

ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

ON OPERATIONS CARRIED OUT UNDER

THE AUTOMOBILE INSURANCE ACT

CHAPTER A-22, RSNL 1990, AS AMENDED

FOR THE PERIOD APRIL 1, 2019 TO MARCH 31, 2020

EXECUTIVE SUMMARY

1
2
3 This report highlights the main activities of the Board in carrying out its mandate under
4 the **Automobile Insurance Act**.

5
6 On August 1, 2019 and January 1, 2020 Government introduced amendments to the
7 **Automobile Insurance Act**, the **Insurance Companies Act** and the Regulations
8 thereunder. These amendments required changes to the Board's rate filing review
9 process, which were implemented in late 2019 and in early 2020. These necessary
10 changes included the development and issuance of filing guidelines for the following
11 new rate filing categories: Reform, Mandatory, Mandatory Simplified, Expedited
12 Approval, CLEAR and IAO.

13
14 From April 1, 2019 to December 31, 2019 rate filings submitted by insurers were
15 generally filed pursuant to Automobile Insurance Regulations 81/04 (the "former
16 Regulations"). Under the former Regulations, the Board received 41 Category 1 filings
17 (reflecting reductions or no changes in rate levels) and issued 16 Orders involving
18 Category 2 (requesting rate increases) and Category 3 (requesting adoption of IAO
19 rates) rate filings.

20
21 Commencing on January 1, 2020 automobile insurance rate filings were filed pursuant
22 to Automobile Insurance Regulations 56/19. From January 1, 2020 to March 31, 2020
23 eight Reform rate filings, two Mandatory rate filings, no Mandatory Simplified rate
24 filings, one Expedited Approval rate filing, no CLEAR rate filings, and no IAO rate filings
25 were received by the Board. Eight Board Orders involving these rate filings were issued
26 by March 31, 2020. Seven additional Reform filings were filed prior to 2020 with new
27 business and renewal business effective dates after January 1, 2020. These Reform
28 filings were approved by the Board by orders issued in late fall 2019.

29
30 Numerous directives and information bulletins were issued to automobile insurers by
31 the Board throughout the year. The directives and information bulletins pertained to

1 the following matters: loss trend factors for private passenger automobiles and
2 commercial vehicles, updated CLEAR rate group tables, automobile insurance
3 reforms, restrictions on rate filings, new filing guidelines and COVID-19.

4

5 There were no significant changes in the automobile insurance market composition in
6 2019-2020. Based on the most recently available market information (2018), 44
7 automobile insurers reported direct premiums written of \$448,754,000 in the province,
8 compared to \$435,438,000 in 2017. The market continues to show a high level of
9 concentration, with 15 insurers writing approximately 97% of all the automobile
10 insurance business in the province. When common ownership among companies is
11 considered four companies write approximately 84% of the automobile insurance
12 business.

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1 **LEGISLATION**

2

3 The **Automobile Insurance Act**, Chapter A-22, RSNL 1990, and the **Insurance**
4 **Companies Act**, Chapter I-10, RSNL 1990, as amended, provide the Board with specific
5 statutory responsibilities with respect to regulation of the automobile insurance industry
6 in Newfoundland and Labrador. These regulatory responsibilities include the following:
7 rates, risk classification systems, and underwriting guidelines.

8

9 **Reforms and Amendments**

10

11 In 2019-2020, following the completion of a review of the automobile insurance product
12 in the Province, Government made amendments to the **Automobile Insurance Act**, the
13 **Insurance Companies Act** and the Regulations thereunder. The key changes included,
14 among other things, an increase in the deductible from \$2,500 to \$5,000 for bodily injury
15 claims; introduction of treatment protocols for common injuries as the primary payer; no
16 access to the Uninsured Automobile Fund for losses by uninsured motorists; direct
17 compensation for property damage; and a requirement for insurance companies to notify
18 the Registrar of Motor Vehicles of the cancellation or expiration of insurance policies. As
19 discussed in the next section, the reforms and legislative amendments implemented by
20 Government also required changes to the Board's review of rates and rate setting
21 process.

22

23 **REGULATORY ACTIVITIES**

24

25 **Changes to Board Review of Rates**

26

27 As a result of the legislative amendments and the introduction of Automobile Insurance
28 Regulations 56/19 (the "new Regulations"), the Board implemented changes to its
29 automobile insurance rate review process. The changes included the development of the
30 following new rate filing categories and associated filing guidelines: Reform, Mandatory,
31 Mandatory Simplified, Expedited Approval, CLEAR and IAO.

1 *Reform Filing Guidelines*

2

3 The Reform Filing Guidelines were issued on November 5, 2019 and were designed to
 4 expedite the approval of mandatory reforms implemented by Government including the
 5 introduction of Direct Compensation Property Damage (“DCPD”) coverage and the
 6 increase in the deductible for all pain and suffering awards from \$2,500 to \$5,000. The
 7 Reform Filing Guidelines provided insurers step-by-step procedures for splitting existing
 8 Board approved Third Party Liability rates into rates for Bodily Injury, Property-Damage
 9 Tort and DCPD, and reflecting the deductible increase into Bodily Injury rates. The
 10 deadline set by the Board for the submission of Reform filings is July 15, 2020.

11

12 *Mandatory Filing Guidelines*

13

14 The Mandatory Filing Guidelines were issued on December 19, 2019 and came into effect
 15 on January 1, 2020. Under the new Regulations, all insurers writing automobile insurance
 16 in the Province, with the exception of those insurers writing fleet-rated business only, are
 17 required to file rates at least once every three years. In circumstances where the date of
 18 an insurer’s last filed rates exceeded three years effective January 1, 2020 the Board
 19 established the following mandatory filing deadlines by category of insurance.

20

Category of Insurance	Filing Deadline
Private Passenger Automobiles	August 1, 2020
Commercial Vehicles	September 1, 2020
Miscellaneous Vehicles	October 1, 2020
Public Vehicles and Other Vehicles	November 1, 2020

21 Rate filings submitted under the Mandatory Filing Guidelines require full actuarial support
 22 for the proposed rating program in-line with the requirements outlined in the guidelines.

1 *Mandatory Simplified Filing Guidelines*

2

3 The Mandatory Simplified Filing Guidelines were issued on December 19, 2019 and came
 4 into effect on January 1, 2020. Insurers can avail of the Mandatory Simplified filing
 5 process in circumstances where there is insufficient data to provide actuarial support for
 6 the proposed rating program or where the level of written premium is below a certain
 7 threshold. The written premium thresholds by vehicle type are provided in the table below.

Vehicle Type	Annual Written Premium Threshold
Private Passenger Automobiles	Excluded from Mandatory Simplified
Commercial Vehicles	\$1,000,000
Interurban Vehicles	\$750,000
All-Terrain Vehicles	\$750,000
Motorcycles	\$750,000
Snow Vehicles	\$500,000
Taxis	\$500,000
Motorhomes	\$500,000
Antiques	\$500,000
Other Public Vehicles	All rates may be filed through Mandatory Simplified
Other Vehicles	All rates may be filed through Mandatory Simplified

8 *Expedited Approval Filing Guidelines*

9

10 Pursuant to Section 11 of the new Regulations, the Board was required to implement a
 11 process for the expedited approval of proposed rates where certain criteria were met. The
 12 Expedited Approval Filing Guidelines were issued on December 19, 2019 and came into
 13 effect on January 1, 2020. Expedited Approval rate filings are optional and can be
 14 submitted at any time during the interim three-year period between mandatory rate filings.
 15 The Board established strict limitations on the nature of the proposed changes that can
 16 be applied for through the Expedited Approval process. A comparison of the permitted
 17 and prohibited changes through the Expedited Approval process is provided as follows.

PERMITTED CHANGES	PROHIBITED CHANGES
<ul style="list-style-type: none"> • Average rate changes that vary by coverage and, when combined, are within overall rate change parameters. • Changes to levels of differentials for existing risk classification factors. • Changes, additions and deletions to: <ul style="list-style-type: none"> a. Discounts, b. Surcharges, c. Endorsements, d. Capping, and e. Underwriting rules. • Vehicle rate group updates. • Implementation of reform changes. 	<ul style="list-style-type: none"> • Average overall rate increases in excess of guideline parameters. • Risk classification system changes (with the exception of changes to levels of differentials for existing risk classification factors). • Rating rule changes. • Rating algorithm changes. • Changes resulting in dislocation to any vehicle premium greater than +10.0% overall after capping.

1 *CLEAR Filing Guidelines*

2

3 The CLEAR Filing Guidelines were released on February 26, 2020 and were made
 4 effective immediately. Insurers can avail of the CLEAR filing process when the company
 5 is proposing to adopt a Board approved version of the Canadian Loss Experience
 6 Automobile Rating (“CLEAR”) tables only. Any rate filing which proposes changes beyond
 7 the adoption of a new CLEAR table must be made using the Mandatory, Mandatory
 8 Simplified or Expedited Approval filing options.

9

10 *IAO Filing Guidelines*

11

12 The IAO Filing Guidelines were made available on February 26, 2020 and were made
 13 effective immediately. The IAO Filing Guidelines are to be used by those insurers wishing
 14 to adopt Insurer Advisory Organization (“IAO”) rates approved by the Board and can also
 15 be used to introduce modifications such as discounts, surcharges, liability limits,
 16 deductibles, rate group table updates and endorsements to IAO rates.

1 **Publication of Information**

2

3 In addition to changes to the Board's review of rates, pursuant to Section 13 of the new
4 Regulations the Board is now mandated to publish specific information about approved
5 rate filings. Specific rate filing information is published to the Board's website along with
6 the corresponding Board Order.

7

8 **Pre-Reform Filing Information**

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10 From April 1, 2019 to December 31, 2019 rate filings were generally filed by insurers
11 pursuant to the Automobile Insurance Regulations 81/04 (the "former Regulations").
12 Under the former Regulations, the Board received 41 Category 1 filings (reflecting
13 reductions or no changes in rate levels). The majority of the 41 Category 1 filings were in
14 relation to updating vehicle rate group tables, revisions to underwriting guidelines and the
15 introduction of mandatory winter tire discounts. In addition, the Board issued 16 Orders
16 involving Category 2 (requesting rate increases or introduction of new rates) and
17 Category 3 (requesting adoption of IAO rates) rate filings. Two of the Category 2 filings
18 were initially denied by the Board, but were later resubmitted and approved. On October
19 9, 2019 the Board placed a temporary restriction on the filing of Category 2 and Category
20 3 rate filings in order to transition to the reforms set out in the **Automobile Insurance Act**
21 and the new Regulations.

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23 **Post-Reform Filing Information**

24

25 Commencing on January 1, 2020 automobile insurance rate filings were filed pursuant to
26 Automobile Insurance Regulations 56/19. From January 1, 2020 to March 31, 2020 8
27 Reform rate filings, two Mandatory rate filings, no Mandatory Simplified rate filings, one
28 Expedited Approval rate filing, no CLEAR rate filings, and no IAO rate filings were
29 received by the Board. Eight Board Orders involving these rate filings were issued by
30 March 31, 2020. Seven additional Reform filings were filed prior to 2020 with new
31 business and renewal business effective dates after January 1, 2020. These Reform

1 filings were approved by the Board by orders issued in late fall 2019.

2

3 **Compliance Audit Program**

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5 The Board has established a compliance audit program whereby the rates and rating
6 practices of the regulated insurance companies are reviewed. The compliance audit
7 program is designed to ensure that insurers writing business in the province are only
8 charging rates that have been approved by the Board in accordance with the **Automobile**
9 **Insurance Act** and the **Insurance Companies Act**. The audit program also ensures that
10 agents and brokers of the insurer are interpreting the underwriting guidelines of the
11 insurer correctly and that insureds of similar risk characteristics are being rated correctly.
12 One compliance audit was commenced and two compliance audits were completed in
13 2019-2020. One audit identified an error in a company's territorial and class rating, which
14 resulted in premium overcharges for approximately 212 risks. The total amount
15 overcharged was approximately \$5,136 with an impact in the range of approximately \$13-
16 \$70 per risk. The company subsequently provided an action plan to reimburse the
17 insureds the overcharged amounts.

18

19 **Directives/Prohibitions**

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21 During the year the Board issued six advisory directives and four information bulletins to
22 all insurers in connection with updated loss trend factors for private passenger
23 automobiles and commercial vehicles, updated CLEAR rate group tables, automobile
24 insurance reforms, restrictions on rate filings, new filing guidelines, and COVID-19.

25

26 **Complaints**

27

28 The Board received a limited number of complaints and inquiries during the year. These
29 complaints and inquiries were routine in nature and were generally in relation to rating
30 practices of insurers and/or agents or increases in policy premiums experienced following
31 the implementation of new rates by insurers. In no case was there an identified violation

1 of legislative provisions regarding rates or rating practices necessitating further action by
2 the Board.

3

4 **Expenses**

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6 The expenses of the Board in relation to insurance operations for 2019-2020 were
7 budgeted at \$412,992. These costs were assessed against insurers, with the approval of
8 the Minister pursuant to Section 59 of the **Automobile Insurance Act**, at a rate of 0.920
9 mils on the direct automobile insurance premiums written in the Province. A five-year
10 summary of assessments and mil rates is shown in Table 4.

11

TABLE 4 ASSESSMENTS AND MIL RATES AUTOMOBILE INSURANCE		
Year	Assessments	Mil Rate
2019-2020	\$412,992	0.920
2018-2019	\$519,286	1.193
2017-2018	\$549,522	1.267
2016-2017	\$551,495	1.320
2015-2016	\$528,465	1.326

12 **MARKETPLACE CHANGES**

13

14 Based on the 2018 Report of the Superintendent of Insurance, the latest information
15 available, there were 44 automobile insurers operating in Newfoundland and Labrador
16 reporting positive direct premiums written. The market continues to show a high level of
17 concentration, with 97% of the automobile insurance business written by 15 insurers.
18 When common ownership among companies is considered there are four companies
19 writing approximately 84% of the automobile insurance business. Table 1 below shows a
20 distribution of automobile insurance companies by range of direct premiums written.

Range of Direct Premiums Written (\$000's)	Number of Companies	Percent of Market Share (%)	Total Direct Premiums Written (\$000's)
1-1,000	27	1.066%	4,784
1,001-5,000	1	0.267%	1,196
Over 5,000	16	98.667%	442,774
Total	44	100%	448,754

2018 Superintendent of Insurance Report

1 Table 2 below shows comparative information for 2018 versus 2017 in relation to total
2 direct premiums written for automobile insurance. The total value for direct premiums
3 written in the province increased by approximately 3% from 2017 to 2018.

4

	2018	2017	\$ Change	% Change
Direct Premiums Written	448,754	435,438	13,316	+3.0%

2017 and 2018 Superintendent of Insurance Reports

5 Table 3 contains a two-year comparative review of the automobile insurance market,
6 showing year over year relative changes of the direct premiums written by the three
7 premium classifications: Third Party Liability, Personal Accident and Other.

8

Premium Classification	2018	2017	\$ Change	% Change
Third Party Liability	268,619	261,690	+6,929	+2.6%
Personal Accident	32,303	31,281	+1,022	+3.3%
Other	147,832	142,467	+5,365	+3.8%

2018 Superintendent of Insurance Report

- 1 For 2018 there were 321,371 written insured private passenger automobiles and 30,220
- 2 written insured commercial vehicles in the province, a decrease of 0.7% over 2017.