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No. A-2/98

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Clarification of Compliance Mechanism Regarding Statutory Accident Benefits Schedule Claims

To the attention of all insurance companies licensed

to transact automobile insurance in Ontario

The Ontario Insurance Commission (OIC) is providing, as a follow-up to OIC Bulletin No. A-11/97, dated November 24, 1997, clarifying information on the compliance mechanism for monitoring and improving insurers' claims management practices for Statutory Accident Benefits Schedule (SABS) claims.

During the past month, the OIC received a number of comments on the reporting of non-compliance ratios for market conduct audits on a file basis, and tolerance levels.

Following further consultations with an industry accident benefits committee as well as some insurers, the OIC has determined that **the audits**, as required under the compliance mechanism, **are now to be calculated on a transaction basis**, instead of on a file basis. The tolerance levels remain between 7% and 10%.

Insurers should, therefore, substitute the attached pages 4 and 5 of the Protocol for Market Conduct Audits: Statutory Accident Benefits Schedule Claims (the Protocol) that accompanied OIC Bulletin No. A-11/97. The following

changes should be noted on those pages: (a) On line 20, page 5, "transaction" has replaced the word "file" under the heading "Tolerance Standards"; and (b) on line 23, page 5, we have added the definition of "transaction" for your information.

In response to inquiries that the OIC has received from insurers regarding the compliance mechanism, we are attaching a list of questions-and-answers that will be of assistance in implementing the market conduct audit protocol and the claimant satisfaction survey.

Dina Palozzi

Commissioner

February 9, 1998

Attachments:

1. (2) Replacement pages for the Protocol for Market Conduct Audits: Statutory Accident Benefits Schedule (PDF)
2. Questions and Answers on Compliance Mechanism for Private Passenger SABS Claims

To view PDF files, you will require Adobe Acrobat® Reader version 7.0. You can download this free software from Adobe's Web site.

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Reporting

The insurer files a report with the OIC within two weeks after the completion of the Follow-up Audit. The report must include the Summary of Findings, Detailed Findings, and Appendices, with copies of all Working Papers and the completed Status Report. Also, copies of the relevant material from records that are not in compliance are to be submitted.

Analysis

The OIC reviews the Follow-up Audit report.

Disposition

The OIC informs the insurance company of the disposition of the audit.

The disposition is dependent on the non-compliance ratio: The non-compliance ratio is based on the number of transactions not in compliance compared with the total number of transactions.

Where the non-compliance ratio:

- Meets or is lower than the tolerance standard:
  - No further action is required.
- Exceeds the tolerance standard:
  - The OIC takes appropriate regulatory action.

SAMPLING

Random selections are made of SABS claim files by the insurer or the external organization conducting the audit. The sample must represent the insurer's entire personal automobile open SABS claims portfolio.

Companies with 200 or more open claims files must review a minimum of 100 files.

Companies with fewer than 200 open claims files must review 50% of all files.

Companies with less than $10 million direct written premiums (private passenger automobile) may submit a proposal to the OIC on how they will conduct the audits using the approved Working Papers.

INSPECTIONS

Inspections are arranged at the discretion of the OIC. OIC reviews completed working papers and other relevant documents of previous audits.

Disposition

The OIC informs the insurer of the disposition, which is based on the exception rate.

The exception rate is based on the number of times when an insurer does not accurately report information in the market conduct audit documentation.

Where the exception rate:

- Meets or is lower than the tolerance standard:
  - No action is required.
- Exceeds the tolerance standard:
  - The OIC takes appropriate regulatory action.

TOLERANCE STANDARDS

The tolerance standards on a transaction* basis are:

Audits	7 - 10%
Inspections	0%

(*Transaction can be defined as any action, payment or activity set out in the legislation.)

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Questions and Answers on Compliance Mechanism for Private Passenger SABS Claims

These questions and answers (Qs and As) have been prepared to help insurers' auditing, claims and adjusting staff better understand the contents of OIC Bulletin, No. A-11/97, dated November 24, 1997, and entitled "Compliance Mechanism for private passenger automobile Statutory Accidents Benefits Schedule claims."

Q1. If an insurer fails to meet a regulatory requirement, how is it to be recorded?

A1. Failure by an insurer to take an action, make a payment or carry out an activity as set out in legislation, may be viewed as non-compliance. In implementing the Protocol for Market Conduct Audits: Statutory Accident Benefits Schedule (SABS) Claims, noncompliance is recorded on a "transaction" basis (see below for definition of a "transaction").

Q2 What is a transaction?

A2. A transaction can be defined as any action, payment or activity set out in insurance legislation. To explain this better, here are two examples: Example: In auditing income replacement benefits files, where there is a requirement to make benefit payments once every two weeks, each of these biweekly payments is considered a transaction. Another example: when an insurer decides that a claimant is no longer entitled to benefits (an insurer is required to

inform the claimant in writing), each activity in the stoppage of benefits process is considered one transaction.

Q3. The Guidelines for Ontario Auto Insurance Claimant Satisfaction Research makes reference to a "closed file". What does it mean?

A3. In the normal course of claims benefits administration, files are kept open as long as there is a benefit entitlement claimable by accident victims. One such file is called an "open" or active file. However, when an insurer has paid out all statutory accident benefits to a claimant, and has carried out all the supporting activities relating to the benefit entitlement, the file is then viewed as a "closed file".

Q4. We were asked to conduct an audit in 1998 under the new compliance mechanism concerning statutory accident benefit claims. But our company had been audited by the Ontario Insurance Commission (OIC) a year earlier -- in 1997. Would the 1998 audit be considered a follow-up audit mentioned in the Protocol for Market Conduct Audits as a one required to be done in some cases?

A4. No, this is not considered a follow-up audit. The first audit that the OIC is requesting of companies under the new compliance mechanism, announced on November 24, 1997, is a "routine audit." That is, this kind of audit is conducted once every two years by the insurer or by an external organization retained by the insurer. If the non-compliance ratio (which is pegged at 7-10%) exceeds the tolerance standard, the insurer may be required to carry out a follow-up audit within six to nine months.

Q5. Our company has about 25 active files concerning private passenger automobile statutory accident benefits schedule (SABS) claims. We have other SABS claims under commercial automobile policies. Are we required to conduct an audit?

A5. Yes, all private passenger auto insurers are required to conduct an audit of their SABS claims. However, any insurer with less than $10 million direct written premiums (private passenger automobile) in its portfolio, may submit a proposal to the OIC explaining how they wish to conduct the audit. The proposal must outline how it intends to incorporate the Working Papers that the OIC sent, along with a Letter of Notification of Audit, to insurers that were selected for audit.

Q6. The Protocol for Market Conduct Audits relates to SABS claims only. Would the Guidelines for Ontario Auto Insurance Claimant Satisfaction Research also apply to SABS claims?

A6. Yes. However, it is important to note that the claimant satisfaction guidelines apply to *all* private passenger automobile insurance claims, that is, direct compensation - property damage as well as SABS claims.

Q7. In the questionnaire contained in the claimant satisfaction guidelines, question #1 asks whether the insurance was placed through an insurance broker. Since we are a direct writer, does this question apply to us?

A7. Question #1 does not apply to direct writers. So when claimants of a direct writer are being surveyed by the external market research organization retained by the direct writer, the research firm will *not* ask them question #1 at all. The researcher will begin with question #2.

Q8. What would the market research organization we retain need from us to select the sample?

A8. To select an appropriate sample for the desired response rate, all insurers must provide their research organization with a closed claims register. The register is a list of all private passenger automobile claims files that had been closed in the previous year.

For example, for the survey in 1998, the closed claims register would be those closed files pertaining to the period January 1, 1997 to December 31, 1997. For the 1999 survey, the closed claims register would be those files closed between January 1, 1998 and December 31, 1998.

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