

November 14, 2024

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

Dear Ms. Michelle Dodokin:

RE: *Travelers Canada Comments on FSRA’s consultation on Automobile Insurance Rating and Underwriting Supervision 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 to the consultation on Automobile Insurance Rating and Underwriting Supervision 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.

We greatly appreciate FSRA’s commitment to ensuring fairness in rating and underwriting practices. Travelers Canada is fully aligned with this principle and we strive to uphold fairness in all of our operations.

We are overall very supportive of FSRA’s work on automobile reform and in improving the transparency and accessibility of auto insurance products for customers in Ontario. We support a principles-based regulatory environment and continue to enhance our existing practices as needed to support the required approach. We are also very encouraged by FSRA’s work on the future accreditation process and look forward to being able to participate in this program.

Below please find Travelers Canada’s comments and feedback on FSRA’s consultation on Auto Insurance Rating and Underwriting Supervision Guidance.

Chapter 1: Fair Consumer Outcomes

We understand FSRA’s desire is to ensure that rates charged to consumers in the context of auto insurance rating are fair, and that FSRA proposes insurers balance risk assessment with considerations of fairness and equity. In our view, fairness testing needs to be applied appropriately in order to provide consistent interpretation of regulatory outcomes. We feel it is necessary to have underwriting rules which are objective, unbiased and consistently applied to ensure that rates are fair and reasonable, and based on an individual risk profile. It is our belief that FSRA has already put into place requirements that consider fair outcomes for consumers, which removes elements of subjectivity, such as not permitting insurers to

collect data on any protected grounds in auto insurance rating classification systems.

On page 8, under ***Risk Classification System Provisions***, the phrase “***just and reasonable***” is used in reference to insurance rates, noting that this language enables FSRA to exercise discretion “***in order to achieve fair outcomes that balance the interest of businesses and consumers.***” FSRA also mentions in this section that “***a risk classification system is just and reasonable, reasonably predictive of risk and distinguishes fairly between risks if the rates it generates are consistent with the Fair Consumer Outcomes set out in this Guidance.***”

We believe that automobile insurance rates are “just and reasonable” when they are based on risk, and similar risks are rated equally, based on the individuals’ risk profile, using approved, objective, rating indicators and pre-filed underwriting rules. However, we do not believe that “just and reasonable” means the same thing or equates with fair or fairness. For instance, the rates charged for high-risk drivers may be “just and reasonable” but very different when compared to the rates set for low-risk drivers due to their different risk profiles. This does not mean that the rates are unfair instead it means that the rates are reflective of risk, which is a fundamental tenet of actuarial science. We strongly believe that it will be critical for FSRA to ensure that the insertion of a fairness assessment in automobile insurance rating does not lead to unreasonable cross-subsidization for drivers in Ontario.

We believe that FSRA’s inclusion of fairness outcomes in the auto insurance rating and underwriting guidance is likely to introduce significant uncertainty in the insurance industry and is largely unnecessary as the CCIR/CISRO guidance on Fair Treatment of Customers is sufficient to ensure that auto insurance customers in Ontario are treated fairly.

Further, we note that the wording under Section 9 (1) of the UDAP Rule is quite broad in scope and makes insurance carriers responsible for the actions and practices of third parties, such as brokers, comparative raters, and aggregators, which we do not own or have control over. While Travelers Canada is happy to conduct third-party audits, and we make best efforts to impose our requirements and expectations on these third parties via contracts and agreements, it is not possible to ensure that they are not taking any action that could be viewed as a UDAP violation, as we have no visibility into their day-to-day operations. We therefore recommend that FSRA clarify the application of UDAP to Fair Consumer Outcomes to refer only to those third-party activities that insurance carriers can influence or later become aware of.

1.4 Fair Consumer Outcomes for Rating and Underwriting

FSRA lists four principles in support of “Fair Consumer Outcomes.” Travelers Canada is concerned that the descriptions included will become the new bar against which all carriers’ rates will be measured, and each bullet included will become a new requirement that carriers must demonstrate with sufficient documentation or evidence. We respectfully suggest that FSRA note that these descriptions are a non-exhaustive list of examples for reference only which would align with a principles-based approach.

Principle: Balanced profitability and consumer interests

FSRA already approves rates for automobile insurance products in Ontario, and the requirements of OSFI as the solvency regulator already ensure, explicitly, that insurance carrier reserve capital is sufficient to cover claims and protect policyholders. The insurance industry is highly competitive and is highly

regulated. Insurance carriers provide great protection to customers and communities when accidents or natural catastrophes strike, which is a result of charging appropriate premiums based on an analysis of risk and impact to loss results. Setting profitability targets is not principles-based nor outcomes-focused, and conflicts with FSRA's desires to foster strong, sustainable, competitive, and innovative financial services sectors. Accordingly, insurance carriers cannot reasonably require policyholders to reimburse premiums if rates have turned out to be inadequate to cover their claims or losses, nor reimburse policyholders if profits were found to be beyond FSRA's expectations. We recommend that this principle be removed in its entirety.

Principle: Cost mitigation

We recommend that the description of cost mitigation in the guidance on rating and underwriting be revised as follows, as insurance carriers already dedicate resources and have undertaken fraud detection activities to reduce costs in the system.

Insurers prevent unnecessary and excessive costs from being passed onto consumers, including taking reasonable steps to ~~mitigate fraud and increase efficiency without negatively impacting the consumer experience~~ prevent unnecessary costs to the consumer.

Principle: Clear consumer communications

It is important to note that not all carriers have direct sales to customers. Thus, "consumers receive communications through a medium that is convenient to them, utilizing current technology options" may not always be possible. For instance, Travelers Canada, which uses a broker distribution model, does not have access to or collect customer contact information, such as e-mail addresses, unless and until there is a claim on the policy. Until such time, only the brokers would have such information, and our communication with the customer would be transmitted via letters, policy decks, and via the customer's broker.

Chapter 2: Automobile Insurance Rating and Underwriting Operations, Controls and Governance Guidance

We would greatly benefit from FSRA's clarification on the Operations, Controls and Governance section. We believe that the standards against which FSRA would be measuring or assessing insurance carriers would be those outlined in OSFI's Business Resiliency and Operational Risk Management Guidelines (E-21), which is a standard that auto insurance carriers must already adhere to for all products across all provinces in Canada for the federal regulator. It would be helpful to obtain FSRA's confirmation that carriers who demonstrate compliance with OSFI's Guideline E-21 do not have to also demonstrate their compliance with FSRA's Operational Risk Management guideline as this appears to be duplicative.

The "Governance" section on page 14, includes the statement: "*Insurers' Board of Directors and Senior Management are accountable for ensuring rates are reasonable and fair, in accordance with their fiduciary obligations as specified in 166(1) and 166(2) of the Insurance Companies Act (ICA)*". These sections of the ICA do not include accountability at the Board of Directors' level for ensuring that rates are reasonable and fair, as such accountability is under the governance of the provincial insurance acts. The fiduciary duties of the Board as described in the ICA are to the insurance company itself, not the regulator.

Chapter 3: Accreditation, Proactive Supervision and Assessment Approach Guidance

It is difficult for Travelers Canada to provide significant feedback at this time to the “Accreditation Process” as outlined on page 18, as we do not know the standard of “Fairness” against which FSRA will be assessing insurance carriers and rates. It would be helpful if FSRA could share a copy of the draft application form for accreditation, as well as the standards against which insurance carriers would be measured to help our review. We would also be interested in learning about the service levels or timing for FSRA’s review and accreditation, to ensure that insurance carriers have certainty in the process and can plan and deliver products in a timely and effective manner. For example, would the Accreditation Process include an appeal process if a carrier were to be denied accreditation? How often could an insurance carrier apply? If a carrier did not get accredited this year, could it remediate any required issues and then become accredited immediately upon their resolution, or would this be an annual review? Is there a target percentage of carriers that FSRA is aiming to achieve accreditation? Additionally, would changes to underwriting rules be permitted once a carrier was to be accredited, and how would these be handled?

Related to the “**post-Accreditation**” process, we note that under the reasons that FSRA may revoke an insurance carrier’s accreditation is “changes in senior leadership” and “changes in business strategy or mix of business”, both of which would not have any significant impact on rate or underwriting practices. We recommend that these reasons be removed, as this standard is too subjective to be measured against. Losing accreditation would have a significant impact on insurance carriers in terms of processes and should be reserved for egregious cases, or significant changes in circumstances. Accordingly, we recommend that these two items be removed from the list of possible reasons accreditation could be lost:

- **Changes in senior leadership**
- **Change in business strategy or mix of business**

In addition, we ask that any market conduct issues or changes in customer outcomes be required to be proven to be non-compliance items, or proven violations of fair treatment of customer principles, in place of decisions being made solely on allegations.

Under “Proactive Supervision,” Travelers Canada would be interested in further information on what this process would look like or entail to help our understanding. In addition, in some instances, insurance carriers appear to be provided with extremely short timelines by FSRA to return such data or information requests (sometimes as little as 24 hours) which puts immense pressure on resources.

Lastly, Travelers Canada would also like to understand how FSRA will be defining or distinguishing between “small” and “large” auto insurance carriers under the principle of proportionality. How will FSRA assess the size and complexity of each insurance carrier?



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We greatly appreciate the opportunity to provide FSRA with Travelers Canada's feedback and commentary on Chapters 1 to 3 of FSRA's Auto Insurance Rating and Underwriting Supervision Guidance. We hope that our comments will be helpful to FSRA in refining the guidance to the benefit of both auto insurance consumers and insurance carriers in the province of Ontario.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Fong".

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