

SPECIAL DIRECTION IC2 TO THE BRITISH COLUMBIA UTILITIES COMMISSION 307/2004

B.C. Reg. 307/2004

[includes B.C. Regs. 171/2018 and 172/2018 amendments (effective August 9, 2018)]

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NOTE: This regulation replaces B.C. Reg. 321/2003.

[Provisions relevant to the enactment of this regulation: *Insurance Corporation Act*, RSBC 1996, c. 228, section 47; and the *Utilities Commission Act*, RSBC 1996, c. 473, section 3]

Definitions

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- 1.** (1) In this Special Direction:

"**Act**" means the *Insurance Corporation Act*;

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"**capital available**" means capital available as that term is described in the MCT guideline;

"**capital management plan**" means the corporation's capital management plan in relation to the corporation's universal compulsory vehicle insurance business that

- (a) was most recently approved by the commission, and
- (b) includes capital maintenance and build or release provisions;

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"**capital management target**" means the MCT target, determined in the capital management plan, that is the total of the following:

- (a) the MCT required under section 3 (1) (b);
- (b) the margin, expressed in percentage points of MCT, that reflects the corporation's risk profile in relation to the corporation's universal compulsory vehicle insurance business and its ability to respond to adverse events that arise from those risks;
- (c)

- any additional margin, expressed in percentage points of MCT, consistent with relatively stable and predictable universal compulsory vehicle insurance rates;
- (ADD) Mar 19/13 **"customer renewal credit"** means a one-time, non-refundable, non-transferable credit that is
- (a) available to an existing universal compulsory vehicle insurance policy-holder,
 - (b) applied to reduce the universal compulsory vehicle insurance premium paid by the policyholder at the time of the policyholder's next renewal, and
 - (c) redeemable only within 12 months of the effective date of the order of the commission that approves the customer renewal credit;
- (AM) Aug 25/16 **"excess capital available"** means universal compulsory vehicle insurance capital available in excess of the capital reflected in the capital management target specified in the capital management plan;
- (ADD) Mar 19/13 **"existing rates"** means the universal compulsory vehicle insurance rates in effect on the date the corporation files an application for a general rate change order;
- (ADD) Aug 09/18 **"extended policy period"** means the period beginning on November 1, 2018 and ending on March 31, 2019 that is included in the 2017 policy year;
- (ADD) Aug 25/16 **"fiscal year"** means the applicable fiscal year under section 22.1 of the Act;
- (ADD) Mar 19/13 **"general rate change order"** means a commission order that
- (a) fixes rates, expressed as a percentage change from existing rates, for universal compulsory vehicle insurance to cover the overall revenue requirements of the corporation's universal compulsory vehicle insurance business, and
 - (b) does not include an order relating to rate design or customer renewal credit;
- (ADD) Mar 19/13 **"loss costs"** means the average amount of claims cost per universal compulsory vehicle insurance policy on an annualized basis, determined on the basis of accepted actuarial practice;
- (ADD) Mar 19/13 **"loss costs forecast variance"** means the difference, expressed in percentage points of a rate change fixed in a general rate change order, between
- (a) the loss costs provision reflected in existing rates, and
 - (b) the loss costs that have emerged;
- (SUB) Apr 29/10 **"MCT"** means MCT as that term is described in the MCT guideline;
- (ADD) Apr 29/10 **"MCT guideline"** means the Guideline for Minimum Capital Test (MCT) for Federally Regulated Property and Casualty Insurance Companies issued by the Office of Superintendent of Financial Institutions Canada as that guideline is amended or replaced from time to time.
- (SUB) Aug 09/18 **"policy year"** means one of the following, as applicable:
- (a) the 12-month period beginning on November 1, 2016 and ending on October 31, 2017;
 - (b) the period beginning on November 1, 2017 and ending on March 31, 2019;
 - (c) in any other case, the 12-month period beginning on April 1 in one year and ending on March 31 in the next year.
- (ADD) Aug 09/18 (2) In this regulation, a reference to a policy year that is described by a numerical reference to a calendar year is a reference to the policy year beginning in that calendar year.
[am. B.C. Regs. 229/2009; 108/2010; 115/2013; 215/2016; 171/2018.]

(SUB)MCT
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- 1.1** For each policy year for which the commission fixes universal compulsory vehicle insurance rates, the MCT must be determined
- (a) using data available from the most recently completed quarter of the fiscal year at the time the corporation files an application for a general rate change order, and
 - (b) based on that data, by projecting the MCT as at the end of that fiscal year.
[en. B.C. Reg. 215/2016.]

(REP) Repealed

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- 1.2** *Repealed.* [B.C. Reg. 171/2018]

Application

(AM)
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25/16

- 2.** This Special Direction is issued to the commission under section 47 of the Act.

[am. B.C. Reg. 215/2016.]

Directions relating to the corporation generally

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- 3.** (1) With respect to the exercise of its powers and functions under the Act in relation to the corporation generally, the commission must do all of the following:

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- (a) require the corporation to apply for a general rate change order by December 15 of each year to ensure that rates for the corporation's universal compulsory vehicle insurance business are effective by April 1 of the next year;
- (a.01) require the corporation to include, with its application for a general rate change order to be made by December 15, 2018, those reports and statistics that, but for paragraph (a), the corporation would have been required to file with the commission by August 31, 2018;

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- (a.1) for the 2017 policy year, issue the following orders by January 12, 2018, based on the evidence filed with the commission by December 12, 2017:
 - (i) its final general rate change order;
 - (ii) any other final orders in respect of the corporation's revenue requirements application that was filed with the commission on September 15, 2017;

(ADD)
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- (a.2) for the purpose of fixing rates applicable to the extended policy period, by August 31, 2018, reconsider and vary the commission's final general rate change order issued January 12, 2018 to ensure that the order
 - (i) applies, based on evidence filed with the commission by December 12, 2017, to the extended policy period included in the 2017 policy year,
 - (ii) recognizes that the corporation is not required to apply for a general rate change order before December 15, 2018, and
 - (iii) recognizes that the corporation is not required to file with the commission, before December 15, 2018, those reports and statistics that, but for paragraph (a), the corporation would have been required to file with the commission by August 31, 2018;

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- (b) set rates for the corporation's universal compulsory vehicle insurance business in a way that will allow the corporation to maintain, in relation to its universal compulsory vehicle insurance business, at least 100% of MCT;
- (c) subject to paragraphs (g), (j), (k), (l), (m), (n) and (o), for each policy year for which the commission fixes universal compulsory vehicle insurance rates, fix

those rates on the basis of accepted actuarial practice so that those rates allow the corporation to collect sufficient revenue

- (AM)
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- (i) to pay the following:
 - (A) the costs that are to be incurred by the corporation in that policy year for road safety programs under section 7 (i) of the Act, including, without limitation, payments by the corporation to any level of government with respect to road safety;
 - (B) the costs that are to be incurred by the corporation in that policy year for vehicle licensing, driver licensing and other services and activities of the corporation under section 7 (g) and (h) of the Act that are to be undertaken in that policy year in accordance with the agreement entitled "Service Agreement between The Ministry of Public Safety and Solicitor General and the Insurance Corporation of British Columbia" and dated as of September 1, 2003, including amendments and extensions to that agreement up to and including the amendment and extension entitled "Service Agreement Addendum Changes in Costs and Services to March 31, 2017" and executed in August, 2017;
 - (C) the payments that the corporation is to make in that policy year under the agreement entitled "Memorandum of Understanding between B.C. Provincial Government and ICBC" and executed in February, 2003;
 - (D) the remuneration that the corporation is to pay in that policy year to persons appointed as agents by the corporation under section 9.2 of the Act for collecting government fees, fines and other amounts payable by the corporation to the government and for collecting premiums, fees, debts and other revenue on behalf of the corporation,
 - (ii) to make the payments that the corporation agreed to make under the agreement, dated for reference April 1, 2018, between the corporation and the government as represented by the Minister of Public Safety and Solicitor General entitled "Extension and Amendment to the Traffic and Road Safety Law Enforcement Funding Memorandum of Understanding", and
 - (iii) to achieve or maintain, as the case may be, the MCT requirement under paragraph (b);
- (AM)
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09/18
- (d) ensure that rates are set in accordance with the capital management plan;
 - (e) despite paragraph (d), for each policy year up to and including the 2020 policy year, ensure that rates are set in accordance with the capital management plan in existence on May 27, 2016,
 - (i) excluding the capital build or release provisions of that plan, and
 - (ii) using a calculation in relation to the capital maintenance provision that neither increases nor decreases the percentage number of a rate change fixed by a general rate change order for that policy year;
- (REP)
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- (f) *Repealed.* [B.C. Reg. 171/2018]
 - (g) when regulating and fixing universal compulsory vehicle insurance rates, regulate and fix those rates in a manner that recognizes and accepts actions taken by the corporation in compliance with government directives issued to the corporation;
 - (h)

for each policy year for which the commission fixes universal compulsory vehicle insurance rates, approve a customer renewal credit if

- (i) there is excess capital available,
 - (ii) the customer renewal credit will not result in the MCT falling below the capital management target specified in the capital management plan, and
 - (iii) the commission determines that rates fixed by general rate change orders will remain relatively stable and predictable despite the approval of the customer renewal credit;
- (i) subject to subsection (2) of this section, ensure that universal compulsory vehicle insurance rates are not based on age, gender or marital status;
- (AM)
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- (j) ensure that increases or decreases in universal compulsory vehicle insurance rates are phased in in such a way that those rates remain relatively stable and predictable;
- (ADD)
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- (k) despite paragraph (j), within 20 days of the corporation applying for approval of a high-value vehicle charge in accordance with a government directive, approve and set the rates for the charge;
- (ADD)
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- (l) despite paragraph (j), within 20 days of the corporation applying in accordance with a government directive for approval of changes to rates in relation to multiple chargeable claim payments, approve and set changes to rates to ensure that rates set at the maximum discount on the claim-rated scale, and which currently would not increase on account of a second or third chargeable claim payment made within 3 years, will increase when 2 or more chargeable claim payments are made within 3 years, and a chargeable claim payment will result in moving no less than 6 levels on the claim-rated scale regardless of the original level;
- (ADD)
Feb
02/18
- (m) despite paragraph (j), within 20 days of the corporation applying in accordance with a government directive for approval of changes to rates so that convictions for the use of an electronic device while driving are included in determining the annual driver risk premium payable by a person for a driver's certificate, approve and set the changes to rates;
- (ADD)
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- (n) despite paragraphs (j) and (l), within 10 days of the corporation applying in accordance with a government directive to not implement the changes to rates approved pursuant to paragraph (l), approve and set rates that do not include the changes set out in paragraph (l);
- (ADD)
Aug
09/18
- (o) despite paragraph (j), within 45 days of the corporation applying in accordance with the government directive dated August 3, 2018 for a redesign of rates, regulate and fix the rates using the factors, criteria and guidelines set out in that government directive.
- (ADD)
Aug
25/16
- (1.1) Despite subsection (1) (c) and (e) (i) of this section, for each policy year for which the commission fixes universal compulsory vehicle insurance rates,
- (a) the commission may, in accordance with the capital management plan, exclude some or all of that policy year's loss costs forecast variance from the rate fixed by a general rate change order,
 - (b) the percentage number of a rate change fixed by a general rate change order must differ from the percentage number of a rate change fixed by the previous general rate change order by no more than 1.5, and must not decrease existing rates, and
 - (c) for the 2016 policy year, the percentage number of a rate change fixed by a general rate change order must not exceed 4.9.
- (ADD)
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- (AM)
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- (1.2) Subsection (1) (b) and (c) (iii) does not apply with respect to the fixing of rates for the extended policy period or the 2019, 2020 and 2021 policy years.

- (AM)
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- (1.3) Despite the definition of "**capital management target**" in section 1, for the extended policy period or the 2019, 2020 and 2021 policy years, the capital management target is 145% of MCT.
- (AM)
Jun
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- (2) The commission may approve universal compulsory vehicle insurance rates that provide discounts to or are otherwise preferential for
- (a) persons who are at least 65 years of age, or
- (b) persons with disabilities.
- (AM)
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09/18
- (3) In regulating and fixing rates for the corporation, the commission must treat any premiums levied under section 34 (3) of the *Insurance (Vehicle) Act* as revenue for the corporation's universal compulsory vehicle insurance business.
- (ADD)
Oct
07/05
- (4) In this section, "**government directive**" means a directive in writing to the corporation
- (a) given by the minister responsible for Part 1 of the Act, and
- (b) approved by the Lieutenant Governor in Council.

[am. B.C. Regs. 313/2004; 300/2005; 155/2007; 229/2009; 108/2010; 116/2012; 115/2013; 20/2014; 192/2015; 215/2016; 288/2016; 319/2016; 81/2017; 119/2017; 165/2017; 240/2017; 7/2018; 22/2018; 25/2018; 70/2018; 171/2018; 172/2018.]

(AM) **Directions relating to the extended policy period**

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- 3.1** For the purpose of fixing rates for the extended policy period, the commission must take all of the following factors and guidelines into consideration:
- (a) the extended policy period is a period of transition for the corporation;
- (b) during the remainder of the 2017 policy year, the corporation will be redesigning rates in accordance with the *Insurance (Vehicle) Act*, as amended by the *Insurance (Vehicle) Amendment Act, 2018*;
- (c) the corporation is required by this regulation to apply, by December 15, 2018, for a general rate change order for the 2019 policy year;
- (d) rates are to remain stable and predictable during the extended policy period.

[en. B.C. Reg. 171/2018.]

Directions relating to the corporation's optional vehicle insurance business

(SUB)
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- 4.** (1) With respect to the exercise of its powers and functions under the Act in relation to the corporation's optional vehicle insurance business, the commission must not fix rates applicable to optional insurance.

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- (2) In determining, under section 12 of the *Utilities Commission Act*, whether disclosure of information with respect to the corporation's optional vehicle insurance business is necessary for the administration of the *Utilities Commission Act* as it applies to the corporation, the commission must consider the effect of disclosure of the information on the corporation's ability to compete in the optional vehicle insurance market on a basis similar to its competitors and the harm to the corporation's competitive position that may result from the disclosure of the information.

[am. B.C. Regs. 313/2004; 155/2007; 108/2010.]

NOTE: This regulation replaces B.C. Reg. 321/2003.

[Provisions relevant to the enactment of this regulation: *Insurance Corporation Act*, RSBC 1996, c. 228, section 47; and the *Utilities Commission Act*, RSBC 1996, c. 473, section 3]