MINISTRY OF LABOUR

# INFORMATION NOTE

Cliff #: 65282

Date: June 9, 2023

**PREPARED FOR:** Premier David Eby

**ISSUE:** Over the last number of years, some employer groups (e.g., the Canadian Federation of Independent Businesses) have argued that the workers' compensation system is "over funded" and that a portion of the excess funding should be "returned" to employers in the form of a direct "refund".

**BACKGROUND:** Under the *Workers Compensation Act* (WCA), WorkSafeBC is solely responsible for ensuring the financial sustainability of the workers' compensation system. To meet this responsibility, sufficient funds must be set aside to make future payments for past, current and future accident and fatality claims from workers or their surviving dependents. Sufficient reserves must also be maintained to manage volatility in the valuation of those assets and liabilities. These funds are known as the "Accident Fund". It consists of the funds collected through employer premiums as well as investment returns, which have been significant over the past decade.

To provide long-term financial stability and minimize premium rate volatility during economic and/or investment downturns, WorkSafeBC retains a reasonable level of assets over liabilities. In this regard, WorkSafeBC's Board of Directors has established a target ratio of no less than 130% of assets/liabilities for the Accident Fund. Assets above the 130% level are often referred to the "excess surplus".

WorkSafeBC ended 2022 with a funded ratio of 146%, down from 155% at the end of 2021. This represents a "funded position" of $7.5 billion, consisting of $4.8 billion of required reserves (i.e., required to meet the 130% target) and $2.7 billion surplus to those requirements (i.e., "excess surplus").

The 146% year-end ratio, and $2.7 billion "excess surplus" is after accounting for WCA amendments made in 2022 (Bill 41), which WorkSafeBC estimates added a one-time cost (liability adjustment for existing claims) of $1.26 billion and projected ongoing annual costs of approximately $117 million. The annual costs of Bill 41 are projected to put upward pressure of approximately $0.08 per $100 payroll on the average premium paid by employers starting in 2024.

A backgrounder explanation of the WorkSafeBC Funded Position is attached.

**DISCUSSION:** As businesses in BC struggle with inflationary pressures and cumulative costs associated with government policies (e.g., paid sick leave, employer health tax, minimum wage increases), pressures for direct business supports and cost relief continue. In this context, some employer groups have argued that, because the WorkSafeBC accident fund is "paid for" by employers (along with the investment returns in the Accident Fund), any "excess" surplus should be refunded to employers.

In response, the Ministry of Labour notes the following:

- The WCA gives WorkSafeBC exclusive authority to manage the Accident Fund, which includes the discretion to provide employer refunds if the WorkSafeBC Board of Directors approves such. A requirement to provide employer refunds would require legislation.

- It is important to maintain a high degree of premium rate stability in the system, and the requested "refund" for employers can run counter to this. BC's workers' compensation system is recognized as a prudently managed and well-funded system that has kept average premiums low compared to many other jurisdictions.

- Providing "refunds" to employers will lead to escalating employer premium rates given it would reduce funds available to address increases in claims costs and/or future declines in investment returns and/or the amounts that can be used to continue to discount the premium rates employers are (and have been) paying. This has been recognized by some employer associations (including the Business Council of BC) who have noted an objection to government in the past about a proposal for "refunds" from the Accident Fund.

- WorkSafeBC's rate-setting approach already includes mechanisms to return surplus to employers through discounted premium rates when the 130% funded target level is exceeded. In the last five years, from 2018 to 2022, WorkSafeBC has returned $1.4 billion of surplus funds to employers through discounted premium rates and over $2 billion in the last decade. Furthermore, the average base premium rate for 2023 will remain unchanged at 1.55% of employers' assessable payroll for the sixth year in a row. This is despite a 2023 expected cost rate of 1.88%.

- WorkSafeBC has been able to keep the average premium rate paid by employers below the actual cost rate for 17 consecutive years due to the excess surplus but it has no authority to access the excess surplus to improve benefits for injured workers without legislative amendments, such as those provided in Bill 41, 2022. The Bill 41 improvements will result in an upward pressure on premiums in 2024 of approximately $0.08 per $100 of payroll.

**NEXT STEPS:** The Ministry of Labour can provide further information on this issue as requested.

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For ATTACHMENT: WorkSafeBC Media Backgrounder.

WorkSafeBC Media Backgrounder - May 2023

**Funded Position**

WorkSafeBC is committed to sound financial management to ensure the long-term financial sustainability of the workers' compensation system for workers and employers. This includes maintaining sufficient capital reserves. To provide long-term financial stability — and avoid rate volatility during economic and/or investment downturns — WorkSafeBC retains a reasonable level of assets over liabilities. WorkSafeBC's Board of Directors has set a target funding level of no less than 130 per cent of liabilities.

Despite a challenging year for the markets, at year-end 2022, WorkSafeBC continued to be in a financially strong position. WorkSafeBC ended the year with a smoothed funded ratio of 146 per cent, down from 155 per cent at the end of 2021. This represents an accumulated funded position of $7.5 billion, consisting of $4.8 billion of required reserves and $2.7 billion surplus to those requirements[1].

In 2022, the fair value return on the investment portfolio of -2.6 per cent was lower than the required rate of return of 7.0 per cent. This underperformance contributed to the reduction in WorkSafeBC's fair value funded position over the past year.

**Surplus Funds and Premium Rates**

WorkSafeBC's strong financial position in recent years has enabled improvements in the workers' compensation system for injured workers, while keeping rates stable for employers. In fact, the average base premium rate has been discounted below the average cost of claims, with the difference funded from the surplus. The 2023 average

[1] WorkSafeBC prepares its audited financial statements in accordance with International Financial Reporting Standards (IFRS). On the IFRS basis, the accumulated funded position for 2022 is $7.0 billion, consisting of $4.8 billion of required reserves and $2.2 billion surplus to those requirements. However, assessment rates are set on the basis of smoothed-accounting-based financial statements.

base premium rate of 1.55 per cent of employers' assessable payroll is below the projected 1.80 per cent average cost rate[2].

Between 2019 and 2023, WorkSafeBC projects that about $1.7 billion of surplus funds will have been used to discount rates for employers.

## Smoothed-Accounting Approach

For purposes of setting premium rates and the required funding level, WorkSafeBC uses a smoothed-accounting approach. Under this approach, investment income and actuarial gains or losses related to employee benefit plan assets and liabilities are amortized over a five-year period, moderating the effect of financial market volatility on financial results. This smoothed-accounting approach also enables WorkSafeBC to maintain rate stability for employer premium rates.

[2] The 2023 rates were set in mid-2022. Subsequent amendments to the Workers Compensation Act — primarily related to indexing benefits to full CPI — are projected to result in an approx. 0.08 percentage point increase in the average cost rate.