



BRIEFING NOTE - DRAFT

I. **Prepared For:** **Honourable David Eby**, Attorney General and Minister Responsible for ICBC, **for INFORMATION**

II. **Subject:** Deterioration of ICBC's financial results in Q3 2017/18

III. **Background:**

- ICBC has been experiencing rapidly increasing claims costs, particularly in the last three years. Premiums increases have not kept pace with the increase in costs and as a result ICBC has experienced ongoing deterioration in capital levels and net income.
- In addition to the overall negative trend note above, ICBC has more recently seen the emergence of two new, extraordinary adverse trends affecting bodily injury claims:
 - i) a continued acceleration in the increase in the number of claims with associated large financial losses, and in particular claims that become large losses over many years (versus claims that immediately present as large financial losses when first reported); and,
 - ii) an extension in the time required to resolve claims, particularly those with legal representation and litigation.
- ICBC posted a net loss of \$612M for the previous 12-month fiscal year (and a net loss of \$913M for the 15 month fiscal year January 2016 to March 31, 2017). In its 2017/18 - 2019/20 Service Plan, ICBC forecasted a net loss of \$225M for 2017/18.

s.12,s.13

- A large loss is a bodily injury claim with over \$200K in costs, with the average being approximately \$450,000. They include traditional catastrophic injuries such as paraplegia, amputation, major brain injuries, as well as injuries to high income earners. Large losses can also involve secondary injuries or pre-existing conditions such as chronic pain, psychological illness, and other injuries that are challenging to diagnose and resolve.

s.12,s.13

- Emerging large losses develop over time due to factors that can make it difficult to identify the risk of a claim becoming a large loss throughout the claims handling process. Examples of how a claim may emerge as a large loss over time include: lack of access to accurate injury information due to the claim being legally represented and information not required to be disclosed to ICBC until many years after the accident; the consequences of the injury still manifesting themselves, and, in some cases, developing into a more serious impairment (over the course of years); or other cases where the claims handling may have missed risk indicators.

s.12,s.13

- Many of the late emerging large losses therefore first appear as more minor injury claims, and subsequently develop into more serious claims with substantial legal costs and disbursements.
- For every injury claim opened, a reserve is established to earmark money for eventual payment. The amount is based on the information the adjuster has at the time. As an adjuster receives more information in the form of document disclosures from the claimant or legal counsel, the reserve is adjusted accordingly until such time as the claim is settled. ICBC's actuaries use historical patterns in the development of claims and known future changes to forecast overall claims costs and to set rates.

s.12,s.13

- There are also significant challenges with accurately estimating the number of outstanding large loss claims. As part of the Government Review in 2012, ICBC's forecasts of overall claims costs were found to be within 5% from actuals, which was deemed reasonable. ^{s.12,s.13}

s.12,s.13

- In addition to ICBC's actuaries, an external actuary appointed by the Board of Directors is responsible for carrying out annual valuations of ICBC's claims liabilities. Actuarial estimates are scrutinized by various parties including consulting actuaries engaged by the BCUC and independent reviews by consulting firms. Also, as part of the annual financial audit, the valuation of bodily injury claims liabilities at each fiscal year end are compared to an independent estimate performed by the valuation actuaries from PricewaterhouseCoopers (PwC).
- ICBC's financial projections are also the subject of two current reviews including the PwC Operational Review and the Ministry of Finance Fiscal Sustainability Review.

s.12,s.13

s.12,s.13

- Claims that remain open longer cost more, on average, than claims which are resolved sooner. In many cases, this is affected by increasing legal complexity as litigation is commenced and legal fees and disbursements accumulate for both the plaintiff and defence. There is also a risk for claims remaining unresolved over a long period of time to develop into large losses, as discussed above.
- Timely closure of claims reduces the growth of legal fees and disbursements, and results in a lower cost of claims, on average.

s.12,s.13

Key Factors

The issues of emerging large losses and longer times to resolve claims have been driven by, and exacerbated by, various factors, both internal and external to ICBC.

1. Crashes and Claims on the Rise

- There are more crashes, and crashes per policy, as well as claims per policy every

year, year over year. Many of those will include large losses. Rising claims volumes will also require ICBC to increase its workforce, which creates an influx of staff with limited experience, discussed further below.

s.12,s.13

3. Court Rules, Document Disclosure and Expert Reports

- A common challenge in setting reserves is around the timeliness of information disclosure. Reserves are set and updated as new information becomes available. However, when files are represented, ICBC's access to information can diminish considerably. Claimants have two years to submit a Notice of Civil Claim (NOCC). In many cases, the NOCC issue dates are very close to exactly two years from the loss date. In addition, plaintiff counsel can issue a NOCC without serving it to ICBC for up to one year. Only once a NOCC is served do rules of court come into effect and provide document disclosure requirements. s.12,s.13

s.12,s.13

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**MINISTRY OF ATTORNEY GENERAL
CORPORATE MANAGEMENT SERVICES BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for Honourable David Eby, QC, Attorney General

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