSRA finds these comments helpful as it finalizes the three chapters in the supervision guidance and prepares the chapter on the streamlined filing process. As stated in previous correspondence, Definity is committed to FSRA's vision and is interested in participating in the pilot project for accreditation upon the publication of the final supervision guidance in 2025. In the meantime, we welcome the opportunity to contribute to the ongoing design and refinement of the supervision guidance and would be pleased to discuss these comments further at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lam", written over a light blue horizontal line.

Edward Lam
Vice-President, Personal Insurance Pricing

DEFINITY INSURANCE COMPANY, HEAD OFFICE

111 Westmount Road South, P.O. Box 2000, Waterloo ON Canada N2J 4S4

T 519.570.8200 | T VOICEMAIL 519.570.8500 | F 519.570.8389

definityinsurance.com



Appendix: Proposed Changes to References to Model Interpretability and Explainability as well as to the Approach to Assessing Fair Consumer Outcomes

Model Interpretability and Explainability

1. Implementing tools that ensure interpretability and explainability of advanced predictive models including, but not limited to, artificial intelligence and machine learning, to help prevent unfair model development and outcomes

We recommend removing the requirement about “implementing tools that ensure interpretability and explainability” and instead focusing the expectation of insurers on “ensuring interpretability and explainability”. Being able to interpret models is part of the process of developing or selecting models for use. The tools that insurers can use pertain to explaining the model and its output to customers. We believe framing the statement this way strengthens the expectation of insurers.

Proposed Changes to Approach to Assessing Fair Consumer Outcomes

2. Pricing actuaries explain any deviations of business decisions from actuarial indications and model outputs

Business decisions often deviate from actuarial indications or model outputs but rarely are these deviations significant. We recommend that insurers explain only significant deviations to FSRA.

3. Insurers introducing new data, data elements, or models confirm compliance with all relevant legislation, regulations, and rules, and provide FSRA with supporting rationale for their decisions based on due diligence

We recommend restating the statement as “Insurers introducing new data, data elements, or models shall ensure and demonstrate to FSRA that operational risk controls, governance, and oversight functions are in place to allow for the identification, risk assessment, communication, management, and mitigation of regulatory compliance risk”.

We recommend this change for three reasons.

- i. The current statement could be interpreted to require insurers to provide information to FSRA to explain their rationale, and this information could include information that is privileged and confidential. Disclosing privileged information could result in waiver of the privilege, which is a substantial operational risk for insurers and their legal counsel that can be avoided by relying on controls, governance, and oversight policies and procedures rather than the advice or risk assessments done pursuant to these efforts.
 - ii. The requirement for insurers to confirm compliance to FSRA prior to making any changes to their rates or underwriting rules will deter or be a barrier to innovation and competition in the market.
 - iii. The respective roles of insurers and FSRA will be partially reversed in that insurers will be required to demonstrate to FSRA that an action complies with the applicable law rather than the current state where it is up to FSRA to assess compliance. This change is a substantial departure from current regulatory practice that will increase compliance costs with limited, if any, incremental value to consumers on the value already derived from the accreditation program.
4. Insurers provide a detailed inventory of models, including those considering non-risk factors, such as consumer behaviour, marketing data, and analysis

Insurers use models for various purposes from rating and underwriting to marketing to managing claims. We recommend that the focus for accreditation be on models used for rating and underwriting.

DEFINITY INSURANCE COMPANY, HEAD OFFICE

111 Westmount Road South, P.O. Box 2000, Waterloo ON Canada N2J 4S4

T 519.570.8200 | T VOICEMAIL 519.570.8500 | F 519.570.8389

definityinsurance.com



5. Insurers provide evidence that tools and processes are implemented throughout the model life cycle to address identified risks and mitigate bias and conduct assessments for disparate impact... Testing involves evaluating disparate impact on model outputs, and business decisions on deviations from actuarially indicated rates, particularly when final premiums significantly differ from indicated premiums

Disparate impact has a specific meaning within the American legal system that requires the plaintiff to achieve a certain burden of proof. Other than in a courtroom, it is not practical to test for disparate impact. We recommend substituting disparate impact with disproportionate impact. According to the [Casualty Actuarial Society](#), disproportionate impact refers to a situation where “a rating tool results in higher or lower rates, on average, for a protected class, controlling for other distributional differences”. Alternatively, FSRA could provide the definition for the term that it intends to use.

6. Insurers provide evidence that tools and models do not unfairly discriminate against consumers by using internal and external data that approximates protected grounds in automobile insurance rating and underwriting

We recommend providing more guidance on the data that insurers can use for this purpose. Insurers can use census data to assess unfair discrimination against certain groups. However, there are tests where, for example, insurers can test for unfair discrimination at the individual level. These tests involve using data about people’s first and last names as proxies for race. We advise against insurers conducting these individual-level tests. We believe that tests at the group level using census data are more appropriate.

7. Insurers’ ratemaking documentation demonstrates that the target underwriting profit provision is based on reasonable profit assumptions in line with FSRA’s current underwriting profit benchmark targets, and related criteria, as set out in FSRA’s most recent Annual Review Guidance as well as insurers provide evidence that past underwriting profits are retrospectively reviewed and validated for reasonableness against FSRA’s profit benchmarks to ensure that they are neither materially excessive nor inadequate

The profit provision is a key feature of rules-based regulation that serves a political purpose at the expense of investments that improve the customer experience. An insurer that attains FSRA’s high bar for accreditation should be able to reap the rewards. If that insurer tries to increase its profits by setting its rates too high, customers will shop the market and likely find cheaper coverage. We recommend removing the profitability principle for accredited insurers.

DEFINITY INSURANCE COMPANY, HEAD OFFICE

111 Westmount Road South, P.O. Box 2000, Waterloo ON Canada N2J 4S4

T 519.570.8200 | T VOICEMAIL 519.570.8500 | F 519.570.8389

definityinsurance.com