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Nanninga, Tanera AG:EX

From: Smith, George AG:EX
Sent: Wednesday, January 17, 2018 5:29 PM
To: Eby, David AG:EX
Subject: Fwd: BN ICBC Q3 Results
Attachments: BN Q3 Results_Jan 16.docx; ATT00001.htm

-George

Begin forwarded message:

From: "Tupper, Chris" <Chris.Tupper@icbc.com>
Date: January 17, 2018 at 4:48:02 PM PST
To: "Smith, George AG:EX" <George.Smith@gov.bc.ca>
Cc: "Matthews, Lindsay" <Lindsay.Matthews@icbc.com>
Subject: BN ICBC Q3 Results

Hi George,

Following our phone call on Monday, attached is a BN that lays out the large loss discussion you and the minister had with Nicolas.

Lindsay or I are happy to chat if you have any questions –additionally we will be in the buildings for the P&A meeting, so can also walk through anything tomorrow if that helps.

Best – Chris

.....
Chris Tupper
Manager, Policy and Partnerships
Corporate & Stakeholder Governance Division
ICBC building trust. driving confidence.
.....
505-151 W. Esplanade
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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 is facing a much larger loss than it originally forecasted - now forecasting a \$1.3B for 2017/18 loss up \$1.1B from the forecast in the September 2017 Service Plan. This is an unexpected and unprecedented loss.
- The primary contributors to the increased loss include:
 - The emergence of many more large loss claims than expected, including more older files previously thought to have been less significant claims; and,
 - Despite a substantive increase in staffing to align with the increasing volume of claims resulting in more claims being closed earlier in the year, claims have been closing at a slower rate in recent months.
- The escalation of claims and claims costs are not new issues, and even the emergence of more large losses is not entirely new or unexpected after many years of a full tort system. What is new is the unexpected, previously unseen emergence in the significant number of older, large loss claims well beyond reasonable assumptions.

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- The slowing down of closures emerged in September/October of 2017 coincidental with public discussion of the potential for caps on minor injury claims.

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More Large Losses

- A large loss is a bodily injury claim with over \$200,000 in costs with an average of \$450,000. They include traditional catastrophic injuries such as paraplegia, amputation, major brain injuries, as well as less significant 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.
- Older claims (claims occurring between 2010 and 2013) that are now emerging as large losses for the first time, have the most significant impact on the financial outlook.

- Appendix A includes an illustrative example of the convergence of these complex dynamics and why it is very difficult to identify certain claims as large losses earlier.

What is the actuarial process to determine major shifts, like an escalation in large losses?

- Actuarial science is used to predict future claims costs, generally based on established historical patterns.
- For every injury claim opened, a case 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 through document disclosures, the case reserve is adjusted until the claim is settled. ICBC's actuaries use the case reserves, among other data and historical information, to help estimate total future claims costs.
- When a new pattern emerges, such as more large claims appearing well after the date of loss, the actuaries update assumptions to reflect a change from the historical pattern.
- In addition to applying standard actuarial analysis, ICBC also has a quarterly forecasting process that includes a review with senior ICBC staff, its ministry responsible, the Ministry of Finance and the Board to help identify and discuss responses to new and emerging risks.
- In addition to these quarterly reviews, there is independent, expert oversight of ICBC's actuarial assessments:
 - i) a Board appointed, external actuary conducts annual valuations of ICBC's claims liabilities and reviews quarterly evaluations;
 - ii) various parties including consulting actuaries engaged by the BCUC and independent reviews by consulting firms provide scrutiny;
 - iii) 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 actuaries from PricewaterhouseCoopers (PwC); and,
 - iv) ICBC's forecasts were reviewed and deemed reasonable as part of the Government Review in 2012.
- Unlike other insurers, ICBC has limited opportunity to absorb adverse volatility in the short-term. Other insurers have diversified portfolios, where losses in one business or jurisdiction are often offset by better than expected results elsewhere. In addition, other insurers are quicker to increase premiums, adjust eligibility requirements or cancel policies to reduce the loss. ICBC is a single-line operator, a take-all-comers insurer and limited by regulation to charge sufficient premiums. Further, ICBC has used available offsets over the last few years, including triggering certain investment gains.

Why didn't ICBC recognize this significant deterioration sooner?

- ICBC has closely monitored this issue since mid-2015 and has recognized additional costs as they have emerged and attempted to estimate the future potential risk. The number of large losses seen in 2017/18 (up 80% from last year) is well beyond any historical experience which actuarial analysis would have reasonably anticipated.
- There are also very specific challenges in identifying large losses:
 - i) A relatively small number of large losses occur in any given year, resulting in a high degree of volatility in how many occur and when they are reported. Some caution is due in terms of ensuring that higher large claims emergence actually represents a new pattern, rather than just a short-term spike.
 - ii) As explained above, the late emerging large losses first appear as minor injury claims, and subsequently develop into more serious claims with substantial legal costs and disbursements. Under current Court Rules, these cases develop into larger losses solely between the claimant, their lawyer and medical service providers with no disclosure to ICBC required.

Will this issue continue beyond 2017/18?

- ICBC's current estimates have recognized the current change from the historical pattern and further deterioration is not currently expected. However, this years' experience demonstrates that further increases in the emergence of large losses on older years remains possible.
- ICBC continues with its rigorous quarterly reviews, has developed a predictive analytical model to further support analysis, and undertaken additional targeted claims reviews to better understand and mitigate the risk of further adverse large loss emergence.
- These reviews help to sharpen the actuarial estimates as well as provide insights to Claims staff on how to better identify these claims earlier allowing ICBC to better control the growth and costs associated with the claims.

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- Strategies for mitigating large loss claims have been implemented including enhanced use of mediation to facilitate earlier discussion of the injury and its impact being claimed and the appropriate settlement amount, an enhanced fraud strategy to reduce the risk of paying fraudulent or exaggerated claims, strategies to respond to high financial demands from unrepresented customers at risk of obtaining legal representation, and improved claims handling training. ICBC is also improving its processes for reviewing the quality of file handling as well as the amounts that have been reserved on claims.

Slowing Claims Closures

- With additional staffing, ICBC planned to close significantly more claims in 2017/18. Through September 2017, closures were up over 10% compared to last year.

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- In addition, while the number of claims increased, it appears that plaintiff lawyers did not have the resources (or perhaps the motivation) to handle the increased volume as settlement rates have dropped.
- ICBC's closure plan involves a range of tactics, implemented and underway, including:
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IV. Next Steps:

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- ICBC and government explored options for mitigating the financial loss for 2017/18. The size of the loss and with only two and half months left before the close of the fiscal, very limited options are available. Mitigations that have been considered include:
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Key Contact: Nicolas Jimenez
Interim President and CEO
604 982 7204

Date: January 16, 2018

Appendix A – Hypothetical Example

Mary – Injured in a Rear-end Crash in 2012

- Mary is not at fault for a fairly minor crash and immediately seeks legal representation.
- Mary starts to get treatment for injuries and receives some accident benefits for her wage loss. Those wage loss benefits discontinue three months after the crash with ICBC being advised that Mary returned to work. ICBC also stops receiving requests for reimbursement of any treatments. As a result, ICBC has reserved \$50,000 on this file.
- Mary starts a lawsuit for her bodily injury claim in 2014, before the two-year limitation period expires. Mary's claim alleges extensive soft tissue injuries, and severe head and back pain. Mary is also claiming past and future wage loss, past and future medical care, and pain and suffering. However, these claims are routinely made in the lawsuits on most files, and do not trigger any reason for ICBC to identify this as a 'large loss' or adjust its \$50,000 reserve.
- ICBC receives some medical treatment records and schedules an examination for discovery in 2015. A trial date was not available until February 2018. Following the examination for discovery, ICBC learns that Mary has only returned to work part-time and is receiving treatments for injuries that have not been previously claimed. Mary advises that she has been unable to return to full capacity at work since the crash. This is new information for ICBC and as a result, reassesses its value at \$125,000.
- In late 2017, 84 days before trial, plaintiff counsel provides ICBC with a number of expert reports indicating that Mary has chronic pain as a result of the crash and will have significantly reduced earning capacity for the rest of her career. Based on this new information, received approximately 5.5 years after the crash, ICBC identifies this claim as a 'large loss' and it ultimately settles 30 days before trial for \$500,000.

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Nanninga, Tanera AG:EX

From: Fyfe, Richard J JAG:EX
Sent: Monday, August 7, 2017 9:51 AM
To: Eby, David AG:EX; Howard, Stephen PREM:EX
Cc: Brouwer, Shauna FIN:EX; Brownsey, Silas TRAN:EX
Subject: Fwd: Second Draft for Tuesday - ICBC Menu fyi and draft speaking notes
Attachments: ICBC Speaking notes Tuesday meeting_SB edits (4).docx; ATT00001.htm; Mitigation strategies.docx; ATT00002.htm

Attorney, here are notes and mitigation points prepared for your Tuesday meeting.

Richard J.M. Fyfe QC
Deputy Attorney General
Ministry of Justice and Attorney General
Tel. (250) 356-0149

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