

**REPORT OF THE  
CHIEF EXECUTIVE OFFICER  
ON THE FACILITY ASSOCIATION**

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Financial Services Regulatory Authority (FSRA)  
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Note: Prepared under delegated authority

## I. INTRODUCTION

Section 11.1 of the *Compulsory Automobile Insurance Act*, R.S.O. 1990, Chapter C.25 (the *Act*), requires the Chief Executive Officer to make an annual report to the Finance Minister on the affairs of the Facility Association (the Association). The Minister is required to lay this report before the Legislative Assembly. FSRA is reporting on the financial affairs of the Association for the fiscal year ended October 31, 2019, and other significant events to date.

FSRA conducted a review of the Association in September 2020 and carried out the tests and inquiries necessary to determine whether the Association is satisfying its responsibilities under the *Act*.

The Association commenced operations in Ontario in 1979 as an insurance industry organization with legal status under the *Act*. All insurance companies that are licensed to underwrite automobile insurance in Ontario are compelled by statute to be members of the Association.

The Association guarantees that automobile insurance will be available to individuals who might otherwise be unable to obtain insurance in the regular market. This is referred to as the residual market. Automobile insurance policies are issued to individuals through insurers that are designated Servicing Carriers. These insurers have contracted with the Association to collect premiums, administer policies, and pay claims on its behalf. The residual market operates in the following provinces and territories: Ontario, Alberta, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland and Labrador, Yukon, Northwest Territories, and Nunavut.

In addition, the Association has administered the Risk Sharing Pool (RSP) in Ontario since 1993. RSPs commenced operation in Alberta in 2004, in New Brunswick in 2005, in Nova Scotia in 2007, and most recently in Newfoundland and Labrador in 2020. RSPs are a reinsurance mechanism that allow individual insurers to transfer higher risk exposures that do not qualify for the residual market.

The RSP is only for private passenger automobiles. The experience of the RSP is shared across insurers based on their market share of the Ontario private passenger business and the usage of the RSP, each weighted at 50%.

A Board of Directors that is comprised of sixteen members oversees the affairs of the Association. The Board consists of ten insurance company employees, three insurance brokers (approved by the Insurance Brokers Association of Canada), two independent directors, and the President and Chief Executive Officer of the Association. Appendix A provides information of the Board Membership.

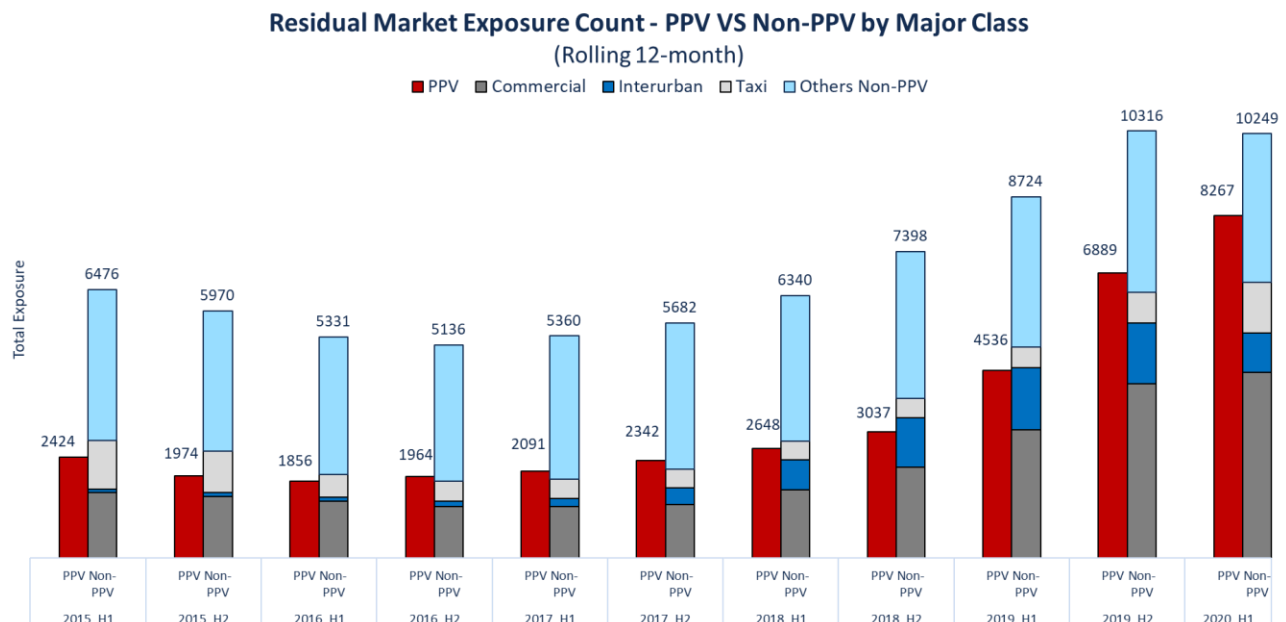
## II. BUSINESS VOLUME

### Residual Market

The number of private passenger vehicles (PPVs) that were insured in Ontario's residual market was at its lowest point in the first half of 2016 and has been continuously increasing since that time. As at June 30, 2020, there were 8,267 vehicles insured in the residual market. This is an 82% increase over the same period in 2019, however, the residual market PPV market share is still very low at 0.1%. In addition, the number of PPVs insured in the residual market it is still well below the 2003 peak of 225,000 vehicles.

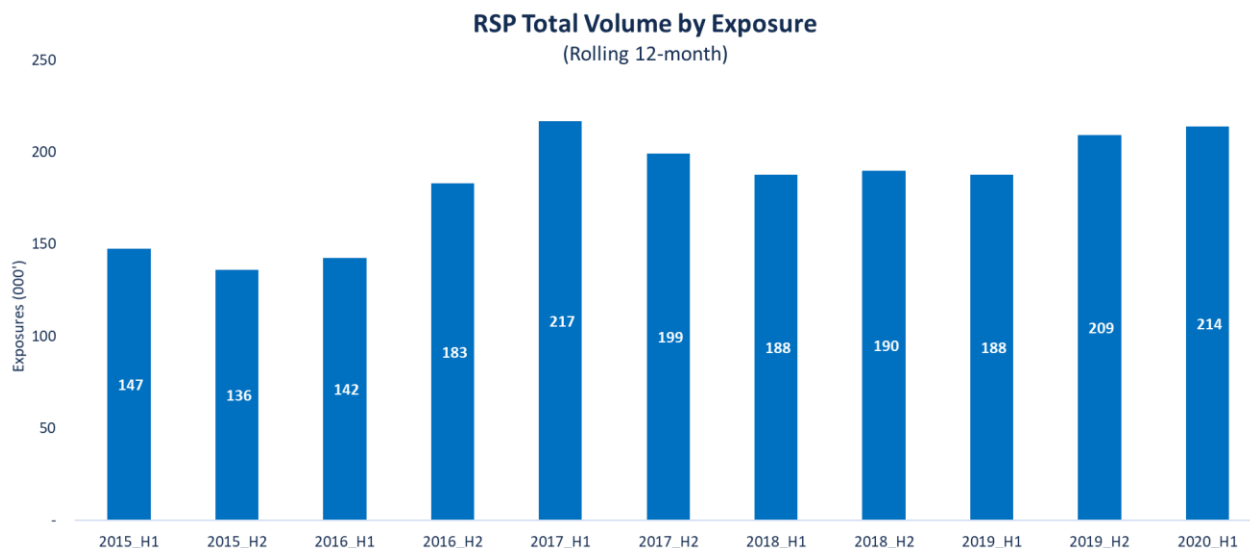
The volume of commercial and interurban vehicles in the residual market has also been increasing since 2016. There has been a rise in the number of commercial and interurban risks in Ontario that lack driving experience or have no prior insurance. Many of these risks do not qualify for the standard market, which has led to a rise in the residual market.

The number of taxis in the residual market has increased since 2019 and this trend is expected to continue into the second half of 2020. Claims costs and insurance expenses are exceeding premiums received and have been for some time. Some insurers are choosing to restrict the amount of taxi business they accept, and others are choosing to exit the market altogether due to financial performance. As a result, the residual market has seen an increase in the number of taxi exposures.



## Risk Sharing Pool (RSP)

Cessions to the RSP have been stable over the last 5 years. The use of the RSP remains unchanged at approximately 50% of the maximum allowable cession limit of 5%.



### III. FINANCIAL RESULTS

The Association is defined as an unincorporated non-profit association of insurers under the *Act*. This means that while there may be profits or losses in any given year, the Association is not operating for the financial gain of its members.

FSRA relied on the work of the external auditor of the Association with respect to the quality of the financial statements. The auditor presented an unqualified audit opinion for both the residual market and the Ontario RSP audited financial statements for the year ended October 31, 2019 and reported that it did not identify any material weaknesses in internal controls. The audited financial statements for residual markets (including the Uninsured Automobile Funds) across Canada, as well as the Ontario RSP, were published by the Association.

In 2019, the Association recorded a profit of \$10 million for residual markets across Canada, as compared to \$33 million in 2018. For Ontario alone, the Association recorded a profit of \$15 million as compared to \$23 million in 2018.

As at October 31, 2019, total assets for residual markets were \$674 million compared to \$513 million as at October 31, 2018.

These profits and losses do not reflect income and expenses that are directly earned or incurred by the member companies of the Association. Member companies pay premium taxes and health levies directly to the provinces based on direct written

premiums. Investment income earned on the Association's funds held by member companies is also not reflected in the Association's financial statements.

In 2019, the Ontario RSP had a loss of \$126 million, as compared to a loss of \$194 million in 2018. Except for 2015, the Ontario RSP incurred operating deficits in each of the last ten years. The financial statements for the RSP include only the financial results of the risks transferred to the RSP and the cost of managing it by the Association. The financial statements do not include expenses incurred or revenue earned directly by members in respect of their participation.

As at October 31, 2019, total assets for the Ontario RSP were \$1,511 million compared to \$1,500 million as at October 31, 2018.

As with all insurance companies, any changes in the estimates for claims liabilities are recorded in the year the estimates are revised. Estimating claims liabilities is an inherently uncertain process that has been further complicated by multiple changes to the automobile insurance product since 1990. Revisions to estimated claims liabilities for accidents that occurred in prior years can have a significant impact on the calculation of the current year's profits or losses. Therefore, a profit or loss in any particular year is not necessarily a sole result of the events that occurred in that year.

Attached are copies of the audited financial statements for the residual market and the Ontario RSP.

#### **IV. APPROVED RATE CHANGES**

Rate changes for all categories of automobile insurance for the Ontario residual market require prior approval by FSRA. The following rate approvals have been granted to the Association since the last report:

<b>Category</b>	<b>Approved Rate Change</b>	<b>Date of Approval</b>	<b>Renewal Effective Date</b>
Commercial (CLEAR* update only)	0.0%	September 9, 2019	January 1, 2020
Private Passenger (CLEAR* update only)	0.0%	September 10, 2019	January 1, 2020
Off-Road	3.5%	December 3, 2019	June 1, 2020
Motorcycle	18.7%	February 5, 2020	June 1, 2020

\*CLEAR (Canadian Loss Experience Automobile Rating) provides an assessment of the expected and actual claims loss experience for each make, model, and model-year of vehicle. Insurers use CLEAR to assess the frequency and cost of claims. Vehicles are assigned rate groups, which are reviewed and adjusted annually, based on the most recent industry claims experience.

## **V. PLAN OF OPERATION AND RULES**

The Association's Plan of Operation, rules, and procedures are subject to prior approval by FSRA. There were four changes approved since the last report:

1. On February 13, 2020, FSRA approved changes to the Ontario Rules and Rates Manual. Revisions were made to the commercial vehicle section of the manual to clarify and strengthen the rules to allow for more thorough underwriting of commercial vehicle risks.
2. On February 13, 2020, FSRA approved changes to the Association's Plan of Operation. The amendments were related to the implementation of the RSP in Newfoundland and Labrador.
3. On March 19, 2020, FSRA approved changes to the RSP Procedures Manual. The changes were either editorial in nature or related to the introduction of the Newfoundland and Labrador RSP.
4. On May 6, 2020, FSRA approved changes to the Ontario Rules and Rates Manual. Revisions were intended to clarify and strengthen the rules to allow for more thorough underwriting of risks, to amend the acceptable evidence of renewal refusal for the purposes of cancellation, and to amend the rating for Non-Owned Automobile policies.
5. On October 7, 2020, FSRA approved changes to the Association's Plan of Operation. The amendments were related to the harmonization of the Risk Sharing Pools (RSPs) across Canada. For Ontario, members will no longer retain 15% of the risk (premium and claims) and any risk transferred to the RSP will be transferred at 100%. This change will be effective January 1, 2022.

## **VI. EMERGENCY RELIEF EFFORTS**

The COVID-19 pandemic created an immediate need for flexibility and creativity on the part of Ontario insurers. The Association implemented several relief measures to support its customers and members during the pandemic, including:

- Deferring or spreading payments
- Suspending coverage on both fleets and individually rated vehicles (applying an endorsement to reduce the coverage on specific vehicles to comprehensive or specified perils coverage only)
- Supporting pro-rate cancellations and flat-rate cancellations
- Re-rating based on amended use, increasing deductibles, or removing coverages
- Accepting e-signatures, audio signatures, and scanned documentation
- Continued operation of claims services, including the resolution of claims virtually with claimants, vendors, and solicitors

In addition, the Association's Audit and Risk Committee approved changes to the cession rules for the RSP to reflect the temporary underwriting and rating practice changes implemented by member companies. If the 'temporary' rule formed part of the

member's official practice, these risks were eligible for the RSP.

While the Association implemented several measures to help the industry and consumers, the only measurable relief effort was policy re-rating due to reduced or amended usage. The Association reported that from March 1, 2020 to April 30, 2020, 2,676 policies were re-rated representing a savings of \$7.9 million for consumers. Given the nature of the Association's mandate, additional relief such as rebates and rate reductions were not expected by FSRA.

## **VII. EMERGING ISSUES**

There are several issues being reviewed by the Association which have included FSRA's involvement.

### **Commercial Vehicle Underwriting and Volume**

The Association is experiencing increased volumes of interurban vehicles (fleet and individually rated vehicles) with U.S. exposure. This would suggest a lack of availability within the standard market for trucking risks with U.S. exposure. There also appears to be a lack of availability for commercial and interurban risks with no prior insurance and interurban drivers with less than three (3) years of heavy commercial vehicle driving experience in Ontario. As a result, much of this business is being written through the Association. It is important to note that in Ontario, underwriting rules and rates for commercial fleet insurance do not require approval by FSRA.

In 2019, the Association established an Advisory Working Group that assisted in reviewing the Association's underwriting rules and developed an audit strategy specific to this line of business. The working group's efforts resulted in new rules for commercial and interurban vehicles written through the Association, which will improve the underwriting of these risks and subsequently ensure they are appropriately rated and priced. The new rules were approved by FSRA in February 2020.

### **Taxi Volumes and Availability**

Taxi availability in Ontario continues to be a concern. The Association has received new business applications for more than 1,000 taxis since January 2020 from a single previous insurer. The availability issue is mostly limited to the Greater Toronto Area. Many taxis have been de-licensed in the City of Toronto during the COVID-19 pandemic and are expected to return to service as the government's financial aid winds down in late 2020. It is expected that many of the taxis returning to service will be insured through the Association.

Despite the recent increase in volume, the Association's market share for taxis in Ontario remains low relative to some other provinces. FSRA is working with the taxi industry, as well as the Association, to explore opportunities to reduce taxi loss costs and create more availability through the standard market.

### **Servicing Carrier Backlogs and Lack of Underwriting Expertise**

Servicing Carriers experienced some additional backlogs in 2020 as a result of the COVID-19 pandemic and the inability to hire additional temporary staff. It is expected

that service standards will be met by fall 2020 with the return of normal business activity. The lack of underwriting expertise is directly related to the Association's inability to employ extensive risk management programs as they write all lines of business and do not specialize. The Servicing Carriers improved their commercial underwriting expertise through the working committee that was created to review and improve upon the commercial trucking rules. These rules were approved by FSRA and are effective October 1, 2020.

#### **Withdrawal by Co-Operators General Insurance Company (CGIC) as a Servicing Carrier**

CGIC has confirmed that they will be withdrawing as a Servicing Carrier, leaving the Association with two Servicing Carriers rather than three. The Association has a procedure in place for dealing with this situation, which includes a minimum of 18 months' notice to the Association before a Servicing Carrier may withdraw their services. CGIC will be assigned a Servicing Carrier and on expiry of the current policy, CGIC will move these policies to the new Servicing Carrier as allocated. The Association has dealt with this situation in the past and does not anticipate any major disruption.

#### **Historical Statutory Accident Benefit Claims and Compound Interest**

At its annual general meeting in February 2020, the Association raised the issue of historical statutory accident benefit claims and the potential for significant interest payments associated with these claims. Claimants are entitled to interest on overdue benefits from the time they were legally entitled to the benefit, until the date the claim is paid. For statutory accident benefit claims, interest on overdue amounts is set out in the SABS regulation. Prior to 2010, the amount was 2% compounded monthly, approximately equal to 26% annual rate. If the time between the initial entitlement and subsequent payment is many years, interest at this rate can be substantial.

The Association has identified two such active claims, potentially involving 20 or more years of interest amounting to tens of millions of dollars in interest alone. The industry's prime concern is Bill 164 claims (1994 to 1996) because Bill 164 provided benefits virtually for life. The Association believes other latent claims may resurface adding to this exposure that may create a solvency risk for small provincially licenced insurers. FSRA has requested specific claim information from the Association and has taken other steps to assess the risk and determine appropriate action.

### **VIII. ENTERPRISE RISK MANAGEMENT (ERM)**

The Association is enhancing its ERM program. During the past year, the ERM program became more focused and dynamic, which helped the Association meet its strategic goals. A key step in this process was narrowing the number of risks to manage based on input provided by the executive team (including input from the audit and risk committee) and by the Association's board of directors.

As part of the program, the Association's management prepares the ERM Status Report and provides it to the audit and risk committee. After review and consideration, the ERM report is then communicated to the board of directors quarterly. The ERM Status Report provides the audit and risk committee and the board of directors with commentary on



how the Association is meeting its strategic objectives and information on the status of the individual risks.

The following are the top risks identified by the Association:

Risk Ranking Comparison		
Executive Team Ranking	Rank	Board Ranking
COVID-19 Pandemic	1	Government and Regulatory
People	2	COVID-19 Pandemic
Government and Regulatory	3	Third Party Risk – Servicing Carrier

### **1. COVID-19 Pandemic**

**Risk:** The Association is unable to continue operations due to the pandemic, resulting in the inability to achieve its key objectives.

#### **Mitigation:**

- A work from home policy will likely be in place until at least January 2021. The acquisition and implementation of technology was accelerated to expand secure virtual collaborative tools. Microsoft Teams and voicemail to email technology was rolled out in May 2020.
- A return to work strategy is being developed. A working group will be struck to work through the logistics of reopening the office. The Association expects that it will transition to a hybrid model with a combination of partial and total permanent work from home arrangements.

### **2. Government and Regulatory**

**Risk:** The government and regulatory environment become more stringent, ambiguous or requirements become overly onerous, which could adversely impact the Association's business objectives.

#### **Mitigation:**

- The Association meets with FSRA on a quarterly basis to ensure information from both sides is exchanged in a regular and timely manner. Ad hoc meetings have also been arranged to address pressing issues (e.g. taxis).
- FSRA's Technical Advisory Committee for Auto Insurance Data and Analytics Strategy, created to improve regulatory efficiency and effectiveness by leveraging data, analytics and technology; includes the Association's Associate Vice President, Data & Analytics.

### **3. People**

**Risk:** The Association is unable to retain key employees, attract qualified individuals, maintain training and development for employees, or is unable to maintain a safe environment to protect the safety and welfare of employees.

**Mitigation:**

- The President & CEO advised that the Association is challenged to be competitive with executive compensation in the Toronto market. The Association hired a third party to conduct a compensation review and that the related report was provided to the Governance and Human Resource Committee in August 2020.

**4. Third Party Risk – Servicing Carrier**

**Risk:** Servicing Carriers do not function according to the Plan of Operations, the Accounting & Statistical Manual, the Claims Guide, and other Association mandated requirements, resulting in loss or damage to the Association.

**Mitigation:**

- The Association will develop a strategy to manage the loss of Co-Operators as a Servicing Carrier aligned with the current procedure for addressing these situations.
- A strategic sub-committee of the board will be struck to review the residual market delivery.
- The Association's underwriting and claims transformation project will include a Servicing Carrier operation focus.
- The Association requires Servicing Carriers to confirm that they have cyber security plans in place, and this has been completed.

**IX. INTERNAL AUDIT****Internal Audit Risk-based Approach**

In 2019, the Association transitioned its internal audit function to a risk-based approach. As such, instead of reviewing all member insurers every two years, the audit frequency is determined by the risk score of the insurer or insurer group. This scoring exercise is performed annually. Insurers rated as high risk are audited annually while those rated as medium or low risk are audited every 2 years and 4 years, respectively.

**Virtual Internal Audits**

As a result of the COVID-19 pandemic, the Association stopped in-person audits and moved to a virtual/remote audit approach. The Association identified and commented on the following 3 areas of impact: scheduling, technical, and scope.

**(i) Scheduling**

The Association advised that it successfully re-scheduled all, but one, of its planned on-site audits to virtual ones. The remaining audit will be completed in 2021.

**(ii) Technical**

The remote audits required a different technical approach in order to access the required information. The Association advised that its IT staff collaborated with members and Servicing Carriers to establish virtual audit solutions that met their IT requirements, thus, enabling the Association to conduct its audits successfully.

**(iii) Scope**

The Association advised that for most audits, the solutions provided for accessing documents were seamless and that the audits were conducted on a full scope basis.

**X. CONCLUSION**

FSRA is satisfied that the Association is conducting its affairs in accordance with the Compulsory Auto Insurance Act, including making automobile insurance available to those who would otherwise be unable to obtain such insurance in Ontario.

The Association has implemented measures to manage the identified enterprise and emerging risks. FSRA continues to monitor the Association and its activities and provide feedback to enhance its effectiveness.

**Enclosures:**

1. Audited Financial Statements of Facility Association Residual Market Segment and Uninsured Automobile Funds - October 31, 2019
2. Audited Financial Statements of Facility Association Ontario Risk Sharing Pool - October 31, 2019

## Appendix A – Board of Directors

	<b>Name</b>	<b>Company / Position</b>	<b>Date Appointed</b>	<b>Notes</b>
1	Christopher Cooney	<b>TD Insurance</b> <i>Vice President, Pricing</i>	September 2016	Chair
2	Karen Dyberg	<b>Dyberg Insurance Inc.</b> <i>Principal</i>	February 2016	Deputy Chair IBAC - AB & Territories
3	Dawn Anderson	<b>RSA Insurance</b> <i>Atlantic Portfolio Manager</i>	February 2019	
4	Patrick Barbeau	<b>Intact Insurance Company</b> <i>Senior Vice President, Personal Lines</i>	February 2014	
5	Monica Dale	<b>Dawson &amp; Keenan Insurance Ltd.</b> <i>Vice President, Commercial Account Executive</i>	December 2019	IBAC Ontario
6	Michel Dionne	<b>Aviva Canada Inc.</b> <i>Chief Risk Officer</i>	February 2019	
7	George Hardy	<b>Co-operators General Insurance Co.</b> <i>VP, National Underwriting, Personal Lines</i>	March 2012	Immediate Past Chair
8	Bob Hillman	<b>AMA Insurance</b> <i>Vice President, Finance</i>	February 2014	
9	Alice Keung	<b>Economical Insurance</b> <i>Chief Transformation Officer</i>	February 2020	
10	Jay Kimball	<b>GTI Broker Group</b> <i>Vice President</i>	February 2019	IBAC Atlantic
11	Rhonda Lawson	<b>LMC Consulting</b> <i>Partner &amp; Managing Director</i>	February 2018	Independent
12	Penny-Lynn McPherson	<i>Lawyer</i>	February 2019	Independent
13	Aaron Perdue	<b>Millennium Insurance Corporation</b> <i>Chief Executive Officer</i>	February 2016	
14	Jean Roy	<b>Zurich Canada</b> <i>Head of Underwriting Canada</i>	August 2019	
15	Sharon Turnbull	<b>Farm Mutual Reinsurance</b> <i>AVP, Integrated Analytic Services</i>	April 2020	
16	Saskia Matheson	<b>Facility Association</b> <i>President &amp; Chief Executive Officer</i>	February 2019	By virtue of the office