Automobile Insurance
Transparency and Accountability
Expert Report

2015 Annual Report

Final Release: December 21, 2015
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Hon. Charles Sousa  
Minister of Finance  
Frost Building South  
7 Queen’s Park Crescent, 7th Floor  
Toronto, Ontario  
M7A 1Y7  

December 21, 2015  

Dear Minister Sousa,  

It is our pleasure to submit our final report titled Automobile Insurance Transparency and Accountability Expert Report – 2015 Annual Report. This is the third of three reports that the Ministry of Finance engaged KPMG LLP to provide pursuant to the Auto Insurance Cost and Rate Reduction Strategy included in the 2013 Ontario Budget.  

We look forward to working with the Ministry of Finance in the future.  

Sincerely,  

KPMG LLP
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Glossary

AA: Appointed Actuary.

AB: Accident benefits coverage.

ABAG: Actuarial Benchmark Advisory Group.

AB-DB: Accident benefits death benefits coverage.

AB-DI: Accident benefits disability income coverage.

AB-F: Accident benefits funeral expenses coverage.

AB-MR: Accident benefits medical and rehabilitation coverage.

AB-SUP: Accident benefits supplementary coverage.

AB-UA: Accident benefits uninsured automobile coverage.

ACIA: Associate of the Canadian Institute of Actuaries

AIDRS: Auto Insurance Dispute Resolution System.

ASB: Actuarial Standards Board.

ASP: Automobile statistical plan.


CAS: Casualty Actuarial Society.

CIA: Canadian Institute of Actuaries.

CIPR: Center for Insurance Policy and Research.

COL: Collision coverage.

COM: Comprehensive coverage.

CPA: Consumer Protection Act.

CPA Ontario: Chartered Professional Accountants of Ontario.

CVOR: Commercial Vehicle Operator’s Registration.

FCAS: Fellow of the Casualty Actuarial Society.

FCIA: Fellow of the Canadian Institute of Actuaries.

Glossary

**FST:** Financial Services Tribunal.

**GISA:** General Insurance Statistical Agency.

**HTA:** Highway Traffic Act.

**HCAI:** Health Claims for Auto Insurance System.

**IBC:** Insurance Bureau of Canada.

**LAT:** Ministry of the Attorney General’s Licence Appeal Tribunal.

**MIG:** Minor Injury Guideline.

**MITP:** Minor Injury Treatment Protocol.

**MOF:** Ministry of Finance.

**MTBI:** Mild Traumatic Brain Injury.

**NAD:** Neck Pain and Associated Disorders.

**NAIC:** National Association of Insurance Commissioners.

**OPTIMA:** Ontario Protocol for Traffic Injury Management Collaboration.

**PDF:** Portable document format.

**P&C:** Property and casualty.

**PhysD:** Physical damage coverage.

**PPA:** Private passenger automobile or personal lines automobile.

**PSG:** Professional Services Guideline.

**RSLA:** Repair and Storage Liens Act.

**RUTAC:** Rating and Underwriting Technical Advisory Committee.

**SABS:** Statutory Accident Benefits Schedule.

**SLASTO:** Safety, Licensing Appeals and Standards Tribunal Ontario.

**SOP:** Actuarial Standards of Practice.

**SP:** Specified Perils coverage.

**SUP:** Accident benefits supplementary coverage.
Glossary

TPL: Third party liability coverage.
TPL-BI: Third party liability bodily injury coverage.
TPL-DC: Third party liability direct compensation property damage coverage.
TPL-PD: Third party liability property damage coverage.
UA: Uninsured automobile coverage.
UBI: Usage based insurance.
UM: Underinsured motorist coverage.
WSIB: Workplace Safety and Insurance Board.
1 EXECUTIVE SUMMARY

1.1 Purpose

In September 2010, the Government of Ontario (Government) introduced major reforms (2010 Reforms) to the Ontario automobile insurance system with the intent to control insurance costs, increase choices available to consumers, and simplify processes in the automobile insurance system. Further to the 2010 Reforms, the Government initiated the Auto Insurance Cost and Rate Reduction Strategy (Strategy) as part of the 2013 Ontario Budget\(^1\) (2013 Budget).

As part of the Strategy, and with the goal to increase transparency and accountability, the Ministry of Finance (MOF) engaged KPMG LLP (KPMG) to prepare independent annual Automobile Insurance Transparency and Accountability Expert Reports (Annual Reports) in 2014 and 2015. In addition to the 2014 Annual Report and the 2015 Annual Report, the MOF requested that KPMG prepare an interim report (Interim Report) to address some specific issues. We delivered the Interim Report to the MOF on April 14, 2014 and the 2014 Annual Report on November 7, 2014. Both reports are available on the MOF’s website\(^2\). This report is the 2015 Annual Report.

1.2 Scope of the Interim Report and Annual Reports

1.2.1 Interim Report

The Interim Report reviewed changes experienced in automobile insurance claim costs, rates, and premiums as a result of the 2010 Reforms and the Strategy, and discussed the action steps suggested by some of the insurers\(^3\) who provide private passenger automobile (PPA) insurance in Ontario. The Interim Report summarized quantitative and qualitative analyses that were designed to:

— Address how PPA insurance claim costs and premiums were affected by the 2010 Reforms at the industry level;

— Estimate the decrease in claim costs following the 2010 Reforms and provide an overview of how the decreases were distributed;

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\(^3\) In this report, the term “insurers” is defined as organizations that provide insurance coverage, such as a stock insurance organization or a mutual insurance organization, including both Canadian domiciled and branches of foreign organizations.
1.2.2 Annual Reports

The Annual Reports are to review the impact of the 2010 Reforms and the Strategy on automobile insurance claim costs and rates, and comment on the effectiveness of the auto insurance marketplace in providing affordable premiums to consumers. In addition, where appropriate, the Annual Reports are to make recommendations to the Government on further actions that may be considered by the Government and other stakeholders within the PPA insurance system to meet the Government’s claim costs and average automobile insurance rate reduction targets proposed in the 2013 Budget.

1.2.2.1 2014 Annual Report

Specifically, as agreed with the MOF, in the 2014 Annual Report we:

— Updated, based upon the most recent data available, the quantitative and qualitative analyses presented in the Interim Report to:
  — identify any decreases in PPA insurance claim costs since the 2010 Reforms; and
  — explore whether any of the identified decreases in PPA insurance claim costs have resulted in decreases in automobile insurance rates;

— Provided consideration of recommendations for further possible actions that could be taken by the Government and other automobile insurance stakeholders to achieve the Government’s 15% average rate reduction target for Ontario PPA insurance by the end of August 2015; and

— Considered ongoing Government initiatives and whether they might alleviate claim cost pressures within the Ontario PPA insurance system.

1.2.2.2 2015 Annual Report

As agreed in our engagement with the MOF, the 2015 Annual Report has three main objectives:

— Provide a qualitative review of legislative and regulatory actions that have occurred since the 2014 Annual Report, including a discussion of the ongoing progress of the Strategy, as
well as new initiatives that the Government introduced to alleviate cost pressures within the Ontario PPA insurance system;

— Update of the quantitative actuarial analysis of the impact of 2010 Reforms that was performed for the 2014 Annual Report; and

— Report on the competitiveness of the Ontario PPA insurance market.

1.3 Organization

In addition to Appendices A through D, this report is organized in the following seven parts:

— Executive Summary;
— Introduction;
— Statement of the Issue;
— Approach;
— Developments Since the 2014 Annual Report;
— Actuarial Analysis of Impact of the 2010 Reforms; and
— Competitiveness of the Ontario PPA Insurance Market.

1.4 Complete 2015 Annual Report

This executive summary is an integral part of the complete 2015 Annual Report and should not be distributed separately from the entire report. The report contains critical information regarding distribution and use restrictions as well as a complete description of our approach. Appendices are included to document the findings presented in this report and to provide background. The appendices are an integral part of the 2015 Annual Report. Judgments about the conclusions drawn in this Executive Summary should be made only after considering the report in its entirety. Any use or reliance on the 2015 Annual Report by any third party is done at their own risk. KPMG will not be liable for the consequences of any third party acting upon or relying upon any information or conclusions contained in this report. We remain available to answer any questions that may arise regarding our report. We assume that the user(s) of this report will seek such explanation as to any matter in question.

1.5 Approach

The following three steps were used to support the findings and recommendations presented in the 2015 Annual Report:

— Review of developments in various areas of the Ontario PPA insurance system since the issuance of the 2014 Annual Report on November 7, 2014, including discussions on:
— Bill 15, *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*;\(^4\)
— 2015 Ontario Budget (2015 Budget);\(^5\)
— Ongoing initiatives;
— Financial Services Commission of Ontario (FSCO) initiatives;
— Insurance industry initiatives; and
— Other developments;

— Analysis of the General Insurance Statistical Agency (GISA) data as at December 31, 2014;\(^6\)
and

— Comparison of the number of insurers and insurance groups who provide PPA insurance in Ontario and other provinces, as well as the spread of premiums charged for drivers exhibiting similar characteristics across the province.

### 1.6 Summary of the Interim Report and the 2014 Annual Report

The 2015 Annual Report builds on the analysis and information presented in both the 2014 Annual Report and the Interim Report. The following approach was used in the preparation of the 2014 Annual Report:

— Analysis of the GISA data as of December 31, 2013;

— Incorporation of the results and findings from the Interim Report, including the information collected through a survey process conducted in early 2014 involving major Ontario automobile insurers (Interim Report Survey); and

— Summarization and analysis of the information collected through a survey directed at other stakeholders (e.g., non-insurer) in the Ontario automobile insurance system (2014 Annual Report Survey).

We summarize the findings, observations, and recommendations presented in the 2014 Annual Report in Appendix B. Appendix C summarizes the findings presented in the Interim Report as well as the action steps that were suggested by insurers who participated in the Interim Report Survey.\(^7\)

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\(^6\) GISA publishes exhibits presenting historical accident year loss development, reported at the end of successive six-month periods for the latest fifteen year. These exhibits are published twice a year. The year-end report, including data as of December 31 of the previous year, is usually published in June or July and the mid-year report, including data as of June 30 of the same year, is usually published in November or December. The data presented in the December 31, 2014 exhibits are the most recent data available.

\(^7\) The content in Appendix C of the 2015 Annual Report is identical to Appendix A of the 2014 Annual Report.
The Interim Report also contains background information about the automobile insurance system. This information is not repeated in the 2015 Annual Report. Readers are referred to the following sections of the Interim Report for further information:

— Section 1.6 Rates vs. Premiums;
— Appendix B – Best Practices for Actuarial Involvement in the Rate Regulatory Review;
— Appendix C – Primer on the P&C Insurance Industry; and
— Appendix D – Actuary’s Role in the Insurance Industry.

### 1.7 Developments Since the 2014 Annual Report

There have been a number of developments affecting various areas of the Ontario automobile insurance system since the issuance of the 2014 Annual Report. These developments include reforms affecting Ontario’s automobile insurance product, system and industry introduced in late 2014 through Bill 15, as well as other reforms were announced (e.g., through the 2015 Budget) and/or implemented throughout 2015. These reforms have effective dates over the course of 2015 and 2016, and are grouped under the term “2015/2016 Reforms” in the 2015 Annual Report. The 2015/2016 Reforms are in addition to ongoing Government initiatives already underway prior to the release of the 2014 Annual Report. FSCO plays an important role in ensuring that the new and ongoing initiatives from the Government are carried through. The insurance industry also continues to implement various initiatives to aid in the decrease of premiums.

A list of some of the developments that have occurred since the 2014 Annual Report is included in Section 5.

#### 1.7.1 Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014

The intent of Bill 15 is to help the Government “continue to fight fraud and abuse, reduce costs and uncertainty in the auto insurance system”, with the aim to ultimately reduce the cost of automobile insurance in Ontario. Aspects of Bill 15 include:

— Consumer protections specific to the vehicle towing and storage industries in Ontario;
— Transformation of Ontario’s Auto Insurance Dispute Resolution System (AIDRS);
— Changes to the prejudgment interest rates resulting in an alignment of the prejudgment interest rate with market conditions; and
— Modernization of the process to discipline insurance agents and adjusters.

Bill 15 amended the Consumer Protection Act (CPA), to establish consumer protection measures specific to towing and storage services in addition to a new compliance authorities. It also amends the RSLA to address storage notification and related issues. In addition, Bill 15

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9 For damages for non-pecuniary loss arising from the use or operation of an automobile.
amended the Highway Traffic Act (HTA) to remove the exemption for tow trucks under the Ministry of Transportation’s Commercial Vehicle Operator’s Registration (CVOR) system, and to provide authority to require all tow truck operators to register under CVOR. On December 17, 2015, the government announced new regulations after posting proposed draft regulations related to Bill 15 in September 2015.

The main change to the AIDRS is that it will move from FSCO to the Ministry of the Attorney General’s Licence Appeal Tribunal (LAT). An advisory committee has been providing high-level advice to the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) on the design and implementation of the new AIDRS system at LAT. It is expected that the LAT will begin accepting accident benefits dispute applications on April 1, 2016.

The prejudgment interest rate used in calculating court awards for non-pecuniary losses made under a motor vehicle liability policy is amended to align with the rate determined under the Courts of Justice Act. This will result in the same pre-judgment interest rate being applied to court awards for non-pecuniary and pecuniary losses. The amendment was effective January 1, 2015, and the 5% prejudgment interest rate decreased to 1.0% by the second quarter of 2015. As discussed in Section 5.6.1, there are currently two court cases (Cirillo v. Rizzo (2015) and El-Khodr v. Lackie (2015)) that address whether the amendment to the prejudgment interest rate applies to accidents that occurred prior to January 1, 2015.

Bill 15 amended the disciplinary process for insurance agents and adjusters. The Financial Services Tribunal (FST) “will now adjudicate all agent and adjuster disciplinary matters, including administrative monetary penalties. This aligns insurance with other sectors regulated by FSCO.” The new process is designed to streamline disciplinary actions and came into effect on January 1, 2015. Improvements in this disciplinary process will likely improve consumer protection and aligns with the Government’s intent in the 2015 Budget.

1.7.2 2015 Budget

Building on Bill 15, the 2015 Budget announced additional actions that the Government will take to protect consumers of automobile insurance and to ensure affordable premiums.

The Government announced a number of measures related to consumer protection including a decrease in the maximum interest rate charged on monthly automobile insurance premium payments, prohibiting premium increases for minor at-fault accidents meeting certain criteria,

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11 i.e., pain and suffering.


and requiring insurers to offer a premium discount for insurance consumers who use winter tires.

In addition, the 2015 Budget noted that where possible, the Government will ensure that “insurance coverages reflect the most relevant scientific and medical knowledge on identifying and treating injuries from automobile accidents.”\(^\text{14}\) To achieve this goal the Government amended Insurance Act Regulation 34/10 (Statutory Accident Benefits Schedule - Effective September 1, 2010) to update the definition of catastrophic impairment with up-to-date medical information and knowledge. The updated definition will apply to accidents that occur on or after June 1, 2016, and reflects the recommendations in the Superintendent’s Report on the Definition of Catastrophic Impairment in the Statutory Accident Benefits Schedule\(^\text{15}\) as well as feedback from a consultation process.

To provide consumers with more choices in purchasing automobile insurance, as well as to reduce costs in the automobile insurance system, the Government also amended Insurance Act Regulation 34/10 (Statutory Accident Benefits Schedule - Effective September 1, 2010) and Insurance Act Regulation 664 (Automobile Insurance) to change various aspects of insurance coverages. The standard benefit level for medical and rehabilitation benefits has increased, but now includes attendant care services. Consumers continue to have options to purchase higher limits. Other changes include a reduction in the standard duration of medical and rehabilitation benefits, and the reduction of the waiting period for non-earner benefits while limiting the duration of non-earner benefits. Lastly, there is now a requirement for goods and services not explicitly listed in the Statutory Accident Benefits Schedule (SABS) to be “essential” and agreed to by the insurer, and the standard deductible for comprehensive coverage has been increased.

Furthermore, increases to the deductible on court awards for non-pecuniary damages and the monetary thresholds beyond which the tort deductible does not apply became effective on August 1, 2015. On a going forward basis, beginning on January 1, 2016, all deductible and threshold amounts will be adjusted annually by the indexation percentage published under the Insurance Act. Consumers will continue to be able to customize their coverages to suit their needs.

1.7.3 Ongoing Initiatives

A few ongoing initiatives were announced prior to the introduction of Bill 15 and the 2015 Budget. There has been significant progress in the development of the proposed Minor Injury Guideline (MIG) and the development of the Minor Injury Treatment Protocol (MITP). In addition, the Government recently introduced additional road safety initiatives that may lead to further reductions in the frequency of automobile related accidents.


One of the recommendations in FSCO’s *Report on the Five Year Review of Automobile Insurance*\(^1\) (2009 Five Year Review Report) was to develop a MITP that reflected current scientific and medical knowledge. The report titled *Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person*\(^2\) (CTI Final Report) was released by FSCO in 2015, and FSCO invited stakeholders to submit feedback on the report. The CTI Final Report concluded that there is no scientific rationale or merit to continue to use the term “minor injury”, and proposed a new classification categorizing automobile collision injuries. With the new classification, the term “common traffic injuries” was introduced. The objective of the CTI Final Report was to develop care pathways that promote recovery from common traffic injuries. A quick reference guide for each care pathway is included as part of the CTI Final Report.\(^3\)

The Government anticipates that the new road safety rules that came into effect on September 1, 2015\(^4\) will enhance road safety and reduce the frequency of accidents. These new road safety initiatives are related to distracted driving, cyclist safety and tow truck and emergency vehicles safety.

In addition to these initiatives, in December 2014 in one its published bulletins FSCO highlighted\(^5\) a number of amendments made to specific regulations of the automobile insurance system, including two amendments to the SABS. The first amendment relates to the service provider licensing regime under which, effective December 1, 2014, automobile insurance claimants may obtain goods and services from both licensed and unlicensed service providers; however, only licensed service providers can receive payment directly from insurers. The second amendment affects the interest rate applied to overdue accident benefits payments by insurers. Beginning on January 1, 2015, the current interest rate of one per cent per month continues to apply but only until a mediation proceeding is commenced. Once the mediation proceeding is commenced, the interest rate changes to the prejudgement interest rate described in the Courts of Justice Act for past pecuniary loss.

### 1.7.4 FSCO Initiatives

In September 2015, FSCO published rate filings requirements directing companies to reflect the 2015/2016 Reforms. It also provided updates to the Strategy. In addition, a series of recommendations were made by the Superintendent of Financial Services (Superintendent) in

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the Superintendent’s Report on the Three Year Review of Automobile Insurance, 2014\textsuperscript{21} (2014 Three Year Review Report). Some of these recommendations are consistent with the initiatives outlined in Bill 15 and in the 2015 Budget. The Superintendent stresses through the report that although there are areas where the Government could consider making additional reforms, participants and stakeholders in the automobile insurance system may take leadership roles to contribute to the affordability and appropriate functioning of the system.

For the purpose of rate and risk classification systems approval, FSCO regularly updates its benchmark loss trend assumptions, and over the past few years has also published benchmark loss cost adjustment factors which isolate the effect of the 2010 Reforms. In the latest update, FSCO also included benchmark adjustment factors for the 2015/2016 Reforms.

Pertaining to the update of benchmark factors by FSCO, in the 2014 Annual Report, we recommended that:

FSCO continue to work with representative actuaries to determine which underlying aspects of the benchmark factors can and should be shared with actuaries. Increased understanding between FSCO and representative actuaries may increase transparency and reduce uncertainty in the future. A reduction in uncertainty will aid in reducing PPA insurance rates.\textsuperscript{22}

Through a number of initiatives, FSCO has demonstrated in the past year that it is making more information available to the industry in an effort to improve transparency.

The Government set an implementation date of June 1, 2016 for many elements in the 2015/2016 Reforms. In order to meet this implementation date, the Superintendent required all insurers writing non-fleet PPA insurance in Ontario to submit rate and risk classification filings by October 30, 2015. FSCO introduced two types of rate filings for the purpose of reflecting the 2015/2016 Reforms. The expedited filing process was designed for insurers who intended to use FSCO’s 2015/2016 Reforms benchmark factors, while the detailed filing process was designed for insurers who are not using all of FSCO’s 2015/2016 Reforms benchmark factors.

The 2014 Three Year Review Report noted that between August 2013 and August 2014 average rates declined by 6.03%. The 2014 Three Year Review Report also noted that “between July 1, 2013 and September 30, 2014, FSCO approved auto insurance rates that were almost 4.8% lower, on average, than the rates originally proposed in companies’ rate filing applications.”\textsuperscript{23} Comparing the decrease of 6.03% in rates against the 4.8% difference between rates originally proposed by insurers and those approved by FSCO, it appears that FSCO played a central role in decreasing rates.

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Moreover, the difference may indicate that there is a difference in interpretation between the views of FSCO and insurance companies. As such, as discussed in the 2014 Annual Report, we continue to encourage FSCO to involve FSCO’s Rating and Underwriting Technical Advisory Committee (RUTAC) early in any process that requires input and feedback, and where continued and increased interaction with RUTAC by FSCO may help reduce uncertainty and provide stability to automobile insurance rates.  

1.7.5 Insurance Industry Initiatives

Since the release of the 2014 Annual Report, the insurance industry has continued to focus on two key initiatives to reduce claim costs: usage based automobile insurance (UBI) and the use of Canadian National Insurance Crimes Services (CANATICS)’ technology and data analytics.

Insurers in Ontario continue to increasingly offer UBI as an option that may reduce claim costs and result in reduced premiums for automobile insurance policyholders. Insurers typically offer an enrollment discount of between 5% and 10% for policyholders who decide to subscribe to a UBI insurance policy. We understand from discussions with the MOF that companies representing 55% of the PPA insurance market in Ontario has been granted approval to offer UBI.

CANATICS became operational on April 1, 2015 and currently represents approximately 75% of the Ontario total automobile insurance market. CANATICS focuses on fighting organized and premeditated fraud. Ben Kosic, President & CEO of CANATICS told us that after a few short months of operations members have already reported that CANATICS is helping them detect possible fraudulent transactions that they could not have identified on their own.

1.7.6 Other Developments

An educational note 25 published by the Canadian Institute of Actuaries (CIA) describes a few recent court decisions and judicial events that are expected to impact claim emergence, and may have significant consequences on the work done by actuaries in relation to P&C insurance companies’ financial reporting.

In addition, the Government announced that Ontario will allow for the testing of autonomous vehicles 26 starting in 2016. Autonomous vehicles are expected to improve road safety, and


reduce automobile accident frequency. A white paper27 about autonomous vehicles published in 2015 by KPMG LLP in the U.S. (KPMG U.S.) presented a scenario where the potential decrease in total claim costs could reach about 40% from 2013 to 2040. Based on the expected impact that autonomous vehicles would have on road safety, the testing and eventual implementation of autonomous vehicles have the potential to lead to lower premiums for consumers in Ontario. There is no certainty of the timeframe over which autonomous vehicles may develop. However, the KPMG U.S. report notes that the first wave of full autonomous vehicles may become available to consumers starting in 2020.

Another development that occurred after the release of the 2014 Annual Report relates to FSCO. On March 3, 2015, the Government announced28 that it was launching a review of the mandates of FSCO, the FST and the Deposit Insurance Corporation of Ontario (DICO). Based on the outcome of the review, the Government will consider any necessary legislative changes. This review is expected to be completed by early 2016. A preliminary position paper29 was released on November 4, 2015.

1.8 Independent Actuarial Analysis of Impact of the 2010 Reforms

In the 2014 Annual report we estimated the impact of the 2010 Reforms on insurance claim costs for each Ontario automobile insurance coverage and sub-coverage. In the 2015 Annual Report we have updated this analysis based on the same approach used for the 2014 Annual Report and using more recent data as of December 31, 2014.

1.8.1 Impact of the 2010 Reforms on Insurance Claim Costs

There is a strong inter-dependency between the estimated claim cost trends (both pre- and post-2010 Reforms) and the impact of the 2010 Reforms on claim cost levels. Consequently estimates of claim cost trends, pre- and post-2010 Reforms, as well as the estimates of the impacts of the 2010 Reforms on claim cost levels should be extracted from the same modelling approach, with the same underlying data and assumptions, and should be read and interpreted conjointly for a given coverage and sub-coverage. In other words, the impacts of the 2010 Reforms on claim cost levels shown in the last column of Table 6-2, and summarized below, should not be used in combination with claim cost trends stemming from a different modelling approach or data source.

Table 1-1: Summary of Estimates of Claim Cost Trends and 2010 Reforms Impacts by Main Coverage

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Trends Pre-2010 Reforms</th>
<th>Trends Post-2010 Reforms</th>
<th>2010 Reforms Impacts on Claim Cost Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Third Party Liability and Underinsured Motorist</td>
<td>2.7%</td>
<td>2.5%</td>
<td>0%</td>
</tr>
<tr>
<td>Total Accident Benefits and Uninsured Automobile</td>
<td>15.2%</td>
<td>1.3%</td>
<td>-42.3%</td>
</tr>
<tr>
<td><strong>Total Compulsory Coverages</strong></td>
<td>9.9%</td>
<td>1.9%</td>
<td>-26.7%</td>
</tr>
<tr>
<td>Collision</td>
<td>0.8%</td>
<td>0.8%</td>
<td>0%</td>
</tr>
<tr>
<td>Comprehensive</td>
<td>-2.2%</td>
<td>-2.2%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total Physical Damages</strong></td>
<td>-1.9%</td>
<td>-1.9%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total All Coverages</strong></td>
<td>8.1%</td>
<td>1.5%</td>
<td>-22.7%</td>
</tr>
</tbody>
</table>

The table above shows that:

— The pre-2010 Reforms claim cost trend was significant at 9.9% per annum for Total Compulsory Coverages;

— The 2010 Reforms appear to have had a significant impact on claim cost trends; based on the first four years of data, the claim cost trend post-2010 Reforms is estimated at 1.9% for Total Compulsory Coverages; and

— With the 2010 Reforms, the reduction of average claim cost level is estimated at 26.7% for Total Compulsory Coverages.

Our main conclusion is that the above results based on data as at December 31, 2014 are reasonably consistent with our previous analysis based on data as at December 31, 2013 (2014 Annual Report).

1.8.2 Sensitivity Analysis on Post-2010 Reforms Loss Cost Trend Estimates

The long-term loss cost trends are leading indicators of the level of pressure on the premium levels. If the loss cost trend is high, then there is additional pressure to increase insurance rates. Thus, it is important for the industry and the MOF to regularly monitor whether these loss cost trends remain low.

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30 Trends and impacts of the 2010 Reforms are shown by sub-coverage in Table 6-2.
To detect early signals of a change in loss cost trends, we estimated indicated alternative trends using only the latest four years of loss experience for the main sub-coverages; in other words, estimating the trends based only on Post-2010 Reforms data.

A trend model based on the last four years of data generally leads to higher trend factors, in particular for Accident Benefits Disability income (approximately 2.4% higher than in our selected model). It also leads to higher trend factors for TPL-Direct Compensation (approximately 4.5%) and Physical Damage-Collision (approximately 3.6%).

As discussed in the actuarial analysis (Appendix A), the adverse claim frequency experience in the 2nd half-year of 2013 and in the 1st half year of 2014 has contributed to these results since using a shorter time period gives more weight to each data point in that period. The fact that the increase in indicated trend estimates also affected Direct Compensation and Physical Damage leads us to believe that the increase indicated trend estimate is caused more by adverse claim frequency than the changes resulting from the 2010 Reforms.

In order to contain the loss costs trends and reduce the pressure of future insurance rates, the 2015 and 2016 legislative changes need to be successfully implemented. In addition, the industry's current initiatives and innovations should contribute to reducing future insurance rates.

1.8.3 Progress Related to the Average Rate Reduction Target of 15%

Based on FSCO data as of the 3rd quarter of 2015, the post-2010 Reforms cumulative approved rate changes for the entire PPA insurance market is a decrease of 1.8% from rate filings approved by FSCO between the 2nd quarter of 2010 and the 3rd quarter of 2015. If rates are compared on a different time horizon – the period since the introduction of the Strategy in August 2013 – the approved rate changes for the entire PPA insurance market decreased by 6.8% from the 3rd quarter of 2013 to the 3rd quarter of 2015. From discussions with the MOF, we understand that the average authorized rate change measured in accordance with the regulation for Ontario PPA for the period between August 2013 and August 2015 was a decrease of 7.26%. Based on these measures, the Government did not achieve the Strategy’s goal of reducing the average rate by 15% from August 2013 to August 2015.

Reviewing official records from the Legislative Assembly31, we understand that the Government believes that key reforms were delayed when, as discussed in Section 5.1, Ontario’s 40th Parliament was dissolved. As a result, there was a six-month delay before Bill 15 received royal assent. This postponed the implementation of key reforms that stakeholders in the PPA insurance system were seeking, which in the Government’s opinion, contributed to a delay in the progress of reducing rates.

We understand that many stakeholders generally believe that the latest 2015/2016 Reforms are significant, but that it will take time for these reforms to result in further rate reductions.

1.9 Competitiveness of the Ontario PPA Insurance Market

There are a number of different ways of measuring competitiveness. For purposes of this report, we have used a simplified approach and have measured competitiveness using two metrics that are commonly used in a range of industries:

— Number of competitors offering the product and their relative market share; and
— Variability of prices for similar products.

At December 31, 2014:

— There were 62 companies offering PPA insurance in Ontario (with the top 10 insurance groups representing 31 of these companies); and

— There were 8 independent company groups who had more than 5% market share in the PPA insurance market with largest being at 15.5% market share (Intact).

For the Ontario PPA insurance market, we note that the recent market consolidation led to a decrease in the number of companies offering coverage in recent years. We also note that the top 10 company groups wrote approximately 86% of the total Ontario PPA insurance premiums in 2014. This is less than the comparable measure in the provinces of Alberta, where the top 10 companies account for 90% of the total, and of Quebec, where the top 10 companies account for 94% of the total premiums.

Based on a comparison of three insured profiles in seven different cities, we note that there are significant variations in premiums for the same coverage. This indicates that consumers who take the time to shop around and compare prices should be able to reduce their premiums. We also note that the range of premiums appears to be wider (i.e., more variability) for profiles and areas where insurance rates are higher (e.g., Toronto).

In addition to our analysis above, we share the following general observations:

— **Simplified Quoting Process:** many insurers have simplified their quoting process to encourage consumers to obtain premium quotes from their companies. We note that this contributes to improve access to different providers for PPA insurance for consumers in Ontario. This increases the likelihood that consumers will be able to save on their premiums and take advantage of the competitive environment in Ontario.

— **Rate Change Process:** on the other hand, the current process for implementing rate changes in Ontario limits the speed at which companies may react to rate changes by their competition and/or introduce innovative rating programs. Many insurers argue that the rate change process adds friction and limits the competitiveness of the PPA insurance market.
1.10 Observations and Recommendations

Based on our updated actuarial review, we conclude:

— The estimated impact of the 2010 Reforms on the loss costs (one-time impact) and on the Post-2010 Reforms loss cost trends have not changed significantly from our 2014 Annual Report. The loss cost trend is one of the important leading indicators of pressure on insurance rates. Based on the analysis completed for this report, the observed Post-2010 Reforms loss cost trends remain low; and

— Adverse claim frequency experience in the 2nd half of 2013 and the first half of 2014 have affected the industry results adversely.

Our actuarial analysis is based on data as of December 31, 2014 and therefore does not assess the impact of the 2015/2016 Reforms and more recent initiatives to further reduce premiums for Ontario drivers.

In this report, we describe many developments that have occurred since the release of the 2014 Annual Report. Some developments were already underway prior to the release of the 2014 Annual Report, while other developments were consistent with our recommendations from the 2014 Annual Report. Many developments went beyond our recommendations in an effort to accelerate the decrease in average premiums. Specifically, FSCO has increased its efforts to be more transparent. We encourage these efforts, and suggest that FSCO should consider increasing the documentation available on its website related to its historic and current work, such as a record of FSCO’s historically selected benchmark factors as summarized in Section 5.4.1.

We expect the developments since the release of the 2014 Annual Report to contribute to decreasing loss cost levels and thus, contributing to downward pressure on insurance rates. Many factors can influence the level of future claims and, consequently, the pressure on decreasing insurance rates in the future. Examples of these factors include:

— Actual impact of the 2015/2016 Reforms and the more recently introduced initiatives (i.e., changes subsequent to the period covered by our actuarial analysis);

— Changes to the expected Post-2015/2016 Reforms loss cost trends (and possible erosion of some elements of the 2010 Reforms);

— Future landmark court decisions and judicial events affecting automobile claim settlements;

— Impact of weather-related events on claim level; and

— Effect of development on prior year estimated ultimate losses (i.e., actual claims being reported at a different rate than expected).

We believe that it is important to continue monitoring the effectiveness of the 2010 Reforms and the impact of the 2015/2016 Reforms, as well as more recently introduced initiatives. Specifically, we make the following recommendations:
— **Estimates of the expected impact of the 2015/2016 Reforms and more recent initiatives:** Many insurance companies that have prepared rate filings have had to develop an estimate of the impact of the 2015/2016 Reforms; some actuarial consulting firms have done so as well. We believe that valuable information could be obtained by performing a survey to capture this information (e.g. the impact on claim frequency and claim severity). Otherwise the information will not be available until it is measured through an analysis of actual industry claim data as of December 31, 2016. Data as of December 31, 2016 will not be available until mid-2017.

— **Overall performance of the 2010 Reforms as perceived by various stakeholders:** We believe that it is important to continue monitoring the impact and performance of the 2010 Reforms and the 2015/2016 Reforms as perceived by various stakeholders to identify possible issues (e.g. areas where reforms are not being effective or misunderstood) early on. We believe that maintaining regular contacts with stakeholders to seek their opinion will keep the Government abreast of the latest developments.

— **Annual independent actuarial analysis:** We believe that it is also important to continue to perform annual independent actuarial analyses to monitor and identify factors influencing the pressure on insurance rates, such as recent loss cost trends, the impact of developments on prior year estimates, and the impact of recurring or non-recurring weather events.

— **Monitor competitiveness:** We believe that it may be important to continue monitoring the competitiveness of the Ontario PPA insurance market and consider developing other metrics of competitiveness. A competitive marketplace where a variety of rates are offered by different insurers allows consumers to shop effectively and potentially decreasing their insurance costs. As a result, a competitive marketplace will likely contribute to decrease the overall average premiums paid by Ontario drivers.
2 INTRODUCTION

In September 2010, the Government introduced the 2010 Reforms to the Ontario automobile insurance system with the intent to control insurance costs, increase choices available to consumers, and simplify processes in the automobile insurance system. Further to these 2010 Reforms, the Government initiated the Strategy as part of the 2013 Budget. As part of the Strategy, and with the goal to increase transparency and accountability, the MOF engaged KPMG to produce three independent reports: the Interim Report, the 2014 Annual Report, and the 2015 Annual Report. We delivered the Interim Report to the MOF on April 14, 2014 and the 2014 Annual Report on November 7, 2014. Both reports are available on the MOF’s website. This report is the 2015 Annual Report.

2.1 Distribution and Use

We understand that the 2015 Annual Report will be a publicly available document. We consent to such distribution on the condition that the Government will distribute this report in its entirety including all text and supporting appendices rather than any excerpts.

Any use or reliance on the 2015 Annual Report by any third party is done at their own risk. KPMG will not be liable for the consequences of any third party acting upon or relying upon any information or conclusions contained in this report. The appendices attached in support of our findings are an integral part of the 2015 Annual Report. Judgments about the conclusions drawn in this report should be made only after considering the 2015 Annual Report in its entirety. In the event that the 2015 Annual Report is made available in different languages (e.g., French) or in a different format than Adobe portable document format (PDF), and in the event that there are any discrepancies between those versions and the PDF version in English, the PDF version in English shall prevail.

2.2 Confidentiality and Conflict of Interest

As with all our client engagements, we approach the 2015 Annual Report with strict confidentiality.

KPMG has a dedicated insurance practice, comprising audit, tax and advisory professionals. We also have a substantial actuarial practice. Through our experience providing services to the insurance sector, as well as our involvement with other organizations related to the automobile insurance sector, we have developed extensive knowledge about Ontario’s automobile insurance system. Based on this background we bring a broad objective approach to this report, and are well positioned to provide the services required by the MOF.

All KPMG team members are subject to strict rules governing professional conduct as set out by KPMG’s internal policies. Furthermore, all Fellows and Associates of the Canadian Institute of Actuaries (CIA) and the Casualty Actuarial Society (CAS) are subject to the Rules of Professional Conduct of these organizations, as are members of the Chartered Professional Accountants of Ontario (CPA Ontario), who are subject to similar rules of professional conduct concerning independence and conflicts of interest. The maintenance of strict client confidentiality is a cornerstone of the codes of conduct of KPMG, as well as of those of the CIA, the CAS and CPA Ontario. In accordance with the above-mentioned codes of conduct, we are free of any conflict of interest in producing the 2014 Annual Report for the MOF.
3 STATEMENT OF THE ISSUE

3.1 Background

Chapter IV of the 2013 Budget states the following:

From 2006 to 2010, Ontario experienced a substantial increase in claim costs due to fraud in the system and overutilization of benefits. The significant increase in costs was primarily caused by increases in accident benefits claim costs (for example, exams and assessments, attendant care and housekeeping). While claim costs for repairs to physical damage to vehicles remained stable, claim costs for certain benefits more than doubled.

In September 2010, the government introduced major reforms to Ontario’s auto insurance system to address the substantial increase in claim costs. The September 2010 reforms controlled costs, increased consumer choice and simplified processes in the auto insurance system. As a result of the reforms and ongoing government action, costs have been reduced and rates have stabilized, and are now starting to decline.

The Government initiated the Strategy as part of the 2013 Budget. The key elements of the Strategy pertain to anti-fraud measures, an average PPA insurance rate reduction target of 15%, licensing of healthcare providers in the automobile insurance system, transformation of the AIDRS, and creation of “a transparency and accountability mechanism in the form of an independent annual report by outside experts on the impact of auto insurance reforms introduced to date on both costs and premiums.” The 2013 Budget also called upon insurers to offer lower rates for consumers with safe driving records.

As noted above, one of the key components of the Strategy involves a reduction target for the average Ontario PPA insurance rate. As the total premium paid by policyholders is dependent on many variables, which can change from one policy period to the next, it is important to

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34 Throughout this report, any references to the Government’s targeted average automobile insurance rate reduction pertain to the Government’s average automobile insurance rate reduction target of 8% by August 2014 and 15% by August 2015.


36 Some examples of variables include level of coverage purchased and type of vehicle insured.
recognize that a reduction in PPA insurance rates is not analogous to a reduction in automobile insurance premiums.\textsuperscript{37}

Further to the 2010 Reforms and the Strategy, the Government has introduced numerous changes and reforms introduced in late 2014 through Bill 15, as well as others that were implemented and announced throughout 2015. These reforms have effective dates over the course of 2015 and 2016, and are grouped under the term “2015/2016 Reforms.”

3.2 Purpose and Scope of 2015 Annual Report

In order to promote transparency and accountability, the MOF engaged KPMG to review the Ontario automobile insurance industry costs as well as changes to automobile insurance premiums paid by Ontario drivers and to make recommendations on further actions that may be considered in order to meet the Government’s average automobile insurance rate reduction targets proposed in the 2013 Budget. In addition to the 2014 and 2015 Annual Reports, the MOF requested KPMG to prepare an Interim Report in advance of the 2014 Annual Report to address certain specific issues. As agreed in our engagement with the MOF, the 2015 Annual Report summarizes quantitative and qualitative analyses that were designed to:

— Provide a qualitative review of legislative and regulatory actions that have occurred since the 2014 Annual Report, including a discussion of the ongoing progress of the Strategy, as well as new initiatives that the Government introduced to alleviate cost pressures within the Ontario PPA insurance system;

— Update of the actuarial analysis of the impact of 2010 Reforms that was performed for the 2014 Annual Report; and

— Report on the competitiveness of the Ontario PPA insurance market.

\textsuperscript{37} For example, when a policyholder increases the level of coverage purchased (e.g., by increasing the limits of coverage, or lowering the deductibles), the premium charged to that policyholder will increase, even if rates remain stable. Other factors, such as a change in the vehicle insured, could also affect the premium even if rates remain stable.
4 APPROACH

The following three steps were used to support the findings and recommendations presented in the 2015 Annual Report:

— Review of developments in various areas of the Ontario PPA insurance system since the issuance of the 2014 Annual Report on November 7, 2014, including discussions on:
  — Bill 15, *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*,\(^{38}\)
  — 2015 Budget;\(^{39}\)
  — Ongoing initiatives;
  — FSCO;
  — Insurance industry; and
  — Other developments;

— Analysis of the GISA data as at December 31, 2014\(^ {40}\); and

— Comparison of the number of insurers who provide PPA insurance in Ontario and other provinces, as well as the spread of premiums charged for drivers exhibiting similar characteristics across the province.

4.1 Review of Developments Since the 2014 Annual Report

To review the developments of the Ontario PPA insurance system since the issuance of the 2014 Annual Report, we rely on:

— Our knowledge about Ontario’s PPA insurance system;
— The Government’s websites;
— FSCO’s website;
— The website of the National Association of Insurance Commissioners;
— The website of the Canadian Institute of Actuaries;
— Interview with the President & CEO of CANATICS; and

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\(^{40}\) GISA publishes exhibits presenting historical accident year loss development, reported at the end of successive six-month periods for the latest fifteen year. These exhibits are published twice a year. The year-end report, including data as of December 31 of the previous year, is usually published in June or July and the mid-year report, including data as of June 30 of the same year, is usually published in November or December. The data presented in the December 31, 2014 exhibits are the most recent data available.
4.2 Analysis of GISA Data

GISA\(^{41}\) is a statistical agency that collects property and casualty (P&C) insurance statistics on behalf of insurance regulators across Canada. In general, the data collected by GISA is used by actuaries for purposes such as ratemaking and estimation of policy liabilities of insurance products. All P&C insurers underwriting automobile insurance policies in Ontario are required to provide prescribed data to the Automobile Statistical Plan\(^{42}\) (ASP). The prescribed data includes exposures (i.e., number of vehicles insured in a given period), premium written, incurred claims and paid claims. Claim data is generally summarized on an accident year basis, which is one of the most common aggregation methods used by actuaries.

For the 2014 Annual Report, the latest available GISA data was as of December 31, 2013. The independent actuarial analysis performed for the 2015 Annual Report relies on GISA data as of December 31, 2014.\(^{43}\) Appendix A contains our independent actuarial analysis.

4.3 Competitiveness of the Ontario PPA Insurance Market

To provide a commentary on the competitiveness of the Ontario PPA insurance market, we compared the number of insurers who provide PPA insurance in Ontario and other provinces, as well as the spread of premiums charged for drivers exhibiting similar characteristics across the province. The data presented for the number of insurers providing PPA insurance is aggregated from MSA Research Inc.,\(^{44}\) which is an independent analytical research firm that provides access to the complete regulatory financial statements for about 90% of Canadian P&C insurance and reinsurance companies. To analyse the spread of premiums for different driver profiles, we used FSCO’s online interactive tool.\(^{45}\)


\(^{43}\) GISA publishes exhibits presenting historical accident year loss development, reported at the end of successive six-month periods. These exhibits are published twice a year. The year-end report, including data as of December 31st of the previous year, is usually published in June or July. The mid-year report, including data as of June 30\(^{th}\) of the same year, is usually published in November or December.


DEVELOPMENTS SINCE THE 2014 ANNUAL REPORT

There have been a number of developments affecting various areas of the Ontario automobile insurance system since the issuance of the 2014 Annual Report on November 7, 2014, including the following:

— Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014, received royal assent on November 20, 2014;

— Several regulations under the Insurance Act were amended effective December 1, 2014 and January 1, 2015;

— The final report of the Ontario Protocol for Traffic Injury Management Collaboration (OPTIMa), titled Enabling Recovery from Common Traffic Injuries: a Focus on the Injured Person (CTI Final Report) was delivered to FSCO in December 2014;

— A review of the mandates of FSCO was launched on March 3, 2015;

— CANATICS, a non-profit organization focused on fighting insurance crime, was launched on April 1, 2015;

— The 2015 Budget, presented on April 23, 2015, outlined significant actions and reforms that the Government plans to act on, which are designed to continue “to protect auto insurance consumers and ensure affordable premiums.”

— Bill 31, Transportation Statute Law Amendment Act (Making Ontario’s Roads Safer), 2015, received royal assent on June 2, 2015;


— FSCO released the CTI Final Report on July 3, 2015 and invited stakeholders to submit feedback, by July 31, 2015, on the potential impacts of the recommendations in the CTI Final Report on them as a stakeholder\(^{53}\);

— The *Superintendent’s Report on the Three Year Review of Automobile Insurance, 2014*\(^{54}\), prepared by FSCO as at December 2014, was tabled by the Minister of Finance on July 31, 2015;

— FSCO updated the benchmark assumptions for PPA insurance presented in Exhibit 2 of FSCO’s *Technical Notes for Automobile Insurance and Risk Classification Filings*\(^{55}\) in February and September 2015;

— FSCO released the actuarial document titled *Analysis of Loss Trend Rates for Ontario Private Passenger Automobile Insurance*\(^{56}\) in October 2015;

— FSCO continued to release notices providing an overview of the PPA insurance rate changes approved or ordered by FSCO for filings reviewed in each quarter.\(^{57}\) The most recent notice, related to rate changes approved during the third quarter of 2015, was released on October 15, 2015;

— The Ontario Superintendent issued Orders, in September 2015, requiring all insurers writing non-fleet PPA insurance to submit a rate and risk classification filing to FSCO, reflecting the anticipated cost savings flowing from the 2015/16 Reforms, no later than October 30, 2015;

— FSCO issued the *Private Passenger Automobile 2015 Reform Rate Filing Guidelines*\(^{58}\) (FSCO’s PPA 2015 Reform Filing Guideline) on September 11 2015;

— David Marshall, President and CEO of the Workplace Safety and Insurance Board (WSIB), was appointed on October 8, 2015 as advisor to the Minister of Finance on automobile insurance and pension issues\(^{59}\);


— The Ministry of Transportation issued a news release⁶⁰ on October 13, 2015, outlining Ontario’s commitment to support the testing of automated vehicles starting January 1, 2016; and


Some of these developments, as well as others that have occurred since the issuance of the 2014 Annual Report, are discussed in more detail in this section. Some of the recent court decisions that are relevant to Ontario automobile insurance system are discussed as well.

5.1 Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014

Between March and April of 2014, the Government tabled Bill 171, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014⁶² and Bill 189, Roadside Assistance Protection Act, 2014⁶³. Both of these bills died on the order paper when Ontario’s 40th Parliament was dissolved on May 2, 2014. Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014, a new Bill combining Bill 171 and Bill 189, was tabled by the Government on July 15, 2014 and received royal assent on November 20, 2014. According to the news release issued by the MOF on November 20, 2014, Bill 15 will help the Government “continue to fight fraud and abuse, reduce costs and uncertainty in the auto insurance system”,⁶⁴ with the aim to ultimately reduce the cost of automobile insurance in Ontario.

Aspects of Bill 15 include:

— Consumer protections specific to the vehicle towing and storage industries in Ontario;
— Transformation of Ontario’s AIDRS;
— Changes to the prejudgment interest rates⁶⁵ resulting in an alignment of the prejudgment interest rate with market conditions; and
— Modernization of the process to discipline insurance agents and adjusters.

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⁶⁵ For damages for non-pecuniary loss arising from the use or operation of an automobile.
The following Acts are amended by Bill 15:

- Consumer Protection Act, 2002;
- Highway Traffic Act;
- Insurance Act;
- Repair and Storage Liens Act;
- Financial Services Commission of Ontario Act, 1997;
- License Appeal Tribunal Act, 1999; and
- Motor Vehicle Accident Claims Act.

This section highlights the result of these amendments, as well as the current implementation status.

5.1.1 Tow and Storage Services

Bill 15 amended the CPA, to establish consumer protection measures specific to towing and storage services in addition to new compliance authorities. It also amends the Repair and Storage Liens Act (RSLA) to address storage notification and related issues.

The consumer protection measures included in Bill 15 cover many different areas such as authorization, insurance, information disclosure, deviation from estimated amounts, invoicing, rate publication, access to personal property, as well as the authority of a towing and storage consumer’s Bill of Rights.

Under the amendments, tow and storage providers would be required to obtain authorization from the consumer before providing the towing and storage services and requesting payment for the provision of such services. In addition, tow and storage providers who fail to maintain and provide evidence of prescribed insurance coverage for prescribed kinds of liability will be prohibited from demanding or receiving payment from consumers for tow and storage services provided while failing to maintain the prescribed insurance coverage. Furthermore, pursuant to the amendments, tow and storage providers must make a current statement of rates available publicly, and cannot charge an amount that is greater than the usual amount for the same service merely because the cost is to be paid by the insurer or another third party. Providers are also required to provide itemized invoices and to provide consumers access to the property contained in the vehicle within certain prescribed times without charge.

The CPA amendment also require tow and storage providers to disclose information to consumers such as the address of the location where the vehicle will be taken, and whether they have any interests in the location to which a vehicle is towed. Moreover, tow and storage providers must keep detailed records of the situation and payments of each vehicle serviced in order to receive payment for services. The amendments also give inspectors the power to enter a place of business to proactively inspect for compliance with the CPA.

The RSLA amendments provide regulation making authority to address the notification period as well as other measures related to the determination of fair value of repair and storage.

Bill 15 also amended the HTA in two main areas:
— The regulation of commercial motor vehicles and tow trucks; and
— The enforcement of the HTA through the addition of administrative penalties.

With the amendments, tow truck operators will be required to obtain a CVOR certificate from the Ministry of Transportation as defined by relevant regulation. The legislation also provides the Lieutenant Governor in Council authority to make regulations governing issues such as the installation of a device capable of recording and transmitting data about the operation of the vehicle, as well as the conduct of the driver and the imposition of administrative penalties for contravention of prescribed provisions. Failure to comply may result in penalties of up to $20,000.

5.1.1.1 Implementation Status

The provisions of Bill 15 amending the CPA to provide for new inspection powers came into effect on April 1, 2015. According to a news release from the Ministry of Government and Consumer Services dated March 26, 2015, before April 1, 2015:

Enforcement of the Consumer Protection Act relies on formal consumer complaints or inquiries and there is no authority for the government to proactively inspect a business.

With these new changes, inspectors will be able to:

— Proactively enter a place of business in Ontario
— Examine documentation relevant to an inspection
— Require the person being inspected to cooperate in the inspection
— Issue orders to address and correct consumer issues, where appropriate.  

A 19-member towing and storage stakeholder panel, representing municipalities, policing services, vehicle towing and storage, vehicle financing and leasing, insurance and other sectors, assisted the Government with the policy development for proposed draft regulations to be made under the CPA and the RSLA. The panel, which met between February and May of 2015, issued a report titled Towing and Vehicle Storage Consultations: Findings and Recommendations Report in June 2015.

With respect to towing and vehicle storage, proposed draft regulations under the CPA and the RSLA were posted for consultation on September 16, 2015, and comments were due October


31, 2015. A summary report titled *Proposed Towing and Vehicle Storage Regulatory Changes*\(^{69}\) provides further details with respect to the proposed towing and vehicle storage regulatory changes. On December 17, 2015, the government announced new regulations amending the RSLA, CPA, and HTA\(^ {70}\) related to consumer protection for drivers using towing and vehicle storage services. Amendments to the RSLA will be proclaimed and the new regulation will take effect on July 1, 2016. Amendments to the CPA and HTA will take effect on January 1, 2017.

### 5.1.2 Dispute Resolution System

The AIDRS, the current system helping claimants and insurance companies resolve disputes related to accident benefits claims, will undergo a transformation as a result of Bill 15. With amendments to the *Insurance Act*, the *Financial Services Commission of Ontario Act, 1997*, the *Licence Appeal Tribunal Act, 1999* and the *Motor Vehicle Accident Claims Act*, the AIDRS will move from FSCO to the Ministry of the Attorney General’s Licence Appeal Tribunal (LAT). Under the provisions of Bill 15, the current system of arbitrators and mediators will be replaced, with all disputes to be dealt with by LAT. With amendments to the *Licence Appeal Tribunal Act, 1999*, parties in a dispute will have the right to appeal a decision from LAT to the Divisional Court. In addition, similar to the current arrangement where FSCO assesses insurers for costs related dispute resolution, the Lieutenant Governor in Council will be able to assess insurers for the costs that the LAT would incur to administer the new AIDRS.

#### 5.1.2.1 Implementation Status

The Government is currently working on the transformation of the AIDRS and its transfer to LAT. As noted in the 2015 Budget,\(^ {71}\) “the new DRS (Dispute Resolution System) will be housed within the Ministry of the Attorney General’s Licence Appeal Tribunal and will begin accepting accident benefit dispute applications on April 1, 2016.” On September 24, 2015, the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) provided an update on the AIDRS project\(^ {72}\). In the update, SLASTO noted that “an Advisory Committee has been meeting regularly to provide high-level advice to SLASTO on the design and implementation of the new dispute resolution system at LAT.” Moreover, the Government is currently recruiting new appointees to LAT; adjudicative members of LAT are publicly appointed by the Lieutenant Governor in Council, based on recommendation from the Attorney General, “in order to maintain

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independence in their decision making.\(^{73}\) SLASTO noted that training, with a focus on the Statutory Accident Benefits regulation and auto insurance benefits dispute resolution, will be provided to the appointed adjudicators.

### 5.1.3 Prejudgment Interest

Bill 15 amended the Insurance Act by adding a new sub-section stating that the “Courts of Justice Act does not apply in respect of the calculation of prejudgment interest for damages for non-pecuniary loss in an action referred to in subsection (8).\(^{74}\) As noted in FSCO Bulletin No. A-15/14, *Proclamation Date for Amendment to Prejudgment Interest Rate*:

The result of this amendment is the alignment of the prejudgment interest rate used in calculating court awards for non-pecuniary\(^ {75}\) losses made under a motor vehicle liability policy with the rate determined under the Courts of Justice Act, as it may be revised from time to time.\(^ {76}\)

In practice, this amendment will result in the same pre-judgment interest rate being applied to court awards for non-pecuniary and pecuniary losses.

#### 5.1.3.1 Implementation Status

The alignment of the prejudgment interest rate applicable on court awards made under a motor vehicle liability policy was effective January 1, 2015. Starting on this date, the 5% prejudgment interest rate that had previously been used in calculating court award for non-pecuniary losses no longer applies. Instead, a rate consistent with the prejudgment interest rate used for pecuniary losses is to be used. The Ministry of the Attorney General updates the prejudgment interest rate on a quarterly basis.\(^ {77}\) In the first quarter of 2015, the prejudgment interest rate was set at 1.3%. The rate then decreased further from 1.3% to 1.0% effective in the second quarter of 2015 and remains at 1.0% for the third and fourth quarters of 2015.

The first Ontario Superior Court of Justice to address whether the amendment to the prejudgment interest rate applies to accidents that occurred prior to January 1, 2015 was the case of *Cirillo v. Rizzo, 2015 ONSC 2440*. Another case, *El-Khodr v. Lackie, 2015 ONSC 2824*


\(^{75}\) i.e., pain and suffering.


disagrees with the decision rendered in *Cirillo v. Rizzo*. Further information regarding these court cases is included in Section 5.6.1.

### 5.1.4 Insurance Agent and Adjuster Disciplinary Hearing Process

Bill 15 amended the *Insurance Act* to update the disciplinary process for insurance agents and adjusters. The Financial Services Tribunal (FST) “will now adjudicate all agent and adjuster disciplinary matters, including administrative monetary penalties. This change aligns insurance with other sectors regulated by FSCO.”\(^78\) The process for all disciplinary matters commenced before January 1, 2015, included a disciplinary hearing before an advisory board hearing panel, which in turn would make a recommendation on the appropriate action to the Superintendent of Financial Services (the Superintendent). The Superintendent would then review the recommendation and issue a decision, but the decision could be different than the recommendation. This process had been in place for over 90 years.\(^79\)

The new process is designed to streamline disciplinary actions and to improve consumer protection, providing “some additional powers to the Superintendent relating to the licensing and regulation of agents and adjusters.”\(^80\) Under the new process, the Superintendent is to set out its proposal for regulatory action. Under certain situations, the Superintendent has the ability to issue an interim order. The affected insurance agent or broker may request a hearing before the FST, and FST orders can then be appealed to the Divisional Court.

#### 5.1.4.1 Implementation Status

The change in the insurance agent and adjuster disciplinary hearing process came into effect on January 1, 2015. A transition provision deals with matters that were commenced prior to January 1, 2015 before an advisory board hearing panel.

As noted in FSCO’s response to frequently asked questions related to the insurance agent and adjuster disciplinary hearing process, the amendments to this disciplinary hearing process “do not impact auto insurance premiums.”\(^81\) Nevertheless, improvements in this disciplinary process would likely improve consumer protection and aligns with the Government’s intent in the 2015 Budget.

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5.2 2015 Budget

Building on Bill 15, the 2015 Budget\(^{82}\) announced additional actions that the Government will take to protect consumers of automobile insurance and to ensure affordable premiums. This section highlights the actions mentioned in the 2015 Budget that are not part of Bill 15 as well as the current implementation status.

5.2.1 Consumer Protection

As part of the 2015 Budget, the Government announced additional actions to increase consumer protection and reduce auto insurance costs. These measures include decreasing the maximum interest rate charged on monthly automobile insurance premium payments, prohibiting premium increases for minor at-fault accidents meeting certain criteria, and requiring insurers to offer a premium discount for insurance consumers who use winter tires.

5.2.1.1 Implementation Status

As noted in FSCO Bulletin No. A-06/15 Changes to Automobile Insurance Regulations; Guideline Update,\(^{83}\) (FSCO Bulletin A06/15) amendments were made to Ontario Regulation 664 (Automobile Insurance)\(^{84}\) to act on the announcements made in the 2015 Budget.

The decrease in the maximum interest rate that can be charged on installment (e.g., monthly) premium payments will be effective for policies issued or renewed on or after June 1, 2016. For policies that are twelve months or more, the maximum rate is 1.3\% (the current maximum rate is 3\%); for policies that are six months or more but less than twelve months, the maximum rate is 0.65\%; and for policies that are less than six months, the maximum rate is 0.22\%. The current maximum specified interest rates continue to apply for policies issued or renewed before June 1, 2016.

Under the amendments made to Ontario Regulation 664, a minor accident occurring on or after June 1, 2016 cannot be taken into consideration by insurers in deciding whether to issue, renew or cancel a contract or in determining the premium for an automobile insurance policy. Minor accidents are defined by the following criteria:

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— No personal injuries were sustained as a result of the accident; and
— No payment was made by any insurer with respect to damage to any automobile or property resulting from the accident.\(^{85}\)

An exception would allow insurers to take into consideration a minor accident occurring on or after June 1, 2016 if any automobile that were or would be covered by the insurance contract were involved in more than one minor accident within the previous three years and, in any of those accidents, the driver of that automobile was at fault.

FSCO Bulletin No. A-05/15, *Amendments to Automobile Insurance Legislation and Regulations*\(^{86}\) (FSCO Bulletin A05/15), announced that Ontario Regulation 664 (*Auto Insurance*) was amended to require insurers to offer a discount to policyholders for the use of winter tires. Pursuant to this bulletin, winter tire discounts have been filed by insurers and approved for use on policies issued or renewed on or after January 1, 2016. Insurers were also allowed and encouraged to implement the discount at an earlier date where feasible. The impact of insurers implementing winter tire discounts was included in the third quarter approved rate changes released by FSCO. In addition, insurers must notify policyholders of the availability of the new discount.

### 5.2.2 Catastrophic Impairment Definition

Under the heading “Scientific and Evidence-based Approaches”, the Government noted in the 2015 Budget that where possible it will ensure that “insurance coverages reflect the most relevant scientific and medical knowledge on identifying and treating injuries from automobile accidents.”\(^{87}\) To achieve this goal the Government proposed to amend *Insurance Act* regulations to update the definition of catastrophic impairment with up-to-date medical information and knowledge.

#### 5.2.2.1 Implementation Status

FSCO Bulletin A06/15 advised that the updated definition of catastrophic impairment will apply to accidents that occur on or after June 1, 2016. The updated definition reflects the recommendations in the *Superintendent’s Report on the Definition of Catastrophic Impairment in the Statutory Accident Benefits Schedule*\(^{88}\) as well as feedback from a consultation process,

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whereby stakeholders responded to details of the proposed amendments to Insurance Act Regulation 34/10 (*Statutory Accident Benefits Schedule - Effective September 1, 2010*).\(^8^9\) The proposed update to the definition of catastrophic impairment has since been approved. Regarding the updated definition, FSCO Bulletin A06/15 noted that:

- The definition includes new and/or updated definitions and criteria for traumatic brain injuries for adults and children, amputations, ambulatory mobility, loss of vision, and mental and behavioral impairments, and introduces a new process for combining physical with mental and behavioral impairments.

- The revised definition also provides for an automatic designation of catastrophic impairment for children with traumatic brain injuries in specified circumstances.\(^9^0\)

### 5.2.3 Changes to Coverage, Available Options, and Standard Deductible

In an effort to provide consumers in Ontario with more choices in purchasing automobile insurance that suits their needs, as well as to reduce costs in the automobile insurance system, the 2015 Budget noted that the Government will amend the *Insurance Act* regulations to:

- Change the standard benefit level for medical and rehabilitation benefits to $65,000 (from $50,000) and include attendant care services under this benefit limit. Consumers will also have an option to increase that coverage up to $1 million;

- Include attendant care services with the $1 million medical and rehabilitation benefit for catastrophic impairments, and provide the option for additional coverage of $1 million, for $2 million in total coverage;

- Reduce the standard duration of medical and rehabilitation benefits from 10 years to five years for all claimants except children;

- Eliminate the six-month waiting period for non-earner benefits and limit the duration of non-earner benefits to two years after the accident;

- Require goods and services not explicitly listed in the Statutory Accident Benefits Schedule (SABS) to be “essential” and agreed to by the insurer; and

- Change the standard deductible for comprehensive coverage to $500 from $300.\(^9^1\)

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The Government will work with the insurance industry to communicate changes to the standard automobile insurance policy in order for consumers to make informed decisions related to changes in optional coverages.

5.2.3.1 Implementation Status

On May 14, 2015 the Government posted the Proposed Amendments to Insurance Act Regulation 34/10 (Statutory Accident Benefits Schedule - Effective September 1, 2010) and Insurance Act Regulation 664 (Automobile Insurance). FSCO Bulletin A06/15 provides additional details about these changes, including a comparison to the current coverage options where applicable. The bulletin also elaborates on the following optional benefits that were not mentioned in the 2015 Budget:

— A new combined optional medical, rehabilitation and attendant care benefit of $130,000 will be available to consumers in addition to the existing optional $1 million combined medical, rehabilitation and attendant care benefit that is available currently.

— The current optional $100,000 medical and rehabilitation benefit and $72,000 attendant care benefit have been eliminated.

The same bulletin noted that the duration of the non-earner benefit is changed to two years following an accident, with the initial waiting period reduced from six months to four weeks. FSCO Bulletin A06/15 also clarified that professional attendant care benefit is limited to actual expenses incurred when lower than the monthly amount assessed under Form 1. The hourly rates for attendant care have been increased and the new Attendant Care Hourly Rate Guideline was attached to FSCO Bulletin A06/15. Furthermore, the Professional Services Guideline (PSG) defining the hourly rates for professional services were not updated after the Superintendent’s annual review of the PSG.

Moreover, the Statutory Accident Benefits Schedule (SABS) has been amended to require that an insurer agrees that goods and services not explicitly identified under the medical and rehabilitation benefit clauses are essential for the treatment and rehabilitation of the injured person. The current eligibility requirement for these goods and services is “reasonable and necessary”. The amendment applies to all accidents occurring on or after June 1, 2016.

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As discussed in Bulletin No. A-08/15, FSCO formed a working group of FSCO staff and insurance industry representatives to develop a point-of-sale disclosure document with the objective to inform consumers about the new coverage options effective June 1, 2016. Insurers are expected to include this document with all automobile insurance policies, whether the policies pertain to new business or renewals, effective on or after June 1, 2016.

FSCO issued Bulletin No. A-09/15, Auto Insurance Reforms and Policyholder Communications, Part 1, on November 10, 2015, which discusses FSCO’s expectation of how insurers should communicate the 2015/2016 Reforms to consumers. Insurers are expected to send an early awareness mailer to existing policyholders no later than March 31, 2016.

5.2.4 Adjustments for Inflation

As part of the 2015 Budget and in order to reflect inflation since 2003 as well as account for future inflation, the Government announced that it would propose amendments to the Insurance Act and regulations to adjust the deductible on court awards for non-pecuniary damages and the monetary thresholds beyond which the tort deductible does not apply. In addition, the Government proposed to “allow for the effect of the tort deductible to be taken into account when determining a party’s entitlement to costs in an action for damages from bodily injury or death arising directly or indirectly from the use or operation of an automobile.”

5.2.4.1 Implementation Status

The adjustments for inflation are discussed in FSCO Bulletin A05/15. We estimate the annualized rate of inflation used to make the adjustments to the monetary threshold between 2003 and 2015 to be approximately 1.7%.

The tort deductible amount on court awards for non-pecuniary damages was adjusted to $36,540 for the period of August 1, 2015 to December 31, 2015. The previous fixed amount was $30,000. The deductible amount for non-pecuniary damages under clause 61(2)(e) of the Family Law Act was adjusted to $18,270 for the same time period. The previous fixed amount was $15,000. Both deductible amounts will be adjusted annually, beginning on January 1, 2016, by the indexation percentage published under the Insurance Act.

In the case of damages for non-pecuniary loss, the monetary threshold beyond which the deductible amount of $36,540 does not apply has been adjusted from $100,000 to $121,799 for the period of August 1, 2015 to December 31, 2015. In the case of damages for non-pecuniary

loss under clause 61(2)(e) of the *Family Law Act*, the monetary threshold beyond which the deductible amount of $18,270 does not apply is adjusted from $50,000 to $60,899 for the same time period. Both threshold amounts will be revised annually, beginning on January 1, 2016, by the indexation percentage published under the *Insurance Act*.

FSCO Bulletin A05/15 also noted that the *Insurance Act* has been amended “to require that the tort deductible be taken into account when determining a party’s entitlement to costs in an action for damages from bodily injury or death arising directly or indirectly from the use or operation of an automobile.”

The amendments to Insurance Act Regulation 461/96 note that “existing optional coverage (Added Coverage to Offset Tort Deductibles) to reduce the tort deductible amounts will remain unchanged, and consumers will continue to have options to customize their coverages to suit their needs.”

### 5.3 Ongoing Initiatives

This section provides an update on the status of ongoing initiatives that were announced prior to the introduction of Bill 15 and the 2015 Budget. In particular, there has been significant progress in the development of the proposed revisions to the MIG and the development of the MITP. In addition, the Government recently introduced additional road safety initiatives that may lead to further reductions in the frequency of automobile related accidents.

#### 5.3.1 Evolution of Minor Injury Guideline

The original MIG was introduced in June 2010. This original MIG was issued on the expectation that it was interim and would be replaced in the future with a guideline that was more comprehensive and provided more evidence-based treatment. It was subsequently updated and replaced in November 2011 and again in February 2014. These updates contained small changes.

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On another note, the MITP project followed the issuance of FSCO’s *Report on the Five Year Review of Automobile Insurance*[^104] (2009 Five Year Review Report) on March 31, 2009. One of the recommendations in the 2009 Five Year Review Report was to develop an MITP that reflected current scientific and medical knowledge. After an open request for proposal process, the consulting contract to develop a new MITP was awarded on July 16, 2012 to Dr. Pierre Côté and his team. The report generated by the consultant and his team, titled *Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person*[^105] (i.e., CTI Final Report), was released publicly on July 3, 2015; stakeholders were invited to submit feedback, by July 31, 2015, on the potential impacts of the recommendations in the CTI Final Report on them as a stakeholder.

### 5.3.1.1 Summary

The MIG include the following definition:

**Minor injury** means a sprain, strain, whiplash associated disorder, contusion, abrasion, laceration or subluxation and any clinically associated sequelae.^[106]

The authors of the CTI Final Report conducted qualitative research with injured persons, who noted that the term “minor injury” did not represent the actual experiences associated with traffic-related injuries. The authors concluded that there is no scientific rationale or merit to continue to use the term “minor injury”, and proposed a new classification categorizing automobile collision injuries as Type I, II, and III injuries. A further characterisation as Recent (0-3 months post-collision) or Persistent (4-6 months post-collision) was proposed. The CTI Final Report described each type of injuries as follows:

**Type I** injuries are those traffic injuries which have been shown in epidemiological studies to have a favourable natural history (recovery times ranging from days to a few months).[^107]

**Type II** injuries typically involve a substantial loss of anatomical alignment, structural integrity, psychological, cognitive, and/or physiological functioning.^[108]

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Type III injuries refer to the subset of Type II injuries which fall within the conceptual framework of catastrophic impairment within the Ontario Statutory Accident Benefits Schedule (SABS).\textsuperscript{109}

The CTI Final Report noted that persons who suffered Type I injuries typically exhibit no significant loss of anatomical alignment or no loss of structural integrity, and the injuries improve within days to a few months after the collision. Type I injuries typically do not result in permanent or serious impairment.

The objective of the CTI Final Report was to develop care pathways that promote recovery from common traffic injuries. Care pathways are the sequence and options of health care services a patient with traffic injuries would receive during a particular episode of care. Guidelines were developed for the management of Type I injuries, such as

**Physical impairments**: grades I to III neck pain and associated disorders (NAD); headaches associated with neck pain; non-specific thoracic and lumbar spine pain, thoracic and lumbar radiculopathy [nerve root injury]; grades I and II girdle and limb sprains and strains; grades I and II sprains and strains of the temporomandibular joint; skin and muscle contusions, abrasions and skin lacerations (which do not extend beneath the dermis).

**Mental impairments**: concussion/mild traumatic brain injury as defined by the American Congress of Rehabilitation Medicine and normal structural imaging. Mild traumatic brain injury (MTBI) is defined by loss of consciousness of less than 30 minutes, with altered consciousness of less than 24 hours, and post-traumatic amnesia of less than 1 day, and a Glasgow Coma Scale of 13 to 15.

**Psychological impairments**: early psychological signs and symptoms that include poor expectations of recovery, post-collision depressive symptomatology, fear, anger and frustration.\textsuperscript{110}

The management of Type II and III injuries were not within the scope of the CTI Final Report.

The authors relied on a panel composed of a multidisciplinary team of doctors, scientist, clinicians, researchers, and coordinators, as well as representatives from the legal, consumer, and insurance areas to review scientific literature, develop, review, and approve evidence-based clinical practice guidelines.

### 5.3.1.2 Recommendations

The recommendations in the CTI Final Report for the management of Type I injuries focus on the relationship with the patient as well as the speed and effectiveness of the treatments. With

\textsuperscript{109} Ibid.

respect to the patient relationship, recommendations include having the patient involved in the care planning and decision making, and reassuring the patient in regards to the nature of his or her pain. In regards to the treatment process, the recommendations are to deliver time-limited care, to use effective, non-experimental treatments, and to emphasize active rather than passive treatments.

The authors of the CTI Final Report included a quick reference guide for each care pathway to promote the management of various Type I injuries.\textsuperscript{111}

5.3.2 Road Safety Initiatives

The Government introduced new road safety rules that came into effect on September 1, 2015\textsuperscript{112}. The Government anticipates that the new rules will enhance road safety and reduce the frequency of accidents.

5.3.2.1 Distracted Driving

Ontario’s new road safety rules addresses a specific type of distraction by making the viewing of display screens and the use of hand-held communication/entertainment devices illegal while driving.

As of September 1, 2015, if convicted, both fully licensed and novice drivers will receive a fine of $490, if settled out of court, or a fine of up to $1,000 if they receive a summons or contest the ticket and are subsequently convicted. In addition to the fines, fully licenced drivers will also have three demerit points applied to their driving record upon conviction. Novice drivers, however, will be subject to the following escalating sanctions upon conviction: 30-day licence suspension for a first occurrence; 90-day licence suspension for second; and, licence cancellation and removal from the Graduated Licensing System for a third occurrence. There are no demerit points associated with distracted driving convictions for novice drivers.

5.3.2.2 Cyclist’s Safety

The new rules for the safety of cyclists apply to both automobile drivers and cyclists. For drivers, opening a parked vehicle’s door in the way of a cyclist or traffic will result in a fine of $365 in addition to three demerit points. The maximum fine is $1,000 and three demerit points upon conviction if the charge is contested. Drivers must also keep a distance of one meter when


passing cyclists; failing to do so may result in a $110 fine and two demerit points. Drivers who contest their ticket in court are subject to a maximum fine of $500 if convicted.\footnote{Government of Ontario, Ministry of Transportation, “Bicycle Safety”, last modified September 2, 2015. Accessed October 29, 2015. \url{http://www.mto.gov.on.ca/english/safety/bicycle-safety.shtml}.}

Cyclists must have proper lights and reflective material on their bicycles or motor-assisted bicycles. More specifically, they must have a red lighted lamp or a reflector in the rear, white reflective material placed on the front forks, and red reflective material with minimum dimensions of 250mm long by 25mm wide placed on the rear fork. The fine for improper lighting is $110.

5.3.2.3 Tow Trucks

Under the new rules, motorists must slow down and, where possible, move into another lane when approaching a tow truck with its amber lights flashing that is stopped on the roadside. Failure to do so will result in a fine of $490 and 3 demerit points on conviction. This enhancement builds on an existing law that requires drivers to slow down and, where possible, move over when approaching an emergency vehicle stopped at roadside with its red, or red and blue, emergency lights flashing.

5.3.3 Other Changes in Regulations

In Bulletin No. A-14/14, \textit{Amendments to the Statutory Accident Benefits Schedule, Service Provider Regulations, Administrative Penalties and Eligibility for Transportation Expenses},\footnote{FSCO, Bulletin No. A-14/14, “Amendments to the Statutory Accident Benefits Schedule, Service Provider Regulations, Administrative Penalties and Eligibility for Transportation Expenses”, last modified December 1, 2014. Accessed October 13, 2015. \url{https://www.fsco.gov.on.ca/en/auto/autobulletins/2014/Pages/a-14-14.aspx}.} FSCO highlighted a number of amendments, effective December 1, 2014, to specific regulations of the automobile insurance system. Specifically, the following regulations were amended at the end of 2014:

\begin{itemize}
  \item Statutory Accident Benefits Schedule – Effective September 1, 2010 (O.Reg.34/10);
  \item Unfair or Deceptive Acts or Practices (O.Reg.7/00);
  \item Service Providers – Listed Expenses (O.Reg.89/14);
  \item Service Providers – Standards For Business Systems and Practices (O.Reg.90/14); and
  \item Administrative Penalties (O.Reg.408/12).
\end{itemize}

There were two amendments to the SABS. The first amendment relates to the service provider licensing regime. Under the new regime, effective December 1, 2014, automobile insurance claimants may obtain goods and services from both licensed and unlicensed service providers; however, only licensed service providers can receive payment directly from insurers. Unlicensed service providers will need to be compensated by the claimant, and not directly from insurers.

The second amendment, effective January 1, 2015, affects the interest rate applied to overdue accident benefit payments by insurers. Prior to January 2015, the interest due on overdue
payments was calculated at a rate of one per cent per month, compounded monthly. Bulletin No. A-14/14 states:

This amendment changes the interest rate and its application once a dispute arises. The interest rate of one per cent per month, compounded monthly will continue to apply until a mediation proceeding is commenced. The interest rate will then change to the prejudgement interest rate described in the Courts of Justice Act for past pecuniary loss, to be calculated from the date on which a mediation proceeding is commenced and ending on the date a settlement is reached or a decision is issued.\textsuperscript{115}

The amendments to the other regulations were designed to serve the purpose of protecting consumers from the deceptive acts or practices of service providers, as well as other requirements and standards expected of service providers. An example of this include the ability for service providers to pursue payments directly from a claimant for certain expenses after an insurer and the claimant have reached final settlement on a claim.

\section*{5.4 FSCO Initiatives}

Insurers writing non-fleet automobile insurance in Ontario must have their rates and risk classification systems approved or authorized by FSCO. Each application (i.e., filing) for approval of rates and risk classification system must be presented in a form approved by the Superintendent. The Superintendent specifies the filing requirements through rate filing guidelines. In addition, FSCO also issues periodically \textit{Technical Notes for Automobile Insurance Rate and Risk Classification Filings} (FSCO Technical Notes) for automobile insurance rate and risk classification filings. The most up-to-date guidelines are published and updated by FSCO on its website\textsuperscript{116}.

One of the exhibits in the FSCO Technical Notes contains FSCO’s benchmark assumptions for loss cost trends. In 2015, to improve transparency, FSCO released an actuarial document titled \textit{Analysis of Loss Trend Rates for Ontario Private Passenger Automobile Insurance}\textsuperscript{117}. This document was sent to insurance companies and posted on FSCO’s website in October 2015.

Since the 2010 Reforms, FSCO has published benchmark loss cost adjustment factors in addition to loss trend assumptions. In the latest FSCO Technical Notes, FSCO also included benchmark loss cost adjustment factors for the 2015/2016 Reforms. The benchmarks in the FSCO Technical Notes are updated on a regular basis. On certain occasions, FSCO has engaged Oliver Wyman consulting actuaries to estimate the benchmark cost adjustment factors.

\begin{footnotes}
\end{footnotes}
In addition, FSCO consults with its Rating and Underwriting Technical Advisory Committee (RUTAC) when changes are proposed to filing guidelines and technical notes.

In the rest of this section we further discuss the change in FSCO benchmarks over the past few years, FSCO’s rate filings requirements to reflect the 2015/2016 Reforms, FSCO’s updates to the Strategy, and recommendations from the Superintendent’s Report on the Three Year Review of Automobile Insurance, 2014 \(^{18}\) (2014 Three Year Review Report).

### 5.4.1 FSCO Benchmarks

FSCO frequently updates the benchmarks for loss cost trends and, since the 2010 Reforms became effective on September 1, 2010, for loss cost adjustment factors. The updated benchmarks are based on additional post-2010 Reforms experience data as it becomes available. This section discusses updates to both sets of benchmarks.

#### 5.4.1.1 2010 Reforms Loss Cost Adjustment Factors

FSCO Technical Notes provide benchmark loss cost adjustment factors for the 2010 Reforms at the coverage level. These benchmarks are updated and published by FSCO as more industry data become available. Actuaries use loss cost adjustment factors, whether based on FSCO’s benchmark or developed internally based on company data, to adjust loss costs for accidents that occurred prior to the 2010 Reforms to reflect the impact of the reforms. As stated in FSCO Technical Notes, FSCO’s intention is for these benchmark factors to apply to the industry in general. FSCO notes that the factors may be higher or lower for any particular insurer due to differences in the risk distribution among insurers. Insurers should consider the differences in the distribution of their risk portfolio compared to the industry’s portfolio when they provide support to use their own reform adjustment factor.

Table 5-1 summarizes FSCO’s estimates the 2010 Reforms loss cost adjustment factors based on FSCO’s analysis of available industry data at different points in time. FSCO’s estimate of the effect of the 2010 Reforms on the loss costs for third party liability – bodily injury (TPL-BI) coverage has significantly decreased over the past five years. The decrease in loss cost adjustment factors may indicate that FSCO’s initial expectation for the transfer of claims from accident benefits to TPL-BI has not materialized over time. Moreover, in the most recent FSCO Technical Notes, issued in September 2015, \(^{19}\) FSCO’s selected loss cost adjustment factor is indicating that the 2010 Reforms resulted in a 7% decrease of the third party liability bodily injury loss cost. FSCO’s published adjustment factor for accident benefits has not changed much since the prior FSCO Technical Notes based on June 30, 2014 data. The overall accident benefits loss cost adjustment factor is estimated to be a 51% decrease.

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Table 5-1: Summary of FSCO Benchmark 2010 Reforms Loss Cost Adjustment Factors

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<td>Third Party Liability Bodily Injury</td>
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<td>0.51</td>
<td>0.47</td>
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<tr>
<td>Accident Benefits Disability</td>
<td>0.81</td>
<td>0.66</td>
<td>0.60</td>
<td>0.67</td>
<td>0.65</td>
<td>0.58</td>
</tr>
<tr>
<td>Accident Benefits Death Benefits</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Accident Benefits Funeral Services</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Accident Benefits Total excl. Uninsured Automobile</td>
<td>0.69</td>
<td>0.54</td>
<td>0.48</td>
<td>0.54</td>
<td>0.50</td>
<td>0.49</td>
</tr>
</tbody>
</table>

In the most recent FSCO Technical Notes, FSCO includes two additional sets of reform loss cost adjustment factors. The factors are available by coverage, and adjust for reforms that came into effect in January 2015, as well as for the reforms that will come into effect in June 2016. Table 5-2 summarizes the benchmark 2015/2016 Reforms loss cost adjustment factors.

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122 From KPMG filed records of previously published FSCO Technical Notes updated in August 2013.
123 From KPMG filed records of previously published FSCO Technical Notes updated in September 2014.
124 From KPMG filed records of previously published FSCO Technical Notes updated in February 2015.
### Table 5-2: FSCO Benchmark 2015/2016 Reforms Loss Cost Adjustment Factors

<table>
<thead>
<tr>
<th>Coverage</th>
<th>January 2015 Changes</th>
<th>January 2015 and June 2016 Changes Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Party Liability Bodily Injury</td>
<td>0.950</td>
<td>0.947</td>
</tr>
<tr>
<td>Accident Benefits Medical / Rehabilitation / Long Term Care</td>
<td>0.955</td>
<td>0.807</td>
</tr>
<tr>
<td>Accident Benefits Disability Income</td>
<td>0.955</td>
<td>0.834</td>
</tr>
<tr>
<td>Accident Benefits Death and Funeral Services</td>
<td>1.000</td>
<td>0.980</td>
</tr>
<tr>
<td>Accident Benefits Total</td>
<td>0.955</td>
<td>0.815</td>
</tr>
<tr>
<td>Uninsured Automobile</td>
<td>0.955</td>
<td>0.815</td>
</tr>
<tr>
<td>Comprehensive</td>
<td>1.000</td>
<td>0.980</td>
</tr>
<tr>
<td>All Other Coverages</td>
<td>1.000</td>
<td>0.980</td>
</tr>
</tbody>
</table>

Similar to the 2010 Reforms loss cost adjustment factors, the 2015/2016 Reforms benchmark loss cost adjustment factors are used to adjust loss costs for accidents that occurred in years 2014 and prior. The factors applied in the rate level analyses prepared by each individual insurer may be higher or lower than the FSCO published benchmarks due to differences in the risk distribution among insurers. The factors shown in the column labelled “January 2015 Changes” consider the interest rate changes that came into effect on January 1, 2015. Information on these changes is discussed in Sections 5.1.3 and 5.3.3. The factors shown in the column labelled “January 2015 and June 2016 Changes Combined” reflect the effect of the interest rate changes that were effective on January 1, 2015 as well as other changes that will be effective by June 1, 2016.

FSCO retained Oliver Wyman to assist with the determination of the 2015/2016 Reforms loss cost adjustment factors. A copy of the Oliver Wyman report, titled *Ontario Private Passenger Automobile Insurance Costing of Product Changes* (OW Costing Report), was distributed to all insurers writing PPA insurance in Ontario. FSCO also held an automobile insurance information session (FSCO Information Session) on September 3, 2015 to present the findings of the OW Costing Report.

In their report, Oliver Wyman explain that they do not provide a cost estimate for each individual product change initiative as the available industry data limits the type and extent of analysis that

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can be performed. The OW Costing Report describes in detail the 2015/2016 Reforms initiatives that Oliver Wyman are able to consider explicitly based on industry data. They include all of the initiatives discussed in Sections 5.1 to 5.3 of the current report (2015 Annual Report), with the exception of the following:\footnote{Extracted from presentation slides titled “Automobile Insurance Information Session” presented by FSCO on September 3, 2015.}

- Definition of catastrophic impairment (Section 5.2.2);
- AIDRS transformation (Section 5.1.2);
- Towing and Storage regulation (Section 5.1.1);
- Essential test for other goods and services (Section 5.2.3);
- Fraud reduction initiatives such as service provider licensing, prohibiting the signing of blank claim forms, expanding the authority of the Superintendent to investigate and enforce measures over more players in the system, etc. (Section 5.1.4, as well as other prior initiatives);
- Procedural and eligibility changes for the MIG, attendant care, transportation expenses, cost of goods, etc. (Sections 5.3.1, 5.2.3, and 5.3.3); and
- Ministry of Transportation road safety initiatives (Section 5.3.2, as well as other prior initiatives).

As part of the 2015/2016 Reforms review process, FSCO formed the Actuarial Benchmark Advisory Group (ABAG) that included actuaries and claims professionals from insurance companies. The purpose of ABAG was to provide input and advice to FSCO and its consulting actuary regarding the costing impact of automobile insurance reforms such as the 2015/2016 Reforms.

Relying on industry data and input from FSCO, the OW Costing Report provides initial estimates of the 2015/2016 Reforms loss cost adjustment factors that do not include the initiatives listed above. Oliver Wyman then add a further 2% reduction in loss cost to their factors to produce a set of recommended loss cost adjustment factors. The additional 2% reduction is estimated by the Superintendent, and takes into consideration the list of initiatives listed above that are not part of Oliver Wyman’s estimates. The OW Costing Report contains an appendix produced by FSCO to provide background on the product change initiatives that the Superintendent believes will lead to this additional 2% reduction in loss cost. At the FSCO Information Session, the following were presented as sources that FSCO relied on in determining the additional 2% reduction:

- Input and expertise of independent sources, including various studies and reports;
- Market intelligence and other historical knowledge about the automobile insurance sector;
- Cost control measures and experience in other jurisdictions; and
- Input from industry CEOs and other experts.
FSCO adopted Oliver Wyman’s recommended 2015/2016 Reforms loss cost adjustment factors as its benchmark for all coverages other than comprehensive. For comprehensive, Oliver Wyman estimates an overall saving of 6.2%. The FSCO Technical Notes published in September 2015 show a saving of 2% for the comprehensive coverage.

It is important to note that the OW Costing Report state that “our estimates do not take into consideration any premium inadequacy or adequacy that may exist at the current time, or might exist in during Policy Year 2016/17.” In other words, the OW Costing Report only considers loss cost, and does not review the premium level of the industry. The level of premium inadequacy or adequacy is an important determining factor directly affecting the change in premium consumers will experience as a result of the 2015/2016 Reforms.

As discussed in Section 5.4.1.1\(^{128}\) of the Interim Report, the premiums charged pre-2010 Reforms were deeply inadequate. As such, a 2010 Reforms loss cost adjustment factor of 0.49 for accident benefits does not mean that premiums for accident benefits would have been expected to decrease by 51%, even on average for the industry. Similarly, the change in premiums as a result of the 2015/2016 Reforms will depend to a great extent on the level of adequacy of premiums before the implementation of these reforms.

Appendix D to FSCO’s PPA 2015 Reform Filing Guidelines includes a third set of benchmark related to the 2015/2016 Reforms. These benchmarks show FSCO’s expectations of the percentage change to standard medical/rehabilitation/attendant care coverage loss cost for three levels of optional accident benefits coverage.

### 5.4.1.2 Loss Cost Trend

The understanding and projection of trends in loss cost is an important element in determining premium. FSCO publishes benchmark loss cost trends based on reviews of industry PPA data. In October 2015, FSCO also released an actuarial document titled *Analysis of Loss Trend Rates for Ontario Private Passenger Automobile Insurance*\(^{129}\), to provide further documentation of the underlying analysis. The benchmark trends are updated regularly and are used by FSCO to assess the reasonableness of the trends used in individual insurer’s rate filings.

Tables 5-3 and 5-4 summarize the past and future loss trends published by FSCO since the 2010 Reforms. The cut-off dates that determines the applicability of past and future trends varies by coverage. For all coverages other than third party liability – bodily injury and the sub-coverages of accident benefits, the cut-off dates for the applicability of past and future trends is indicated in the two tables. For third party liability– bodily injury and the sub-coverages of accident benefits, the cut-off date for the applicability of past and future trends is the effective date of the 2010 Reforms (i.e., September 1, 2010).

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Table 5-3: Summary of FSCO Benchmark Past Trends

<table>
<thead>
<tr>
<th>Based on Industry Data as of:</th>
<th>6/30/2010(^{130})</th>
<th>12/31/2011(^{131})</th>
<th>12/31/2012(^{132})</th>
<th>12/31/2013(^{133})</th>
<th>6/30/2014(^{134})</th>
<th>12/31/2014(^{135})</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard cut-off date for past and future trends:</strong></td>
<td>9/1/2010</td>
<td>10/1/2011</td>
<td>10/1/2012</td>
<td>10/1/2013</td>
<td>4/1/2014</td>
<td>10/1/2014</td>
</tr>
<tr>
<td>Third Party Liability Bodily Injury</td>
<td>3.6%</td>
<td>6.3%</td>
<td>6.6%</td>
<td>4.4%</td>
<td>4.0%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Third Party Liability Property Damage (Direct Compensation and Tort)</td>
<td>-0.8%</td>
<td>-0.7%</td>
<td>-1.5%</td>
<td>0.4%</td>
<td>2.7%</td>
<td>2.8%</td>
</tr>
<tr>
<td><strong>Third Party Liability Total</strong></td>
<td>2.2%</td>
<td>4.3%</td>
<td>4.4%</td>
<td>3.2%</td>
<td>3.5%</td>
<td>2.4%</td>
</tr>
<tr>
<td>Accident Benefits Medical</td>
<td>n/a</td>
<td>16.2%</td>
<td>11.5%</td>
<td>8.3%</td>
<td>9.6%</td>
<td>7.4%</td>
</tr>
<tr>
<td>Accident Benefits Rehabilitation / Long Term Care</td>
<td>n/a</td>
<td>4.6%</td>
<td>3.1%</td>
<td>6.7%</td>
<td>8.1%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Accident Benefits Disability Income</td>
<td>n/a</td>
<td>4.6%</td>
<td>4.0%</td>
<td>5.1%</td>
<td>6.2%</td>
<td>6.7%</td>
</tr>
<tr>
<td>Accident Benefits Death</td>
<td>n/a</td>
<td>-10.7%</td>
<td>-6.5%</td>
<td>-2.7%</td>
<td>-0.7%</td>
<td>-0.2%</td>
</tr>
<tr>
<td>Accident Benefits Funeral</td>
<td>n/a</td>
<td>-8.6%</td>
<td>-3.3%</td>
<td>-4.4%</td>
<td>-3.3%</td>
<td>-3.0%</td>
</tr>
<tr>
<td>Accident Benefits Quebec Excess</td>
<td>n/a</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Accident Benefits Total</strong></td>
<td>22.3%</td>
<td>11.3%</td>
<td>7.9%</td>
<td>7.1%</td>
<td>8.5%</td>
<td>7.2%</td>
</tr>
<tr>
<td>Uninsured Automobile</td>
<td>3.8%</td>
<td>4.2%</td>
<td>5.3%</td>
<td>5.4%</td>
<td>2.4%</td>
<td>-0.9%</td>
</tr>
<tr>
<td>Underinsured Motorists</td>
<td>4.7%</td>
<td>9.2%</td>
<td>5.0%</td>
<td>4.0%</td>
<td>4.6%</td>
<td>3.3%</td>
</tr>
<tr>
<td>Collision</td>
<td>-4% to -1.4%</td>
<td>-0.7%</td>
<td>-2.5%</td>
<td>1.4%</td>
<td>3.6%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Comprehensive</td>
<td>-5.9% to -3%</td>
<td>-2.5%</td>
<td>-3.2%</td>
<td>-1.2%</td>
<td>2.8%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Specified Perils</td>
<td>-3.4%</td>
<td>-8.5%</td>
<td>-11.9%</td>
<td>8.4%</td>
<td>13.0%</td>
<td>14.1%</td>
</tr>
</tbody>
</table>

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\(^{132}\) From KPMG filed records of previously published FSCO Technical Notes updated in August 2013.

\(^{133}\) From KPMG filed records of previously published FSCO Technical Notes updated in September 2014.

\(^{134}\) From KPMG filed records of previously published FSCO Technical Notes updated in February 2015.

| All Perils       | -3.8% to -1.8% | -3.5% | -3.6% | 2.5%  | 5.3%  | 4.3% |
Table 5-4: Summary of FSCO Benchmark Future Trends

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Party Liability Bodily Injury</td>
<td>3.6%</td>
<td>6.3%</td>
<td>6.6%</td>
<td>4.4%</td>
<td>4.0%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Third Party Liability Property Damage (Direct Compensation and Tort)</td>
<td>-0.8%</td>
<td>-0.7%</td>
<td>-1.5%</td>
<td>0.4%</td>
<td>2.7%</td>
<td>2.8%</td>
</tr>
<tr>
<td>Third Party Liability Total</td>
<td>2.2%</td>
<td>4.3%</td>
<td>4.4%</td>
<td>3.2%</td>
<td>3.5%</td>
<td>2.4%</td>
</tr>
<tr>
<td>Accident Benefits Medical</td>
<td>n/a</td>
<td>5.0%</td>
<td>2.9%</td>
<td>3.6%</td>
<td>6.8%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Accident Benefits Rehabilitation / Long Term Care</td>
<td>n/a</td>
<td>3.5%</td>
<td>3.1%</td>
<td>6.7%</td>
<td>8.1%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Accident Benefits Disability Income</td>
<td>n/a</td>
<td>2.4%</td>
<td>2.2%</td>
<td>4.4%</td>
<td>6.2%</td>
<td>6.7%</td>
</tr>
<tr>
<td>Accident Benefits Death</td>
<td>n/a</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Accident Benefits Funeral</td>
<td>n/a</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Accident Benefits Quebec Excess</td>
<td>n/a</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Accident Benefits Total</td>
<td>7.5%</td>
<td>4.1%</td>
<td>2.7%</td>
<td>4.5%</td>
<td>6.9%</td>
<td>5.1%</td>
</tr>
<tr>
<td>Uninsured Automobile</td>
<td>3.8%</td>
<td>4.2%</td>
<td>5.3%</td>
<td>5.4%</td>
<td>2.4%</td>
<td>-0.9%</td>
</tr>
<tr>
<td>Underinsured Motorists</td>
<td>4.7%</td>
<td>9.2%</td>
<td>5.0%</td>
<td>4.0%</td>
<td>4.6%</td>
<td>3.3%</td>
</tr>
<tr>
<td>Collision</td>
<td>-4% to -1.4%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>1.4%</td>
<td>3.6%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Comprehensive</td>
<td>-5.9% to -3%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>2.8%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Specified Perils</td>
<td>-3.4%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>8.4%</td>
<td>13.0%</td>
<td>14.1%</td>
</tr>
</tbody>
</table>

---


138 From KPMG filed records of previously published FSCO Technical Notes updated in August 2013.

139 From KPMG filed records of previously published FSCO Technical Notes updated in September 2014.

140 From KPMG filed records of previously published FSCO Technical Notes updated in February 2015.

Based on the information presented in Table 5-3 and Table 5-4, FSCO is estimating future trends to increase for physical damage coverages (i.e., third party liability - property damage, collision, comprehensive, specified perils, and all perils). FSCO estimates that trends for third party liability - bodily injury will be the same for accident periods pre- and post-2010 Reforms, and is exhibiting a steady decline since 2011. On the other hand, FSCO estimates that accident benefits have significantly different pre- and post-2010 Reforms trends. This is especially so for immediately following the implementation of the 2010 Reforms. The most recently published benchmark trends for accident benefits sub-coverages exhibit a much narrower difference between pre- and post-2010 Reforms trend than initially estimated in 2011.

5.4.2 FSCO’s 2015 PPA Insurance Rate Filing Process

At the FSCO Information Session, as well as in FSCO Bulletin No. A-07/15 titled 2015 Auto Insurance Reform Rate and Risk Classification Filings and Certificate for Underwriting Rules, and Endorsement Forms and Rules, FSCO communicated its expectation that the rate and risk classification system filings would need reflect the 2015/2016 Reforms. The other requirements discussed in FSCO Bulletin A-07/15 relate to certificates and forms that insurers are expected to amend as a result of the new treatment of minor accidents set out in Regulation 664.

In order to meet the implementation target date of June 1, 2016, the Superintendent required all insurers writing non-fleet PPA insurance in Ontario to submit rate and risk classification filings by October 30, 2015. FSCO introduced two types of rate filing for the purpose of reflecting the 2015/2016 Reforms:

— **Expedited filing process** was designed for insurers who intended to use FSCO’s 2015/2016 Reforms benchmark factors. Under the expedited filing process, limited actuarial support was required from the insurers to support their filings. FSCO indicated that they would review filings from insurers using the FSCO 2015/2016 Reforms benchmark factors on an expedited basis.

— **Detailed filing process** was designed for insurers who could not use FSCO’s 2015/2016 Reforms benchmark factors, or only intended to use some of the benchmarks. These insurers were required to provide actuarial support (based on a simplified 2015/2016 Reforms filing process) to demonstrate and support their rate change needs as well as support the adjustment factors used to account for the effect of the 2015/2016 Reforms, if not using the FSCO 2015/2016 Reforms benchmark factors.

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5.4.3 Auto Insurance Cost and Rate Reduction Strategy

The Strategy targeted an overall 15% average reduction in automobile insurance rates from August 2013 to August 2015. As discussed in the 2014 Three Year Review Report, between August 2013 and August 2014 average rates declined by 6.03%. The quarterly rate approvals published after August 2014 show average decreases of 0.54% \(^{143}\) for the fourth quarter of 2014, and 0.95% \(^{144}\) for the first quarter of 2015. For the second quarter of 2015 the approved rates increased on average by 0.60% \(^{145}\) and in the third quarter of 2015, the approved rates decreased on average by 0.50\(\%\) \(^{146}\).

In the 2014 Three Year Review Report, FSCO notes that:

> Between July 1, 2013 and September 30, 2014, FSCO approved auto insurance rates that were almost 4.8% lower, on average, than the rates originally proposed in companies’ rate filing applications. The approval process, in conjunction with amendments to AIRSA \(^{147}\) in August 2013, has resulted in an additional estimated savings of almost a half a billion dollars in private passenger auto insurance premiums, for rate approvals from July 1, 2013 to September 30, 2014. \(^{148}\)

Comparing the decrease of 6.03% in rates between August 2013 and August 2014 against the 4.8% difference between rates originally proposed by insurers and those approved by FSCO between July 1, 2013 and September 20, 2014, it appears that FSCO played a central role in decreasing rates from August 2013 to August 2014.

Moreover, the difference may indicate that there is a difference in interpretation between the views of FSCO and insurance companies. As such, as discussed in the 2014 Annual Report, we continue to encourage FSCO “to involve RUTAC [Rating and Underwriting Technical Advisory Committee] early in any process that requires input and feedback”, where “continued and increased interaction with RUTAC by FSCO may help reduce uncertainty and provide stability to automobile insurance rates.” \(^{149}\)


\(^{147}\) Automobile Insurance Rate Stabilization Act, 2003.


From discussions with the MOF, we understand that the average authorized rate change in accordance with the regulation for Ontario PPA for the period between August 2013 and August 2015 was a decrease of 7.26%.

5.4.4 Recommendations and Comments from the 2014 Three Year Review Report

The 2014 Three Year Review Report is a comprehensive document that provides a snapshot of the state of automobile insurance in Ontario at December 2014, as well as how the product has changed in recent years. The report compares the experience in Ontario against other jurisdictions, and reviews the claim experiences of both accident benefits and third party liability bodily injury. The report discusses some of the concerns of various stakeholders and participants in the Ontario automobile insurance System. The Superintendent of Financial Services (Superintendent) issued a list of recommendations as a result of the review:

1. The Government should continue to closely monitor Ontario’s auto insurance system, claims costs, and activity of participants in the system and make timely legislative and regulatory changes to address emerging problems, issues or areas of rising costs.

2. All participants in the auto insurance system have a responsibility to continue to focus on reducing and controlling auto insurance costs and dealing with the ongoing challenges associated with fraud and misuse of the system.

3. The Government should examine and consider the accident benefits structures of comparable auto insurance systems in Canada that have lower costs.

4. The Government should examine and consider giving consumers more flexibility and choice to buy coverage options that reflect their individual circumstances and needs.

5. The Ministry of Finance and FSCO should work with experts to develop a program to educate consumers and auto insurance stakeholders about expectations for treatment and recovery following a motor vehicle accident.

6. Health care and insurer representatives should jointly examine and make recommendations on:
   a) Appropriate qualifications for auto insurance examiners
   b) Standards and processes in requesting, writing and delivery of auto insurance assessments and examinations
   c) Frequency and costs associated with auto insurance assessments and examinations, including missed or cancelled appointments

7. The Government should examine and consider additional ways to address the rising cost of bodily injury claims.
8. The Government should examine and consider increasing the standard policy deductible for optional comprehensive coverage.

9. Insurance industry associations should conduct an industry-wide review of auto insurance claims adjustment and handling policies, practices and performance.

10. Automobile insurers, brokers and the taxi cab industry representatives should form a committee to explore and make recommendations to expand the availability of taxi insurance and optional insurance coverages for rental vehicles.\textsuperscript{150}

The Superintendent stresses through the report that although there are areas where the Government could consider making additional reforms to further contain claim costs, increase consumer choice, and achieve other improvements, participants and stakeholders in the automobile insurance system may take leadership roles in other areas to contribute to the affordability and appropriate functioning of the system.

5.4.4.1 Implementation Status

It can be noted that recommendations 3, 4, and 8 are consistent with the initiatives outlined in Bill 15 and in the 2015 Budget.

In the 2014 Annual Report, we recommended that:

FSCO continue to work with representative actuaries to determine which underlying aspects of the benchmark factors can and should be shared with actuaries. Increased understanding between FSCO and representative actuaries may increase transparency and reduce uncertainty in the future. A reduction in uncertainty will aid in reducing PPA insurance rates.\textsuperscript{151}

The 2014 Three Year Review Report notes that “FSCO began sharing actuarial reports and summaries with the applicant company to support FSCO’s opinion where proposed rates were not consistent with statutory standards. This change was coupled with an additional opportunity for insurers to make written submissions to FSCO before a final determination was made on a rate filing. These new processes enhanced insurers’ understanding of FSCO’s analysis of rate filings and its processes in the fall and winter of 2013-14, and have now been incorporated into FSCO’s regular rate filing procedures.”


The involvement of ABAG in FSCO’s estimate of the 2015/2016 Reforms impact may improve transparency. Furthermore, FSCO also shared the OW Costing Report with all insurers writing PPA insurance in Ontario and provided an opportunity for actuaries to interact with FSCO at the FSCO Information Session.

5.5 Insurance Industry Initiatives

As discussed in the 2014 Three Year Review Report, there are areas where the insurance industry may be able to contribute to the reduction of claim costs in the automobile insurance system. Since the release of the 2014 Annual Report, the insurance industry has continued to focus on two key initiatives to reduce claim costs: UBI and the use of CANATICS’ technology and data analytics.

5.5.1 Increased Offerings of Usage Based Automobile Insurance

Insurers in Ontario continue to increasingly offer UBI as an option that may reduce claim costs and result in reduced premiums for automobile insurance policyholders. In FSCO Bulletin No. A-05/13 titled *Usage-Based Insurance Pricing in Ontario*,¹⁵² FSCO sets out the additional considerations and requirements that insurers need to have in place in order to be able to offer UBI in Ontario. For instance, insurers offering UBI can only discount rates and cannot increase rates while an insurer is collecting sufficient data to support UBI rates. Insurers typically offer an enrollment discount of between 5% and 10% for policyholders who decide to subscribe to a UBI insurance policy.

The National Association of Insurance Commissioners (NAIC) and the Center for Insurance Policy and Research (CIPR) released a study in March 2015 titled *Usage-Based Insurance and Vehicle Telematics: Insurance Market and Regulatory Implications*¹⁵³ (CIPR UBI Study). The report notes that UBI offers potential benefits to insurers, consumers, and society as a whole. Specifically,

> Insurers benefit by being able to differentiate their product offerings, enhance pricing, lower claim costs, enhance brand awareness and create new revenue streams. For consumers, telematics-based UBI offers certain advantages over traditional insurance, including the ability to control premiums and receive ancillary benefits. Society as a whole accrues benefits from improved road


safety, less road congestion and lower emissions resulting from drivers’ focus on vehicle-usage and driving performance.\textsuperscript{154}

Moreover, NAIC states on its website that “the use of telematics helps insurers more accurately estimate accident damages and reduce fraud by enabling them to analyze the driving data (such as hard breaking, speed, and time) during an accident.”\textsuperscript{155}

The 2014 Three Year Review Report notes that as of the end of 2014, eleven insurers, representing about 30% of the PPA insurance market in Ontario, have received approval to offer UBI. Several other insurers have expressed interest in introducing UBI in the near future. We understand from discussions with MOF that additional insurers received approval in 2015 to offer UBI, bringing the proportion of the PPA insurance market in Ontario with approval to offer UBI to 55%.

In the U.S.A., where UBI is more mature, the CIPR UBI Study quotes a July 2014 Towers Watson survey showing that 8.5% of automobile insurance consumers had a UBI policy in force in the prior 17 months. This was reported to be an increase from 4.5% in February 2013.

5.5.2 Launch of CANATICS

In response to a recommendation of the Final Report of the Ontario Automobile Insurance Anti-Fraud Task Force Steering Committee (Anti-Fraud Report) that “insurers should move aggressively to establish an organization that would pool and analyse claims data in order to identify potential cases of organized or premeditated fraud”\textsuperscript{156} and to the government’s on-going mandate to ensure affordable automobile insurance premiums, the insurance industry developed CANATICS.

CANATICS is a “not-for-profit organization focused on using state-of-the-art analytical tools to identify potentially suspicious claims using insurance industry pooled data, to facilitate further investigation by individual insurers.”\textsuperscript{157} The organization was created February 2013 and became operational on April 1, 2015 and currently counts nine insurance companies as members, some with multiple brands, representing approximately 75% of the Ontario personal and commercial automobile insurance market. CANATICS focuses on fighting organized and premeditated fraud affecting the insurance industry. It is not involved with opportunistic fraud, which is better identified and investigated at the individual insurance company level.

CANATICS works by pooling data from member companies. The pooled data provides the backbone for data analytics and for understanding relationships in claims. With this understanding, CANATICS processes new claim data, and then performs network and claim

\textsuperscript{154} Ibid.
analyses to identify suspicious activities. When suspicious and/or anomalous activities are identified, alerts are generated to the member companies that submitted those claims. It is then up to the member companies to act (e.g., investigate, report to police, etc.) on the information.

Ben Kosic, President & CEO of CANATICS told us that after a few short months of operations members have already reported that CANATICS is helping them detect possible fraudulent claims that they could not have identified on their own, and that several vandalism and theft rings have been uncovered. The member companies have started working with the Insurance Bureau of Canada (IBC) as the IBC coordinates with insurers, police and prosecutors to bring criminals to justice.

5.6 Other Developments

Several other developments that have occurred after the release of the 2014 Annual Report will also affect the Ontario PPA insurance market. Some of these developments include recent court decisions that are expected to impact claim emergence, as well as the announcement by the Government that Ontario will allow testing of autonomous vehicles starting in 2016 that could usher an era of change to the insurance market.

5.6.1 Recent Court Cases

Every year, the CIA publishes an educational note to provide guidance to appointed actuaries (AA) of P&C insurance companies on matters that relate to financial reporting. The educational note for 2015 (2015 CIA AA Ed Note) was published in October 2015. Recent court decisions and judicial events that may have significant consequences on the work done by actuaries in relation to P&C insurance companies’ financial reporting are discussed in this educational note. The following is a summary of these decisions and events as per the 2015 CIA AA Ed Note.

**Cirillo v. Rizzo (2015):** A lower court decision applied the recent amendment to the pre-judgment interest provisions to persons injured in auto collisions that occurred prior to January 1, 2015.

**El-Khodr v. Lackie (2015):** A lower-court decision disagrees with the Cirillo v Rizzo decision and upholds the 5 percent pre-judgment interest rate resulting from a motor vehicle accident prior to January 1, 2015. This case is now under appeal.

**Futrell v. State Farm (2015):** This case concerns extending the definition of economic loss when referring to an incurred expense related to an attendant care claim. Effective February 1, 2014, the government enacted several reforms that included that compensation for attendant care must reflect the actual amount of the loss incurred, not the maximum benefit payable.

The change to this definition is to apply to claims occurring after February 1, 2014. Therefore, these expenses meet the threshold of economic loss as it relates to attendant care and the claimant would be entitled to the Form 1 monthly amount if they can prove the expenses were incurred for attendant care benefit.

**Guo v. State Farm (2014):** This case elaborates on what will be considered an economic loss under the SABS. In light of this decision, insurers should be aware of the following:

- Increased expenditures may be considered an economic loss if they are consistently spent over the period of time the person needed attendant care;

- Moving into someone else’s home and thus increasing their expenditures may be considered an economic loss; and

- Special awards may not be given in cases where the dispute involves credibility and is a “justiciable” issue.

**Julia Lo-Papa v. Certas (2014):** The applicant did not present sufficient evidence to meet the onus that psychiatric symptoms were sufficient to remove her from the minor injury guideline.

**Augustin v. Unifund (2014):** The arbitrator emphasizes the importance of insurers providing proper notice with reasons for refusing to pay for the medical treatment claimed by the insured person. The notice must include a medical reason and any other reasons for the denial. Equally, an insurer who requires an independent medical evaluation to take place, must give the insured person a notice that includes the medical reason and other reasons for requiring the examination. This decision suggests that an insured person is entitled to specific information, including medical reasons, about why they are being required to attend an independent medical evaluation requested by the insurer upon application for a medical benefit.

### 5.6.2 Testing of Autonomous Vehicles

On October 13, 2015, the Government announced that Ontario will be the first Canadian province that will allow for the testing of autonomous vehicles. It is believed that a mass consumer adoption of autonomous vehicles would bring significant evolution to road transportation, and the expectation is that it would result in improved road safety, increased fuel economy, and expanded mobility. This would affect the insurance industry as improvements in road safety would likely lead to a reduction in automobile accident frequency. KPMG in the U.S. recently released two publications on this topic, titled *Automobile Insurance in the Era of Autonomous Vehicles*.

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Autonomous Vehicles. The result of a survey of insurance executives on autonomous vehicles was released in June 2015\textsuperscript{160}, followed by a white paper in October 2015\textsuperscript{161} (KPMG US 2015 AV Publications).

The KPMG US 2015 AV Publications discuss the impact that autonomous vehicles are expected to have on the insurance marketplace. As part of the discussion, actuarial models were developed to project possible trends in automobile accident frequency, claim severity, and loss costs. Using 2013 accident levels as a starting point, the baseline scenario presented in the KPMG US white paper estimates that accident frequencies could decrease by 80% by 2040\textsuperscript{162}. However, the authors of the report theorize that this potentially drastic reduction in frequency may be partly offset by an increase in claim severity. Under the scenario presented, combining the accident frequency and claim severity assumptions would result in a potential decrease of about 40% in total claim costs from 2013 to 2040.

Under the heading “lower losses lead to lower premium,” the KPMG US white paper states:

Premium follows loss costs. Whether personal or commercial, auto insurance is a mature and competitive industry and given these market potential dynamics, it would be naïve to think that premium will stay the same while losses drop… consumers will no doubt demand lower premiums to reflect fewer accidents.\textsuperscript{163}

Based on the expected impact autonomous vehicles would have on road safety, as well as studies such as the one described in the KPMG U.S. white paper, the testing and eventual implementation of autonomous vehicles has the potential to lead to lower premiums for consumers in Ontario. There is no certainty of the timeframe over which autonomous vehicles may develop. However, the KPMG US 2015 AV Publications notes that the first wave of full autonomous vehicles may become available to consumers starting in 2020.

5.6.3 Review of FSCO’s Mandate

On March 3, 2015, the Government announced\textsuperscript{164} that it is launching a review of the mandates of FSCO. The review includes consultations with the financial services sectors that are


regulated by FSCO. A consultation paper was posted online\textsuperscript{165} and comments to the review are sought, with submissions due to December 14, 2015. Based on the outcome of the review, the Government will consider any necessary legislative changes. The review is expected to be completed by early 2016. A preliminary position paper, “Review of the Mandates of the Financial Services Commission of Ontario, Financial Services Tribunal, and the Deposit Insurance Corporation of Ontario”,\textsuperscript{166} was released on November 4, 2015.


ACTUARIAL ANALYSIS OF IMPACT OF THE 2010 REFORMS

The objective of this section is to present an update of the quantitative analysis of the impact of the 2010 Reforms based on Ontario PPA industry data as reported by GISA as of December 31, 2014. The previous analysis was based on similar GISA industry data as of December 31, 2013.

This section summarizes the results of our independent actuarial analysis. Appendix A presents a comprehensive documentation supporting the assumptions and methodologies used, as well as exhibits and appendices showing the details of this analysis.

6.1 Impact of the 2010 Reforms on Industry Claim Ratios

We updated our estimates of ultimate claim ratios by accident year for Ontario PPA using more recent data as of December 31, 2014. The loss ratios include claims as well as claim expenses. Table 6-1 compares the estimated ultimate claim ratio projections based on Ontario industry data as of December 31, 2014 with the previous estimates, included in the 2014 Annual Report, that were based on Ontario industry data as of December 31, 2013.

Table 6-1: Summary of Accident Year Earned Premium and Estimated Ultimate Claims and Claim Ratios for Ontario PPA Insurance

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>8,730</td>
<td>8,176</td>
<td>93.7%</td>
<td>94.6%</td>
<td>-0.9%</td>
</tr>
<tr>
<td>2010</td>
<td>9,410</td>
<td>8,175</td>
<td>86.9%</td>
<td>88.6%</td>
<td>-1.7%</td>
</tr>
<tr>
<td>2011</td>
<td>10,038</td>
<td>6,479</td>
<td>64.5%</td>
<td>66.7%</td>
<td>-2.2%</td>
</tr>
<tr>
<td>2012</td>
<td>10,440</td>
<td>6,418</td>
<td>61.5%</td>
<td>64.0%</td>
<td>-2.5%</td>
</tr>
<tr>
<td>2013</td>
<td>10,583</td>
<td>7,117</td>
<td>67.2%</td>
<td>69.2%</td>
<td>-2.0%</td>
</tr>
<tr>
<td>2014</td>
<td>10,537</td>
<td>7,430</td>
<td>70.5%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Prior to 2009, the premiums did not increase as quickly as claim costs, resulting in inadequate premiums as discussed in the Interim Report and 2014 Annual Report. Consequently, the claims ratios reached an unsustainable level for accident years 2009 and 2010 (prior to the 2010 Reforms) as shown in Table 6-1.

Results presented in Table 6-1 also indicate that the impact of the 2010 Reforms was significant as the estimated ultimate claim ratio based on industry data improved by 25.4 percentage points between 2010 and 2012. This improvement is explained by a decline in estimated ultimate claims and claim adjustment expenses of $1.8 billion, together with an increase in earned premiums of $1.0 billion from 2010 to 2012. Most of the increase in earned premiums occurred during 2011 and results from rate increases approved by FSCO prior to the 2010 Reforms. As
discussed in our Interim Report and summarized in Section 10.1, rate increases that were implemented before the 2010 Reforms were not fully earned until August 31, 2012.

Similarly, the results presented in Table 6-1 indicate that the accident year estimated ultimate claim ratio improved by 19.7 percentage points from 2010 to 2013. This is due to estimated ultimate claims and claim adjustment expenses decreasing by $1.1 billion while earned premiums increased by $1.2 billion. The very preliminary estimate of the 2014 ultimate claim ratio still shows an improvement of 16.4 percentage points when compared to 2010 and a deterioration of 4 percentage points when compared to 2013.

Given our analysis, we conclude that the following factors contributed to the increase in the ultimate claim ratios in the last two accident years:

— Rate decreases implemented by the industry that are flowing through earned premiums; and

— Increase in claim frequency, particularly for the 2nd half year of 2013 and the 1st half year of 2014.

As the claims from a given accident year mature, the estimate of ultimate claim costs can normally be expected to become more certain, and the various actuarial projection methods will tend to converge to a narrower range of estimates. This is particularly true for coverages for which the settlement period is longer such as third party liability-bodily injury (TPL-BI), accident benefits-disability income (AB-DI) and accident benefits-medical and rehabilitation (AB-MR). Because of this variability, estimates of ultimate claims costs for these post-2010 Reforms accident years continue to be very uncertain. As such, on-going monitoring of the estimates will be necessary in order to measure the ultimate performance of Ontario PPA insurance over this time period.

As can be observed by comparing the ultimate claim ratios in Table 6-1 with our estimated ultimate claim ratios from our prior analysis based on data as of December 31, 2013 (documented in the 2014 Annual Report), estimated ultimate claim ratios for recent accident years have generally decreased. During the 12-month period, as claims mature, the reserve releases were generally higher than expected reported losses per our assumptions and projections based on data as of December 31, 2013.

The ultimate disposition of claims, whether incurred prior to or following the as of date, is subject to the outcome of events that have not yet occurred. Examples of these events include jury decisions, court interpretations, legislative changes, public attitudes, and social/economic conditions such as inflation. Any estimate of the ultimate claim costs is subject to the inherent limitation on one’s ability to predict the aggregate course of future events. It should therefore be expected that the actual emergence of claims will vary, perhaps materially, from the estimates as at December 31, 2014.

6.2 Impact of the 2010 Reforms on Insurance Claim Costs

One of the objectives of the 2010 Reforms was to address the increasingly high level of auto insurance claim costs.
As part of our independent actuarial analysis, we updated the estimated impact of the 2010 Reforms on insurance claim costs, for each Ontario automobile insurance coverage and sub-coverage, based on the same approach as that used for the 2014 Annual Report but relying on more recent data, as of December 31, 2014. In the current analysis, we estimated the pre- and post-2010 Reforms claim cost trends as well as the impacts of the 2010 Reforms on claim cost levels (2010 Reforms Impacts).

Table 6-2 summarizes our best estimate of the impact of the 2010 Reforms on claim cost trends and claim cost levels based on the analysis and the methodologies described in Appendix A. As discussed in Appendix A, we conducted the trend analysis separately for each of the coverages and sub-coverages identified.

Our analysis indicates that there is a strong inter-dependency between the estimated claim cost trends (both pre- and post-2010 Reforms) and the impact of the 2010 Reforms on claim cost levels. Consequently estimates of claim cost trends, pre- and post-2010 Reforms, as well as the estimates of 2010 Reforms Impacts should be extracted from the same modelling approach, with the same underlying data and assumptions, and should be read and interpreted conjointly for a given coverage and sub-coverage. In other words, the 2010 Reforms Impacts on claim cost levels shown in the last column of Table 6-2 should not be used in combination with claim cost trends stemming from a different modelling approach or data source.

### Table 6-2: Summary of Estimates of Claim Cost Trends and 2010 Reforms Impacts

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Trends Pre-2010 Reforms</th>
<th>Trends Post-2010 Reforms</th>
<th>2010 Reforms Impacts on Claim Cost Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Party Liability (TPL) – Bodily Injury (BI)</td>
<td>3.2%</td>
<td>3.2%</td>
<td>0%</td>
</tr>
<tr>
<td>TPL-Property Damage (PD)</td>
<td>0.7%</td>
<td>0.7%</td>
<td>0%</td>
</tr>
<tr>
<td>TPL-Direct Compensation Property Damage (DC)</td>
<td>1.1%</td>
<td>1.1%</td>
<td>0%</td>
</tr>
<tr>
<td>Underinsured Motorist (UM)</td>
<td>1.9%</td>
<td>1.9%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total TPL+UM</strong></td>
<td><strong>2.7%</strong></td>
<td><strong>2.5%</strong></td>
<td><strong>0%</strong></td>
</tr>
<tr>
<td>Accident Benefits (AB) – Medical and Rehabilitation (MR)</td>
<td>17.3%</td>
<td>1.0%</td>
<td>-47.0%</td>
</tr>
<tr>
<td>AB-Disability Income (DI)</td>
<td>8.2%</td>
<td>1.6%</td>
<td>-25.5%</td>
</tr>
<tr>
<td>AB-Funeral Expenses (F)</td>
<td>-7.4%</td>
<td>-1.9%</td>
<td>0%</td>
</tr>
<tr>
<td>AB-Death Benefits (DB)</td>
<td>-8.6%</td>
<td>0.7%</td>
<td>0%</td>
</tr>
<tr>
<td>AB-Supplementary (SUP)</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0%</td>
</tr>
<tr>
<td>Uninsured Automobile (UA)</td>
<td>4.1%</td>
<td>4.1%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total AB+UA</strong></td>
<td><strong>15.2%</strong></td>
<td><strong>1.3%</strong></td>
<td><strong>-42.3%</strong></td>
</tr>
</tbody>
</table>
Table 6-2 shows that:

- The pre-2010 Reforms claim cost trend was significant at 9.9% per annum for Total Compulsory Coverages.

- The 2010 Reforms appear to have had a significant impact on claim cost trends; based on the first four years of data, the claim cost trend post-2010 Reforms is estimated at 1.9% for Total Compulsory Coverages.

- With the 2010 Reforms, the reduction of average claim cost level is estimated at 26.7% for Total Compulsory Coverages.

We note that any estimates or analysis of claim cost trends and 2010 Reforms Impacts are highly dependent on the dataset, as well as the modeling approach, length of data history, and assumptions. In particular, the available GISA dataset is not broken down by insurer and therefore does not allow the analysis to take into account changes in claim handling procedures or case reserve adequacy level during the relevant period. In addition, the GISA dataset relied on for this analysis is not broken down by territory and as such, does not allow the analysis to take into account differences in the impact of the 2010 Reforms (the one-time impact and the impact on the trend in loss costs) between territories. It is generally recognized that the 2010 Reforms had a different impact on the urban territories (and, in particular, in the Greater Toronto and Hamilton areas) and rural territories. It is also important to note that the estimates presented in this report are only based on four years of post-2010 Reforms data.

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167 Weighted based on 2009 ultimate claim costs.
168 Weighted based on 2013 ultimate claim costs.
169 Weighted based on 2009 ultimate claim costs that have been trended by one year.
6.2.1 Comparison with Results from our Previous Analysis (2014 Annual Report)

Our main conclusion is that the results of the analysis based on data as at December 31, 2014 are reasonably consistent with those derived as part of our previous analysis based on data as at December 31, 2013 (2014 Annual Report).

Table 6-3: Comparison of Post-2010 Reforms Trends and 2010 Reforms Impacts Estimates with the Previous Analysis

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Post-2010 Reforms Trend</th>
<th>2010 Reforms One-time Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Updated Analysis</td>
<td>Previous Analysis</td>
</tr>
<tr>
<td>TPL + Underinsured Motorist</td>
<td>2.5%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Accident Benefits + Uninsured Auto</td>
<td>1.3%</td>
<td>0.7%</td>
</tr>
<tr>
<td>Total Compulsory Coverages</td>
<td>1.9%</td>
<td>2.7%</td>
</tr>
<tr>
<td>Physical Damages</td>
<td>-1.9%</td>
<td>-1.9%</td>
</tr>
<tr>
<td>Total All Coverages</td>
<td>1.5%</td>
<td>1.7%</td>
</tr>
</tbody>
</table>

6.2.2 Sensitivity Analysis Based on the Latest Four Years of Data

The long-term loss cost trends are leading indicators of level of pressure on premium levels. If the loss cost trend is high, then there is additional pressure to increase insurance rates. Thus it is important to regularly monitor whether these loss cost trends remain low.

As presented in Table 6-3, our best estimate of the post-2010 Reforms trends in loss costs are relatively low at 1.9% for the total of compulsory coverages. The estimated post-2010 Reforms trends are based on the selected model for estimating the impact of the 2010 Reforms, pre and post-2010 Reforms trends which includes data from 2003 through 2014. As discussed in the actuarial analysis (Appendix A), for each coverage or sub-coverage, we ran various models before selecting the final model. In particular, for post-2010 Reforms trend, we calculated alternative estimates based on Post-2010 Reforms claims data.

Table 6-4 compares the post-2010 Reforms loss cost trends based on our selected model versus an alternative using only the latest four years of claim experience for the main sub-coverages. The alternate model assists in detecting signals of possible changes in the loss cost trends by estimating the trends based only on Post-2010 Reforms data.
As can be observed in Table 6-4, an alternate trend model based on the last four years of data, generally leads to higher trend factors, in particular for Accident Benefits Disability income (approximately 2.4% higher than in our selected model). It also leads to significantly higher trend factors for TPL-Direct Compensation (approximately 4.5%) and Physical Damage-Collision (approximately 3.6%).

As discussed in the actuarial analysis (Appendix A), the adverse claim frequency experience in the 2nd half-year of 2013 and in the 1st half year of 2014 has contributed to these results since using a shorter time period gives more weight to each data point in that period. The fact that the increase in indicated trend estimates also affected Direct Compensation and Physical Damage leads us to believe that the increase indicated trend estimate is caused more by adverse claim frequency than the changes resulting from the 2010 Reforms.

In order to contain the loss costs trends and reduce the pressure of future insurance rates, the 2015 and 2016 legislative changes need to be successfully implemented. In addition, the industry current initiatives and innovations should also play a critical role.

6.3 Progress Related to the Average Rate Reduction Target of 15%

Table 6-5 summarizes FSCO post-2010 Reforms approved rate changes\(^\text{171}\) for the entire PPA insurance market, by year approved.

<table>
<thead>
<tr>
<th>Year Approved</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate Change</td>
<td>0.7%</td>
<td>4.9%</td>
<td>-0.3%</td>
<td>-4.7%</td>
<td>-1.4%</td>
<td>-0.9%</td>
</tr>
</tbody>
</table>

Based on FSCO data as of the 3rd quarter of 2015, the post-2010 Reforms cumulative approved

rate changes for the entire PPA insurance market is a decrease of 1.8% from rate filings approved by FSCO between the 2nd quarter of 2010 and the 3rd quarter of 2015. If rates are compared on a different time horizon – the period since the introduction of the Strategy in August 2013 – the approved rate changes for the entire PPA insurance market decreased by 6.8% from the 3rd quarter of 2013 to the 3rd quarter of 2015.

In accordance with Regulation 237/13\(^{172}\), FSCO measured the progress related to the average rate reduction of 15% from August 2013 to August 2015. From discussions with the MOF, we understand that the average authorized rate change measured in accordance with the regulation for Ontario PPA for the period between August 2013 and August 2015 is a decrease of 7.26%. Based on these measures, the Government did not achieve the Strategy of reducing the average rate by 15% from August 2013 to August 2015. However, the Government continues to work with stakeholders in the PPA insurance market to improve the system and enhance consumer protection.

Reviewing official records from the Legislative Assembly\(^{173}\), we understand that the Government believes that key reforms were delayed when, as discussed in Section 5.1, Ontario’s 40th Parliament was dissolved. As a result, there was a six month delay before Bill 15 received royal assent. This postponed the implementation of key reforms that stakeholders in the PPA insurance system were seeking, which in the Government’s opinion, contributed to a delay in the progress of reducing rates.

We understand that many stakeholders generally believe that the latest 2015/2016 Reforms are significant, but it will take time for these reforms to result in further rate reductions.


7 COMPETITIVENESS OF THE ONTARIO PPA INSURANCE MARKET

The 2014 Annual Report noted that there are opposing views as to whether the Ontario PPA insurance market is sufficiently competitive. Some respondents to our surveys for the 2014 Annual Report and Interim Report do not believe that the PPA insurance system is competitive and efficient in providing affordable premiums. Others believe that the entire system should be reviewed for opportunities to increase efficiency and reduce costs overall. Insurers and brokers generally believe that the PPA insurance system is a competitive market.

There are a number of different ways of measuring competitiveness. For purposes of this report, we have used a simplified approach and have measured competitiveness using two metrics that are commonly used in a range of industries:

— Number of competitors offering the product and their relative market share; and
— Variability of prices for similar products.

7.1 Number of Companies Offering PPA Insurance

We compare the number of companies offering PPA insurance in Ontario and other provinces.

7.1.1 Ontario

As of December 31, 2014, there were 62\textsuperscript{174} companies offering PPA Insurance in Ontario. This represents a decrease from the 67 companies that were offering this type of insurance in 2012, 70 in 2013, and 69 in 2011. Table 7-1 summarizes the top 10 insurance groups, many of which operate under multiple brands, sorted by written premium market share in Ontario for 2014.

<table>
<thead>
<tr>
<th>Company Group</th>
<th>Market Share (%)\textsuperscript{175}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intact</td>
<td>15.5</td>
</tr>
<tr>
<td>Desjardins / State Farm</td>
<td>15.3</td>
</tr>
<tr>
<td>TD Insurance</td>
<td>11.9</td>
</tr>
<tr>
<td>Aviva</td>
<td>8.5</td>
</tr>
<tr>
<td>Allstate</td>
<td>8.5</td>
</tr>
</tbody>
</table>

\textsuperscript{174} All counts do not include companies that wrote less than $100,000 in premiums. In 2014 five companies had less than $100,000 in premiums.

\textsuperscript{175} Source: MSA Researcher Online. This does not include all insurers, companies such as farm mutual companies and provincially regulated companies are excluded.
As can be seen in the table, the top 10 insurance company groups wrote more than 86% of the total PPA insurance premiums sold in Ontario during 2014. This represents an increase over the past four years. The chart below demonstrates the historical movement in Ontario PPA automobile insurance market share for the top 10 insurance company groups.

<table>
<thead>
<tr>
<th>Company Group</th>
<th>Market Share (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperators</td>
<td>6.5</td>
</tr>
<tr>
<td>Economical</td>
<td>6.4</td>
</tr>
<tr>
<td>RSA</td>
<td>5.4</td>
</tr>
<tr>
<td>RBC</td>
<td>4.1</td>
</tr>
<tr>
<td>Travelers</td>
<td>4.1</td>
</tr>
</tbody>
</table>
As demonstrated in Figure 7-1, the Ontario PPA insurance market share that the top 10 insurance group holds has increased each year over the past four years. In 2011, the top 10 insurance groups represented 77% of the Ontario PPA insurance market. This figure increased to 86% in 2014.

While the PPA insurance market in Ontario appears to be competitive with 62 companies selling insurance in 2014, the number of companies have been decreasing over the past few years. This is also apparent as the market share of the top 10 insurance groups continue to grow. Moreover, in 2014, the top 10 insurance groups represented 31 of the 62 companies. Thus as a measure, using the number of companies offering PPA insurance alone does not provide a true indication of competitiveness.

Source: MSA Researcher Online. Based on written premiums. This does not include all insurers, companies such as farm mutual companies are excluded.
7.1.2 Other Provinces

In 2014, there were approximately 44 insurance companies who offered PPA insurance in Alberta, while about 37 companies offered PPA insurance in Quebec. The following table summarizes the top 10 insurance groups in both provinces by market share as measured by total premiums written in 2014.

<table>
<thead>
<tr>
<th>Alberta</th>
<th>Quebec</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Company Group</strong></td>
<td><strong>Market Share (%)</strong></td>
</tr>
<tr>
<td>Intact</td>
<td>19.6</td>
</tr>
<tr>
<td>TD Insurance</td>
<td>16.0</td>
</tr>
<tr>
<td>Wawanesa</td>
<td>14.0</td>
</tr>
<tr>
<td>Cooperators</td>
<td>8.1</td>
</tr>
<tr>
<td>Alberta Motor Association</td>
<td>7.0</td>
</tr>
<tr>
<td>Desjardins</td>
<td>6.7</td>
</tr>
<tr>
<td>Aviva</td>
<td>6.4</td>
</tr>
<tr>
<td>RSA</td>
<td>6.0</td>
</tr>
<tr>
<td>Economical</td>
<td>3.0</td>
</tr>
<tr>
<td>Allstate</td>
<td>2.9</td>
</tr>
</tbody>
</table>

As demonstrated in Table 7-2, the top 10 insurance groups wrote 90% of PPA insurance premiums in Alberta in 2014, while in Quebec the top 10 insurance groups wrote 94%.

7.2 Summary of Submitted Risk Profiles

As part of each rate filing submitted to FSCO, companies are required to include the premium calculated for a sample group of standardized driver profiles. FSCO publishes the rates provided by all companies for three of these rating profiles on its website. Based on written premiums. This does not include all insurers, companies such as farm mutual companies are excluded.

This section describes the rating characteristics of the each of the three published profiles, and provide a box whisker plot displaying the minimum, the first quartile (in blue), the median, the third quartile (in green), and the maximum premium calculated by companies with filings.

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177 All counts do not include companies that wrote less than $100,000 in premiums.
178 Source: MSA Researcher Online. Based on written premiums. This does not include all insurers, companies such as farm mutual companies are excluded.
approved by FSCO as of September 30, 2015. Insurers writing non-standard policies\(^{180}\) are not included in the summary plots as the higher premiums would distort results.

7.2.1 Profile 1

Profile 1 represents a PPA insurance policy that covers one driver with the following rating characteristics:

— Male driver aged 70, married and retired;
— No driver training, licensed for 45 years and 6 months, and currently holds a class G license;
— Rating is for new business;
— The use is for pleasure with annual mileage of 11,000 km;
— The driver has no at-fault accidents and no convictions; and
— The vehicle is 2009 Honda Accord EX-L 4DR.

![Figure 7-2: Distribution of Premiums for Rate Profile 1](image)

7.2.2 Profile 2

Profile 2 represents a PPA insurance policy covering two drivers with the following characteristics:

\(^{180}\) Non-standard policies are typically for drivers who are not able to get insurance coverage through other insurance companies. These policies have premiums that are much higher than average.
**Driver 1**

- Male driver aged 40, married;
- No driver training, licensed for 24 years and 6 months, and currently holds a class G license;
- Rating is for new business;
- The use is for business with 10km one way and annual mileage of 15,000 km;
- The driver has no at-fault accidents and no convictions; and
- The vehicle is 2010 Ford F150 XL REG CAB 4WD.

**Driver 2**

- Female driver aged 39, married;
- No driver training, licensed for 20 years and 6 months, and currently holds a class G license;
- Rating is for new business;
- The use is for pleasure with annual mileage of 9,000 km;
- The driver has no at-fault accidents and no convictions; and
- The vehicle is 2009 Honda Civic LX 4DR.

**Figure 7-3: Distribution of Premiums for Rate Profile 2**

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**7.2.3 Profile 3**

Profile 3 represents a PPA insurance policy that covers one driver with the following characteristics:
— Female driver aged 35, married;
— No driver training, licensed for 15 years and 6 months, and currently holds a class G license;
— Rating is for new business;
— The use is for business with 25km one way and annual mileage of 25,000 km;
— The driver has no at-fault accidents and no convictions; and
— The vehicle is 2012 Nissan Versa 1.8 SL 5DR.

**Figure 7-4: Distribution of Premiums for Rate Profile 3**

7.2.4 Observations

The rates in Toronto are typically higher than in the other cities, and Toronto consistently shows the largest variability in the rates offered. Windsor also shows a fair degree of variability, while the other cities display a relatively narrow gap between the first and third quartile, suggesting that the rates are more uniform. Profile 1 also suggests that for older males, there is minimal variability in the rates offered as the first and third quartiles (i.e., blue and green bands) are narrower compared to the other profiles.

7.3 Comment on Competitiveness

For the Ontario PPA insurance market, we note that the recent market consolidation led to a decrease in the number of companies offering coverage in recent years. Nevertheless, at December 31, 2014:

— There were 62 companies offering PPA insurance in Ontario (with the top 10 insurance groups representing 31 of these companies); and
— There were 8 independent company groups who have more than 5% market share in the PPA insurance market with largest being at 15.5% market share (Intact).

We also note that the top 10 company groups wrote approximately 86% of the total Ontario PPA insurance premiums in 2014. This is less than the comparable measure in the provinces of Alberta, where the top 10 companies account for 90% of the total, and of Quebec, where the top 10 companies account for 94% of the total premiums.

Based on comparison of three insured profiles in seven different cities, we note that there are significant variations in premiums for the same coverage such that consumers who take the time to shop around and compare prices should be able to reduce their premiums. We also note that the range of premiums appears to be wider (i.e., more variability) for profiles and areas where insurance rates are higher (e.g., Toronto).

In addition to our analysis above, we share the following general observations:

— **Simplified Quoting Process:** many insurers have simplified the quoting process to encourage consumers to obtain premium quotes from their company. We note that this contributes to improve access to different providers for PPA insurance for consumers in Ontario. This increases the likelihood that consumers will be able to save on their premiums and take advantage of the competitive environment in Ontario.

— **Rate Change Process:** on the other hand, the current process for implementing rate changes in Ontario limits the speed at which companies may react to rate changes from their competition, or may introduce innovative rating programs. Many insurers argue that the rate change process adds friction and limits the competitiveness of the PPA insurance market.
8 APPENDIX A – INDEPENDENT ACTUARIAL ANALYSIS
Appendix A is available upon request. Please email AutoInsurance@ontario.ca to receive an electronic copy.
9 APPENDIX B – SUMMARY OF 2014 ANNUAL REPORT

The following approach was used in the preparation of the 2014 Annual Report:

— Analysis of the GISA data as of December 31, 2013;

— Incorporation of the results and findings from the Interim Report, including the information collected through a survey process conducted in early 2014 involving major Ontario automobile insurers (Interim Report Survey); and

— Summarization and analysis of the information collected through a survey directed at other stakeholders (e.g., non-insurer) in the Ontario automobile insurance system (2014 Annual Report Survey).

To assess how the 2010 Reforms affected PPA insurance claim costs and average rates at the industry level we performed an independent actuarial analysis and reviewed the responses that we received from both the Interim Report Survey and the 2014 Annual Report Survey.

9.1 Quantitative Analysis of the Impact of the 2010 Reforms

As part of our independent actuarial analysis, we analyzed the impact of the 2010 Reforms on claim costs and premiums. In the 2014 Annual Report, we discussed the estimated impact of the 2010 Reforms on claim cost level and claim cost trends, as well as examined changes in average premium and average rate.

The results of our analysis showed that the pre-2010 Reforms costs significantly trended at more than 10% per year for combined compulsory coverages (i.e., third party liability and accident benefits). Moreover, the 2010 Reforms appeared to have had a significant impact on claim cost trends. Based on the first three years of data, the claim cost trend was estimated at 2.7% for the combined compulsory coverages. Our analysis indicated that the claim cost for all coverages had been increasing on average by 1.7% per year post-2010 Reforms. As of December 31, 2013, the 2010 Reforms seemed to have been successful in controlling the claim cost trends towards the general inflation level. Our analysis showed a claim cost reduction of just above 25% for total compulsory coverages and 21.6% for total coverages.

At the outset, the accident benefits claims were expected to transfer to third party liability bodily injury as a result of the 2010 Reforms. Our analysis of post-2010 Reforms experience did not show evidence of such a transfer as of December 31, 2013.

Our analysis of premium and claim trends between 2003 and 2012 demonstrated that during this period premiums were becoming increasingly less adequate. We noted that the overall level of average premium has not decreased post-2010 Reforms. One reason for this is that the average premiums were inadequate pre-2010 Reforms (i.e., the pre-2010 Reforms average premium did not increase enough to match the claim trends).
Our analysis indicated that the 2010 Reforms have significantly contributed to reducing the claim cost levels and claim cost trends and, therefore, have also contributed to stabilizing insurance rates in Ontario. Without the 2010 Reforms, significant rate increases would have been needed in order to restore profitability and to cover the expected future claim cost trends.

9.2 Qualitative Analysis based on Summary of Surveys

In the 2014 Annual Report, we summarized comments from the Interim Report and the 2014 Annual Report surveys, discussing the impact of the 2010 Reforms to consumers and stakeholders in the PPA insurance system. We also discussed stakeholders' view of the recommendations from the “Final Report of the Ontario Automobile Insurance Anti-Fraud Task Force Steering Committee”\(^1\) and the “2014 Ontario Automobile Dispute Resolution System Review Final Report.”\(^2\) We discussed stakeholders' comments on the Strategy, and noted their views of the following uncertainties in the PPA insurance system:

— Potential erosion of the existing catastrophic impairment definition;
— Definition of minor injuries that would fall under the MIG;
— Limitation period and discoverability of bodily injury claims and transfer of some claim costs from accident benefits to bodily injury;
— Definition of what constitutes “economic loss”;
— Changes to DRS processes;
— Use of FSCO benchmarks in rate reviews; and
— Eligibility for automobile insurance insureds to claim optional benefits regardless of whether the options were purchased.

9.3 Observations and Recommendations

Consistent with the objectives of the 2014 Annual Report, we provided recommendations with a focus on potential further actions that could benefit the overall Ontario automobile insurance system. There was a broad consensus among the responding stakeholders that the Ontario PPA insurance system needs reform, that a number of positive steps towards reform had been taken, and that there is more to be done.

We suggested to consider establishing an independent organization whose mandate would be to represent all consumers in Ontario who purchase PPA insurance. Such an organization would be responsible to balance the views and needs of all consumers, and could provide a voice to all Ontario automobile insurance consumers.

We noted that additional initiatives would be required in order to support further average rate reduction. We recommended that any additional initiatives should target specific issues (rather

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than broad product reform) to minimize potential ripple effects that may result in unintended consequences. Attempts should also be made to continually understand the cost and benefit of initiatives that have been or will be implemented in order to strike a balance between the need for additional initiatives and maintaining stability in the system.

Other recommendations included considerations for using data from the Health Claims for Auto Insurance System (HCAI) if the Government would like to gain additional insights on the full impact of the 2010 Reforms and Strategy. We also believed that additional sharing and monitoring of information would be of value to the PPA insurance system. We suggested the Government to consider initiatives that may reduce the frequency of claims in the Ontario PPA insurance system. Lastly, we presented specific recommendations to FSCO benchmarks and process, as well as other aspects of the PPA insurance system that are aimed at reducing uncertainty and costs.
10 APPENDIX C – SUMMARY OF INTERIM REPORT

The Interim Report was prepared using the following three approaches:

— Analysis of P&C insurers financial statements as at December 31, 2013;
— Analysis of GISA data as at June 30, 2013; and
— Summarization of information collected through the Interim Report Survey.

In this Appendix we summarize the Interim Report findings with respect to changes in claim costs and premiums, uncertainty in the Ontario PPA insurance system, as well as action steps that were suggested by insurers who participated in the Interim Report Survey.

The Interim Report also contains background information about the automobile insurance system. This information is not repeated in this report. Instead, readers are referred to the following sections of the Interim Report for further information:

— Section 1.6 Rates vs. Premiums;
— Appendix B – Best Practices for Actuarial Involvement in the Rate Regulatory Review;
— Appendix C – Primer on the P&C Insurance Industry; and
— Appendix D – Actuary’s Role in the Insurance Industry.

Due to the time constraints involved in producing the Interim Report, the Interim Report Survey was only sent to executives from insurers providing PPA insurance in Ontario. Recognizing that other stakeholders in the Ontario PPA insurance system may have a different perspective than that presented by insurers, it was noted in the Interim Report that the 2014 Annual Report would include consultation with additional stakeholders through a second survey process.

10.1 Change in Claim Costs and Premiums

Insurers who participated in the Interim Report Survey estimated that the 2010 Reforms increased the bodily injury portion of third party liability coverage (i.e., TPL-BI) claim costs by approximately 20%. Conversely, according to the insurers, the 2010 Reforms decreased AB claim costs by about 46%.

As noted in the Interim Report, based on a review of insurers’ financial statements and GISA data, it appears that the total earned premium for Ontario PPA increased annually by approximately 4%, 7%, 6.5%, 4%, and 1.6% from 2008 through 2013. Specifically, AB earned premium increased by about 9% and 5% in 2011 and 2012 respectively. The trend reversed...
between 2012 and 2013, with AB earned premium decreasing by approximately 1%. As such, it was also noted that the increases observed in the overall PPA earned premium over the post-2010 Reforms period of 2011 and 2012 could be explained in part by the increases in PPA AB premium.

The Interim Report also noted that the uncertainty in the system post-2010 Reforms could be one of the reasons that the overall rate level did not decrease post-2010 Reforms. In addition, the following were mentioned as some of the reasons contributing to increased AB premium post-2010 Reforms:

— Increase in the number of insured vehicles at approximately 1.5% per annum;

— Deeply inadequate rates pre-2010 Reforms that resulted in rate increases being implemented in 2010 and 2011; and

— Rate increases that were implemented pre-2010 Reforms (i.e., prior to September 1, 2010) being earned up to August 31, 2012.

The Interim Report also mentioned that, as a review of financial statement and GISA data indicates that the rates underlying the premiums charged pre-2010 Reforms were deeply inadequate, the 2011 rate indications might have been expected to result in significant rate increases if the 2010 Reforms had not taken place.

10.2 Uncertainty in the Ontario PPA Insurance System

The insurers responding to the Interim Report Survey identified a list of uncertainties in the Ontario PPA Insurance System that make it challenging for them to estimate past and future claim costs. These include:

— The erosion of the catastrophic impairment definition through case law as well as the lack of clarity on how the catastrophic impairment definition will be addressed by the Government;

— The pressure for claimants to move outside of the minor injury limits, and the uncertain impact of arbitration decisions on the MIG;

— The mediation and arbitration backlog, and the unpredictable outcome from the dispute resolution process;

— Transfer of claim costs between AB and TPL-BI and the slow emergence of TPL-BI claims;

— Delays in the rate reviews performed by FSCO and the application of FSCO benchmarks in rate reviews.

186 MOF indicated that it is their understanding that FSCO has specific service standards as part of their rate review process, and that many of the delays that occur are a result of incomplete data and information submitted by insurers to FSCO.
— The possible entitlement to optional benefits even in circumstances when endorsements are not purchased pre-accident; and

— Due to greater use of professional services, possible erosion of Regulation 347/13 effective February 1, 2014, which amended the attendant care coverage.

It is the insurers’ view that reducing uncertainties is critical to ensure the long-term sustainability of the PPA insurance system in Ontario.

10.3 Observations and Recommendations

Through the Interim Report Survey, the insurance companies provided recommended actions steps geared towards reducing costs in the Ontario PPA insurance system. These suggestions were summarized in the Interim Report.

In addition, it was observed during the preparation of the Interim Report that the Government is aware of its role and the need to do more to reduce rates for consumers. It was also noted that the insurance industry realizes it can have an impact on cost reduction. In addition, the Interim Report observed that other stakeholders, in addition to the insurers and government, also have a role to play in the management of costs.

We did not make any recommendations on further actions that could help achieve the rate reduction targets set by the Government. As explained in the Interim Report, it was felt that it was premature to provide these recommendations before seeking the input of a broader group of stakeholders, who could provide a range of different perspectives, through an expanded survey process.

\[187\] MOF indicated that it is their understanding that FSCO invites insurers to compare their experience to the benchmark and provide any supporting information for changes. Moreover, MOF indicated that they understand that there is an increased reliance by smaller insurers on the FSCO benchmarks in estimating costs and setting rates due to limited data and experience.
APPENDIX D – REFERENCE SOURCES


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https://news.ontario.ca/mof/en/2015/03/ontario-to-review-key-financial-regulatory-agencies.html


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