

Newfoundland and Labrador

Auto Insurance Review

~ February 2018 ~



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Introduction

Newfoundland and Labrador's Auto Insurance review provides an opportunity to examine a product that is essential to many people's daily lives and to make changes that will ensure that consumers can access from a competitive market an affordable product that meets their needs when the unforeseen happens. Since the early 2000s, when almost every Canadian province reformed their auto insurance laws, Newfoundland and Labrador has performed poorly on almost every metric for measuring market performance and consumer outcomes.

Market Performance

- Since 2006, the Newfoundland and Labrador auto insurance market has had an average annual underwriting loss of \$15 million. Alberta is the only other province where private sector insurers operate that experiences similar losses.¹

Consumer Outcomes

- Since 2006, the gap between what Newfoundland and Labrador consumers pay for auto insurance and what Maritime consumers pay has increased from \$22 to \$318. Maritime consumers also have access to more medical, rehabilitation and disability income benefits. Only Alberta and Ontario consumers pay more but, they have access to even more benefits.²
- There are few insurance options. Currently, the top four insurers in Newfoundland and Labrador comprise 87% of the market. In the Maritimes, Alberta and Ontario, they comprise between 50% and 60%. Five of the largest auto insurers in the Maritimes do not operate in Newfoundland and Labrador.³
- A relatively high percentage of consumers have to buy auto insurance from the Facility Association. Currently, the Facility Association market share is 3.2%, which is unusually high for the region where the market share in the other provinces is less than 2.0%.⁴
- In the past few years, two insurers that have online distribution models entered the Canadian market. Neither one of them operates in Newfoundland and Labrador. At least one of them operates in the other provinces.
- Usage-based insurance (UBI) has become a preferred product for a growing segment of consumers. Newfoundland and Labrador is one of the only provinces where consumers do not have access to this innovation.

Significant reform is needed to Newfoundland and Labrador's auto insurance market to improve market performance and consumer outcomes. Experience from other jurisdictions shows that market performance and consumer outcomes improve when the

¹ IBC calculations based on data from GISA.

² IBC calculations based on data from GISA.

³ IBC calculations based on data from MSA. Based on the top 13 insurers.

⁴ Data from Facility Association.



product being sold focuses on care instead of cash, there is a simple claims process and there are many insurers innovating and competing for business.

IBC's reform proposals are designed to achieve the following four objectives:

1. Reduce and stabilize premiums by reducing and stabilizing bodily injury claims costs;
2. Improve health outcomes for people injured in motor vehicle collisions by providing access to treatment based on prevailing medical evidence and by having appropriate accident benefit levels;
3. Make it easier for people to repair and replace their damaged vehicles;
4. Facilitate competition and innovation by allowing insurers to compete on price, product and service offerings.

Proposed Regulatory Reforms

Reduce and Stabilize Premiums and Claims Costs

Among the provinces with tort-based auto insurance, Newfoundland and Labrador has the highest bodily injury claims cost per vehicle. That is because of the high claim frequency rate and average claim cost.

Bodily Injury Claims Costs by Province (2016)

	Claims Cost per Vehicle	Frequency	Average Claim Cost
NL	\$409	0.52	\$78,662
NB	\$191	0.27	\$69,666
NS	\$196	0.38	\$51,837
PE	\$176	0.24	\$72,938
AB	\$339	0.53	\$64,257

IBC table with data from GISA. Excludes the health levy.

The reason for the high average claim cost is the relatively few bodily injury claims that incur amounts of less than \$20,000, which is a proxy for common minor injury claims. Only 37% of Newfoundland and Labrador bodily injury claims have incurred amounts less than \$20,000. In New Brunswick, Nova Scotia and Alberta, 77%, 70% and 71%, respectively, have incurred amounts less than this amount.



Bodily Injury Claims Size Distribution at Three-Year Development Level (2014)

	NL	NB	NS	AB*
\$20,000 or Less	33%	77%	70%	71%
Greater Than \$20,000	67%	23%	30%	29%

IBC table with data from GISA exhibit AUTO5001-ATL, 2016. GISA does not develop the size of claim distribution exhibits to ultimate values. The estimates are based on claims at the most up to date three-year development level. Claims with a total incurred amount of \$0 are excluded. Incurred claim size includes indemnity payments and case reserves. Nova Scotia's minor injury cap in 2014 was \$8,213. The Alberta proxy is \$15,000 because of the \$4,777 minor injury cap. Omitted Prince Edward Island because the minor injury definition used in 2014 is not comparable to the definition used in New Brunswick, Nova Scotia and Alberta as well as the definition currently used in Prince Edward Island.

The size of the average Newfoundland and Labrador bodily injury claim cost is inconsistent with the prevailing medical literature on motor vehicle collision injuries. A 2015 study by leading Canadian scientists and health practitioners entitled, *Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person*, states that most injured people recover within days or a few months.⁵

Options for Reducing and Stabilizing Bodily Injury Claims Costs

Legal decisions and the associated compensation amounts often do not align with the prevailing medical literature on motor vehicle collision injuries and often put pressure on auto insurance premiums. That is why almost every province has or is about to implement a measure to control bodily injury claims costs.

The two types of cost controls are a non-pecuniary damages deductible as in Newfoundland and Labrador and a minor injury non-pecuniary damage cap as in the Maritimes and Alberta, all of which came into effect in the early 2000s.

Minor injury caps have proven more effective at controlling bodily injury claims costs than deductibles. In all other provinces, bodily injury claims costs per vehicle are still lower than before the minor injury caps came into effect.

Annual Bodily Injury Claims Cost per Vehicle

	NL	NB	NS	PE	AB
2000	\$376	\$392	\$336	\$267	\$391
2016	\$409	\$191	\$196	\$176	\$339
Total Change	9%	(51%)	(42%)	(34%)	(13%)

IBC table with data from GISA. Excludes the health levy. Alberta data is IBC's consulting actuary, Dr. Ron Miller's calculations, based on data from GISA.

Newfoundland and Labrador's different experience than the other provinces was expected. While deductibles can initially reduce the number of smaller claims and claims costs, over time, the settlements awarded in the courts and/or negotiated among the

⁵ Ontario Protocol for Traffic Injury Management Collaboration. *Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person*. December 2014.



parties to a claim tend to increase until the deductible is just a small cost of doing business.

For a deductible to be effective, it needs to be set high. Although only people with serious injuries can pursue a bodily injury claim in Ontario, the Ontario experience with a deductible provides insight for Newfoundland and Labrador. In 1996, the Ontario government implemented a \$15,000 non-pecuniary damages deductible. Between then and 2002, bodily injury claims costs increased by 154%.⁶ To control costs, the government increased the deductible to \$30,000, eventually linking it to inflation.

Minor Injury Cap Components

The Canadian experience indicates that a minor injury cap is better than a deductible at reducing and containing bodily injury claims costs. A minor injury cap has two components. It has a clear definition of the injuries eligible for the cap and it has a cap amount capable of containing claims costs.

Minor Injury Definition

The Maritimes and Alberta definitions apply to sprains, strains and whiplash injuries that do not have a substantial effect on the injured person’s daily life. Although the minor injury definitions across the country appear similar, they have some subtle differences.

Minor Injury Definitions by Province and Effective Date

AB (2004)	NS (2010)	NB (2013)	PE (2014)
A sprain, strain or whiplash injury that does not result in a serious impairment	A sprain, strain or whiplash injury that does not result in a serious impairment	A contusion, abrasion, laceration, sprain, strain or whiplash injury, including any clinically associated sequelae , that does not result in a serious impairment or in permanent serious disfigurement	A sprain, strain or whiplash injury, including any clinically associated sequelae , that does not result in a serious impairment

The main difference is the inclusion in the relatively newer New Brunswick and Prince Edward Island definitions of the terminology “including any clinically associated sequelae”. This terminology means that a minor injury is a sprain, strain or whiplash injury as well as any associated conditions, as long as the injury is not a serious impairment, meaning it does not substantially affect the injured person’s daily life. The terminology is important because it confirms the minor injury cap’s application on people with minor sprains or strains who also report an injury to the temporomandibular joint (TMJ) or psychological and/or pain conditions, which the prevailing medical literature states are often minor.⁷

⁶ IBC calculation with data from GISA.

⁷ Ontario Protocol for Traffic Injury Management Collaboration. *Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person*. December 2014.



The Alberta and Nova Scotia definitions omit the “including any clinically associated sequelae” terminology. In Alberta, the omission of this terminology has led to two court decisions stating that TMJ injuries and sprains or strains with psychological and/or pain conditions are not minor, regardless of the seriousness of the injury and its effect on the injured person’s daily life.⁸ As a result, since the first decision in 2012, Alberta’s average bodily injury claim cost has been increasing by more than 9% annually.⁹

Minor Injury Cap Amount

The Maritime minor injury cap amounts are higher than Alberta’s cap amount. A consequence of having a high amount is that eventually, the annual inflation adjustments will reduce the minor injury cap’s effectiveness at controlling costs. In Nova Scotia, upon increasing the minor injury cap amount from \$2,500 to \$7,500 in 2010, the average bodily injury claim cost increased by 29%. Since then, the average cost has increased by 4.5% per year, which is significantly more than inflation.¹⁰

Minor Injury Cap Amounts by Province

	AB	NS	NB	PE
Base	\$4,000	\$7,500	\$7,500	\$7,500
Current	\$5,080	\$8,579	\$7,999	\$7,688
Effective Date	2004	2010	2013	2014

Notably, in British Columbia, which is a full-tort jurisdiction like Newfoundland and Labrador, the government announced that to help control the government-run insurer’s bodily injury claims costs and to stabilize premiums, it will implement a non-pecuniary damages cap. In April 2019, all *sprains, strains, mild whiplash, cuts and bruises, anxiety and stress* injuries, that are not a serious impairment or preventing the injured person from caring for his/herself, will be subject to a \$5,500 cap.¹¹

Reform Proposal

IBC recommends that the Newfoundland and Labrador government implement a minor injury cap with the following components:

1. A \$5,000 cap on non-pecuniary damages with annual inflation adjustments; and
2. A minor injury definition that includes sprains, strains and whiplash injuries, including any clinically associated sequelae, whether physical or psychological in nature, that does not result in a serious impairment.

⁸ *Sparrowhawk v. Zapoltinsky*, Alberta Court of Queen’s Bench, 2012, ABQB 34; and *McLean v. Pamar*, Alberta Court of Queen’s Bench, 2015, ABQB 62.

⁹ IBC’s consulting actuary, Dr. Ron Miller’s calculations, based on data from GISA. Excludes the health levy.

¹⁰ IBC calculations with data from GISA.

¹¹ B.C. Government. *Government directs changes to make ICBC work for B.C. drivers again*. February 6, 2018.



The terminology “whether physical or psychological in nature” is meant to confirm the meaning of the terminology “including any clinically associated sequelae”. This addition should clarify to all stakeholders the alignment of the minor injury definition with the prevailing medical literature on motor vehicle collision injuries.

*****Upon analyzing the Newfoundland and Labrador bodily injury closed claims study, IBC will review this reform proposal, estimate the associated cost savings and provide any additional insight.*****

Complementary Recommendation

To maximize this reform proposal’s effectiveness, IBC recommends reforming auto insurance tort procedures to streamline bodily injury claims.

Bodily injury claims take a long time to resolve. Injured individuals often have to wait years to be compensated. The corresponding tort procedural rules are more appropriate for complex litigation than the frequent and recurring motor vehicle collision cases, which rarely involve complex issues of law.

In Ontario, there are several *Insurance Act* provisions designed to streamline bodily injury claims and encourage out-of-court settlements. They include the injured person having to meet the following requirements before officially pursuing litigation:

- Apply for accident benefits;
- Provide the defendant with notice that he/she intends to commence an action within 120 days of the collision;
- If requested by the defendant, undergo examinations by certain health providers, at the defendant’s expense; and
- If requested by the defendant, provide the defendant with a statutory declaration describing the circumstances of the collision and the nature of the claim.

Also in Ontario, prejudgment interest does not begin to accrue until the injured person provides the defendant with notice that he/she intends to commence an action.

As part of an ongoing auto insurance review in Ontario, a recent report submitted to the government contains recommendations for additional tort procedural changes, including prescribing that the injured person provides to the defendant a prescribed list of documents, such as hospital records, clinical notes, the accident benefits file and/or ambulance records. The report also contains recommendations permitting early examination under oath of the injured person and expert witnesses as well as establishing a form of case management to encourage bodily injury claims to proceed more quickly.¹²

¹² David Marshall. *Fair Benefits Fairly Delivered: A Review of the Auto Insurance System in Ontario*. April 2017.



Injured individuals in Newfoundland and Labrador would benefit from similar tort procedural changes as in Ontario to streamline bodily injury claims.

Improve Health Outcomes

Newfoundland and Labrador’s accident benefits provide access to fewer treatment options than in the Maritimes and Alberta. That accident benefits are optional and low is particularly problematic when someone is seriously injured in a collision.

Accident Benefits by Province

	NL	NB	NS	PE	AB
Medical and Rehabilitation	\$25,000	\$50,000	\$50,000	\$50,000	\$50,000
Disability Income	\$140 per week	\$250 per week	\$250 per week	\$250 per week	\$400 per week
Treatment Protocols	-	-	Yes	-	Yes

Alberta and Nova Scotia also have diagnostic and treatment protocols. The intent is to provide people with common injuries with immediate access to evidence-based treatment on a pre-approved basis so that they can recover quickly. In these provinces, people with a sprain, strain or whiplash injury are pre-approved for up to 10 or 21 treatment visits, depending on the injury’s seriousness. For these claims up to the treatment visit limits, the auto insurer is the first payer and pays the health provider directly.

The protocols limit treatment coordination to physicians, physiotherapists and chiropractors but allow massage therapy and acupuncture, if approved by the coordinating physician, physiotherapist or chiropractor. These health providers have to comply with a government-approved fee schedule. Limiting treatment coordination to only the select professions qualified to treat an entire injury and having an associated fee schedule are crucial to ensuring that the injured person receives quality treatment and that his/her accident benefits are used responsibly.

Considerations for Accident Benefits Reforms

Adequate accident benefits and treatment protocols are important parts of a quality auto insurance product. Combined with a minor injury cap, they focus auto insurance on improving health outcomes instead of on cash settlements.

This link between the minor injury cap, adequate accident benefits and the treatment protocols was central to the Alberta minor injury cap constitutional challenge. In upholding the constitutionality of the minor injury cap, the Alberta Court of Appeal recognized that the combination of the minor injury cap, the enhanced accident benefits and the treatment protocols is beneficial to people with minor injuries.¹³

As with the minor injury cap, the treatment protocols are most effective when they align with the prevailing medical literature so that all people with common injuries can access

¹³ *Morrow v. Zhang*, Alberta Court of Appeal, 2009, ABCA 215.



the pre-approved evidence-based treatment. The specific treatment requirements in the Alberta and Nova Scotia treatment protocols are adequate for most injuries but people with TMJ injuries or psychological and/or pain conditions associated with their sprain or strain would benefit from access to dentists, psychologists or occupational therapists.

Reform Proposal

IBC recommends that the Newfoundland and Labrador government enhance accident benefits through the following measures:

1. Make accident benefits mandatory;
2. Enhance medical and rehabilitation benefits to \$50,000 and disability income to \$250 per week; and
3. Establish pre-approved evidence-based treatment protocols.

The following provisions should guide the development of the treatment protocols.

1. The treatment protocols should consist of up to 10 or 21 treatment visits, depending on the injury's seriousness, for up to 90 days, as in Alberta and Nova Scotia.
2. Treatment within the protocols should be pre-approved and the auto insurer should be the first payer.
3. Eligible injuries should be sprains, strains and whiplash, including any clinically associated sequelae, whether physical or psychological in nature, regardless of the injury's seriousness. All people with these injuries should benefit from the pre-approved evidence-based treatment.
4. Also as in Alberta and Nova Scotia, physicians, physiotherapists and chiropractors should be the only health providers eligible to coordinate treatment within the protocols. However, they should be able to use some of the injured person's treatment visits for massage therapy, acupuncture, dental services, psychological services and occupational therapy.
5. All health providers should have to abide by a government-issued fee schedule, modeled after the fee schedules in Alberta and Nova Scotia.

Make it Easier to Repair and Replace Damaged Vehicles

Newfoundland and Labrador consumers could experience a simpler claims process if they could deal with their own insurer when repairing or replacing their vehicle. Currently, only Newfoundland and Labrador and Alberta have a tort-based vehicle damage claims-settlement model. The Maritimes and Ontario have the direct compensation property damage (DCPD) model.



In addition to being able to deal with their own insurer, consumers benefit from DCPD because insurers can more accurately calculate their premiums since the insurers know in advance the likely cost associated with repairing and replacing the vehicle.

Reform Proposal

IBC recommends that the Newfoundland and Labrador government transition from the property damage claims settlement model to DCPD.

Facilitate Competition and Innovation

How governments regulate auto insurance rates and underwriting practices directly influences the availability of affordable insurance and the amount of product and service choice and innovation in the market. Except for Québec, which has a market-based rate regulation approach, the dominant rate regulation framework in Canada is the prior approval framework. Under this framework, the regulator requires actuarial evidence from an insurer to support any changes to its rates and risk-classification system and the regulator has to approve the rates and risk-classification system before the insurer can use them in the market.

Despite rate regulation's good intentions of keeping auto insurance available to consumers at an affordable price, it has not been successful in Newfoundland and Labrador or in the other provinces, largely because of the need for auto insurance to cover claims costs. It also requires extensive regulatory actuarial reviews of how insurers assess risk and segment the market and has various legislative and regulatory rules that limit insurers' ability to offer consumers insurance priced according to their unique risk characteristics. The result is some consumers paying more for auto insurance to cover part of the cost of insuring people who are more likely to be in a collision.

In a research paper for the Insurance Research Council, an insurance think tank in the United States, Dr. Sharon Tennyson from Cornell University stated that "*regulatory constraints can also change the nature of competition among firms*" and that "*a reduced threat of competitor entry may also dampen incentives for innovation*".¹⁴ As noted above, there are no online insurers or UBI products in Newfoundland and Labrador.

International Experience

Although used in Newfoundland and Labrador and most of Canada, the prior approval framework is far from the dominant framework in North America and Europe.

In the United States, only twelve states have a prior approval framework. Thirty-nine states have frameworks that rely more on market pressure, competition and self-regulation to ensure optimal consumer outcomes. Generally, in these states, the regulators focus on overseeing the market and ensuring that rating practices are not discriminatory, threaten the solvency of a given insurer or limit competition in the market.

¹⁴ Sharon Tennyson, PhD. Insurance Research Council, March 2012. *The Long-Term Effects of Rate Regulatory Reforms in Automobile Insurance Markets*.



In Europe, which underwent significant changes to its regulations, most countries do not have auto insurance filing requirements.

Illinois

Illinois is an example of a market that has had one of the most market-based rate regulation approaches for decades. Under its use-and-file framework, insurers can implement their rate changes and, at a later date, file supporting documentation about the change with the regulator. The regulator uses the information to oversee the market and has the authority to take corrective action if needed. There is no formal approval that is typically associated with rate regulation.

Market concentration of the top four insurers is 56%, which is consistent with the national average.¹⁵ Consumers have access to twenty UBI products. Although insurers can increase their rates by any amount before even having to inform the regulator, since 2000, the average premium has increased by 1.4% per year, which is 0.3 percentage points lower than the national average and is 0.9 percentage points lower than the annual inflation rate.¹⁶ The market share of the residual market is 0.1%.¹⁷

Europe

In 1992, Europe began abolishing auto insurance rate regulation. Europe Economics, a consulting firm that completed a study on behalf of the European Commission, found that market-based approaches achieved the following consumer benefits.

- *Increased presence of foreign companies...whether through the establishment of their own branches, offices or agencies or through the purchase of shares in existing local insurers.*
- *Wider range of products as local and foreign insurers innovate and develop existing products so as to 'differentiate themselves from the crowd' and attract more consumers.*
- *Reduction in prices...due to increased competition.*¹⁸

Reform Proposal

IBC recommends that the Newfoundland and Labrador government transition to a market-based approach for rate regulation by replacing the prior approval framework with a use-and-file framework focused on regulating overall rate levels. The intent is to create an environment for consumers to reap the benefits of increased competition and of more accurate premiums relative to risk, and for the regulator to position itself to be able to identify and remedy any solvency or market conduct concerns efficiently by focusing its limited resources on overseeing the market. In Appendix B are the components of IBC's proposed use-and-file framework.

¹⁵ Data from National Association of Insurance Commissioners (NAIC).

¹⁶ Data from NAIC.

¹⁷ Data from American Insurance Plans Service Office (AIPSO).

¹⁸ Europe Economics. European Commission, November 2009. *Retail Insurance Market Study*.



Additional Commentary

Risk-Sharing Pool

A risk-sharing pool is an important part of some auto insurance markets. It is also costly to establish and administer. Determining whether Newfoundland and Labrador consumers would benefit from a risk-sharing pool depends on the outcome of the auto insurance review. Once the government decides on the reforms, IBC and the government should examine the benefits and feasibility of a risk-sharing pool.

Increasing the Minimum Third-Party Liability Limit

Very few claims result in settlements at or higher than the minimum \$200,000 limit. For this reason, increasing the minimum limit should only marginally increase claims costs. However, even if the corresponding cost increase is marginal, increasing the minimum limit would increase the premiums for the few individuals who currently purchase the minimum limit because they cannot afford to buy a higher amount.

Improving Highway Safety and Preventing Collisions

Newfoundland and Labrador's traffic safety laws are adequate and consistent with other provinces. Nevertheless, with distracted driving continuing to be a cause of vehicle collisions and cannabis legalization expected to increase impaired driving, the public would benefit from an enhanced focus on enforcing the traffic safety laws as well as a public awareness campaign of the risks associated with distracted and impaired driving as well as of the importance of vehicle maintenance, winter tires, driver education and safe driving in general. For the public awareness campaign, IBC would be pleased to partner with the government on bringing these important messages to the public.

Conclusion

Newfoundland and Labrador's auto insurance review is an opportunity to create an auto insurance product and market that meets consumers' wants and needs and sets an example for the rest of Canada. The government could reduce and stabilize claims costs and premiums for the long-term. It could create an auto insurance product based on the prevailing medical evidence for treating motor vehicle collision injuries and that puts the emphasis on access to care instead of cash. It could also create an auto insurance product that makes it easy for people to repair or replace their damaged vehicles. Lastly, it could create a market insurers come to and introduce innovative products and services, providing choice to all consumers. IBC's four reform proposals will achieve these positive consumer outcomes.



Appendix A: IBC Reform Proposals

Reduce and Stabilize Premiums and Claims Costs

1. IBC recommends that the government implement a minor injury cap with the following components:
 - a. A \$5,000 cap on non-pecuniary damages with annual inflation adjustments; and
 - b. A minor injury definition that includes sprains, strains and whiplash injuries, including any clinically associated sequelae, whether physical or psychological in nature, that does not result in a serious impairment.

Complementary Recommendation

- IBC recommends that the government implement tort procedural reforms for auto insurance bodily injury claims.

Improve Health Outcomes

2. IBC recommends that the government enhance accident benefits through the following measures:
 - a. Make accident benefits mandatory;
 - b. Enhance medical and rehabilitation benefits to \$50,000 and disability income to \$250 per week; and
 - c. Establish pre-approved evidence-based treatment protocols.

The following provisions should guide the development of the treatment protocols.

- i. The treatment protocols should consist of up to 10 or 21 treatment visits, depending on the injury's seriousness, for up to 90 days, as in Alberta and Nova Scotia.
- ii. Treatment within the protocols should be pre-approved and the auto insurer should be the first payer.
- iii. Eligible injuries should be sprains, strains and whiplash, including any clinically associated sequelae, whether physical or psychological in nature, regardless of the injury's seriousness. All people with these injuries should benefit from the pre-approved evidence-based treatment.
- iv. Also as in Alberta and Nova Scotia, physicians, physiotherapists and chiropractors should be the only health providers eligible to coordinate treatment within the protocols. However, they should be able to use some



of the injured person's treatment visits for massage therapy, acupuncture, dental services, psychological services and occupational therapy.

- v. All health providers should have to abide by a government-issued fee schedule, modeled after the fee schedules in Alberta and Nova Scotia.

Make it Easier to Repair and Replace Damaged Vehicles

- 3. IBC recommends that the government transition from the property damage claims settlement model to DCPD.

Facilitate Competition and Innovation

- 4. IBC recommends that the government transition to a market-based approach for rate regulation by replacing the prior approval framework with a use-and-file framework focused on regulating overall rate levels.



Appendix B: Proposed Rate Regulation Framework

Scope of Regulation

The focus of rate regulation is on private passenger vehicles only. It does not apply to commercial vehicles or garage policies. Other personal vehicles should have less regulation than the framework used for private passenger vehicles.

Description of Framework

An insurer has to file information supporting its overall rate after implementation. There is no requirement to file underwriting criteria or requirement to accept applications for auto insurance. Any consumer who cannot get coverage from a licensed insurer can purchase coverage from the Facility Association.

Rating Standards

The review of the overall rate is based on the following criteria:

- The overall rate should not be unfairly discriminatory, where unfairly discriminatory refers to rates based on rating factors prescribed as prohibited in insurance legislation or regulation;
- The overall rate should be able to withstand projected losses and expenses; and
- The overall rate should not substantially lessen competition, where the level of competition is based on the number of insurers providing coverage, measures of market concentration, ease of entry in the market, availability of coverage and opportunities available to consumers to acquire pricing and other consumer information.

When reviewing a risk-classification system, the regulator considers only whether it complies with the prescribed rules, such as the list of prohibited rating factors, and whether it is unfairly discriminatory. There are no additional rules or filing requirements for innovative rating practices, such as usage-based insurance.

Timelines

An insurer can implement a rate 30 days before submitting the prescribed information to the regulator. The regulator has 30 days to conduct a review. Any required changes because the regulator disapproves of the rate are done on a prospective basis based on a reasonable future date, no sooner than 30 days after the notice of disapproval, on which the rate is to be considered no longer effective. An insurer can appeal the regulator's decision within 15 days of receiving the notification. There is no minimum number of filings within a given period of time.

Documentation

The insurer has to submit rating rule changes, final rates and rate level changes, dislocation and capping, impact on dependent vehicle classes, profiles as well as current



and proposed discounts, surcharges, algorithms, base rates and differentials. There is no requirement to submit actuarial justification.

Prohibited Underwriting and Rating Factors

An insurer is prohibited from using the following factors to refuse to issue a contract or as elements in its risk-classification system: race; colour; creed; national origin; disability; income; education; and home ownership.