



Intact Financial Corporation

An **eight-point plan** for auto insurance in Newfoundland and Labrador



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The following submission has been prepared by Intact Financial Corporation (Intact), on behalf of its subsidiaries, Intact Insurance, Anthony Insurance and Macdonald Chisholm Trask Insurance, in response to the Newfoundland and Labrador Automobile Insurance Review 2017/18.

Introduction

From coast to coast, one in five Canadians and one in four people in Newfoundland and Labrador count on us to protect what matters: their homes, cars and businesses.

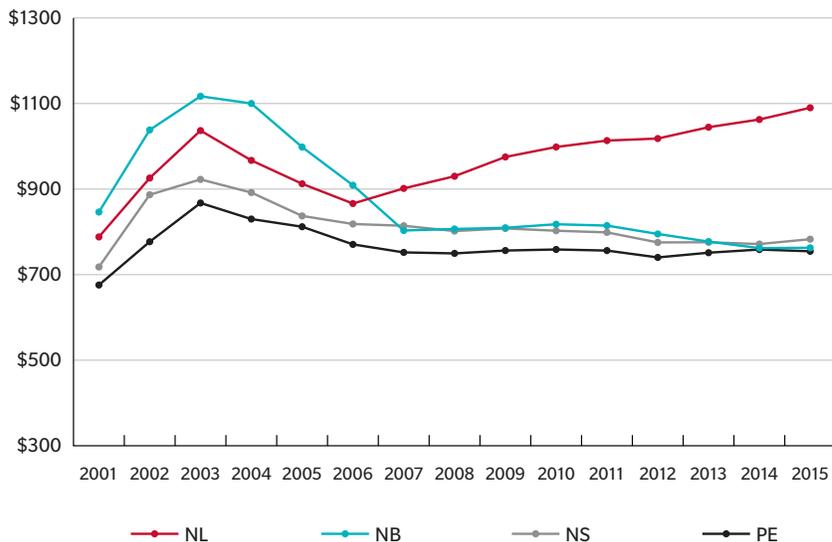
Intact Financial Corporation is the largest provider of property and casualty insurance in Canada and a leading provider of specialty insurance in North America, with close to \$10 billion in total annual premiums.

In Newfoundland and Labrador, we operate three well-known brands: **Anthony Insurance**, **Intact Insurance** and **Macdonald Chisholm Trask Insurance** and our total annual premiums are \$189 million. Personal lines automobile accounts for \$118 million of this total.

Insurance is about people, not things. This provincial review is an opportunity to bring positive changes to auto insurance to ensure a sustainable, fair and affordable product for the people of Newfoundland and Labrador. We are eager to support Service NL and the Public Utilities Board in achieving reforms that will return automobile insurance to long-term sustainability with a more competitive marketplace and better serve the residents of the province.

Auto insurance premiums began to increase in Newfoundland and Labrador in 2006 and have been the highest in Atlantic Canada since 2007. The cost of auto insurance in this province is more than one-third higher than in Nova Scotia.

The graph below shows the auto premium trends for Newfoundland and Labrador drivers relative to those in the other Atlantic provinces.



In the Community

We want to create job opportunities for young people in Newfoundland and Labrador and we welcome an average of 20 new hires every year.

Intact currently employs 237 people in Newfoundland and Labrador, with the following characteristics:



AVERAGE TENURE
10 YEARS



AVERAGE SALARY
\$51,665



AVERAGE AGE
43.5 YEARS

We have 25 office locations across the province, as shown below.



We are committed to the communities where we live and work. We take our social responsibility seriously and welcome opportunities to help local organizations and groups through contributions with lasting social and environmental impacts.

Anthony Insurance has proudly provided a fully paid scholarship to Memorial University of Newfoundland every year since 2003. All three of our local brands (Anthony Insurance, Intact Insurance and Macdonald Chisholm Trask Insurance) actively participate in their communities by donating personal time and financial support. Our teams are engaged in supporting foodbank drives, at-risk youth and child poverty initiatives, safety programs, and cultural, arts and sporting activities.

At Intact, we respect the environment and its finite resources, strive to make the communities where we live and work safer, healthier and happier, and encourage the civic participation of all our employees.

Reform Objectives

Our recommendations are intended to achieve the following:

1. Stabilize the costs resulting from bodily injury claims through a focus on care, not cash.
2. Improve the health outcomes for people injured in automobile collisions with prompt access to treatment and evidence based treatment protocols.
3. Provide fast and superior customer service when people require repairs or replacement of a damaged vehicle.
4. Encourage innovation and competition in order to provide customers with the lowest possible price based on their individual risk.
5. Stabilize premiums for the residents of Newfoundland and Labrador.
6. Educate and inform stakeholders.



Summary of Proposed Reforms

Intact proposes an eight-point plan to ensure the long-term sustainability of auto insurance in the province.

Stabilize Bodily Injury Claims Costs

1. Implement a \$5,000 minor injury cap on non-pecuniary damages, indexed to inflation. A minor injury definition would include sprains, strains and whiplash injuries as well as any clinically associated sequelae, whether physical or psychological in nature, that does not result in a serious impairment.
2. Implement tort system reforms.

Improve Health Outcomes for People Injured in an Automobile Collision

3. Make accident benefits mandatory and review medical and rehabilitation benefits.
4. Implement pre-approved evidence based treatment protocols.

Provide Timely Repairs and Replacement of Vehicles Damaged in an Auto Collision

5. Transition from the current property damage claims settlement model to direct compensation property damage (DCPD), which will drive insurers to settle their customers' claims faster.

Create an Environment that Encourages Innovation and Drives Competition

6. Transition to a market-based approach for rate regulation, driving competition through the replacement of the current prior approval framework with a file and use framework, while focusing on overall rate regulation.

Stabilize Premiums

7. Explore the implementation of a risk sharing pool, which would support the stabilization of premiums.

Educate and Inform Stakeholders

8. Educate and inform all stakeholders about the outcomes of the reform to ensure all parties have a clear understanding of what is changing and why.

Stabilize Bodily Injury Claims Costs

- Implement a \$5,000 minor injury cap (indexed to inflation) on non-pecuniary damages.
- Define *minor injury*.
- Tort system reforms.



Minor Injury Cap

A minor injury cap in Newfoundland and Labrador would go a long way in containing costs. Nova Scotia, New Brunswick and Alberta introduced minor injury caps about 15 years ago and British Columbia recently announced a non-pecuniary damages cap for bodily injury claims to help control the government-run insurer's costs and to stabilize premiums.

A minor injury cap allows for:

- Fair and adequate compensation to collision victims who qualify.
- A streamlined resolution process for collision victims.
- Cost control to help to stabilize auto insurance premiums for all policyholders.

We have done an analysis on a small subset of claims to calculate the impacts of a minor injury cap in Newfoundland and Labrador, based on Intact claims closed between 2011 to 2015 (across all brands).

	Claims not within the scope of proposed minor injury definition	Claims within the scope of proposed minor injury definition	Total	Potential cost reduction
Total indemnity	\$11,325,779	\$4,137,156	\$15,462,935	
Cost at \$2,500 cap	\$11,325,779	\$569,037	\$11,894,815	23.1%
Cost at \$5,000 cap	\$11,325,779	\$1,055,402	\$12,381,180	19.9%
Claims count	175	213	388	

Minor Injury Definition

The definition of minor injury varies slightly across the country but the intent is the same. We recommend a minor injury definition that includes “*sprains, strains and whiplash injuries, including any clinically associated sequelae whether physical or psychological in nature, that does not result in a serious impairment.*”

It is important to keep capping definitions current in order to close perceived loopholes in the definition.

Tort Procedural Reforms

We recommend a review of the current tort procedural rules specific to motor vehicle collision claims, with the goal of streamlining the bodily injury claims process to ensure accident victims receive benefits due to them in a fair and timely manner without significant effort.

Intact’s experience as a national insurer has confirmed that tort procedural reforms can help stabilize the costs of bodily injury claims when implemented as part of a robust plan including a minor injury cap.

The current tort framework in Newfoundland and Labrador lacks efficient rules and procedures to encourage parties to exchange needed information which hinders claims from proceeding and settling with minimum delay. Other jurisdictions have implemented tort procedural changes to tackle this problem. Ontario as one example in section 258.3 of the *Insurance Act* requires the accident victim to meet several procedural requirements before pursuing litigation:

- apply for accident benefits;
- provide notice of the intention to commence an action within 120 days of the collision;
- undergo examinations by certain health providers, if requested and at the insurer’s expense; and
- provide a statutory declaration describing the circumstances of the collision and the nature of the claim being made.

The [Marshall Report](#), Ontario’s review of the auto insurance system in 2017, and other Canadian jurisdictions have also considered specific reforms to encourage document exchange without court applications, and case management and settlement forums in the place of expensive and lengthy trials. Ontario has not yet implemented these recommendations but there is an opportunity for Newfoundland and Labrador to be a leader in tort procedural reforms.

We have included a summary of additional tort procedural changes that the Government of Newfoundland and Labrador should explore since the implementation of these would streamline the bodily injury claim adjustment and settlement process for accident victims:

- Creating a prescribed list of documents to produce, which would include the accident benefits file, Medical Care Plan records, hospital records and/or clinical notes;
- Participate in mandatory mediation if requested by either party (section 258.6 of Ontario’s *Insurance Act*);
- Provide a form of case management that encourages cases to proceed with minimum delay; and
- Full deductibility of accident benefit awards from tort awards.

Improve Health Outcomes for People Injured in an Automobile Collision

- Make accident benefits mandatory and review medical and rehabilitation benefits.
- Implement pre-approved evidence based treatment protocols including passive treatments.



Mandatory Coverage and Review of Medical and Rehabilitation Benefits

Mandatory accident benefits, when combined with enhanced medical and rehabilitation benefits and disability income, ensure that collision victims have access to the care that supports their recovery.

Accident benefits coverage has been mandatory in a number of provinces in Canada for more than a decade and ensures quick access to care and rehabilitation programs for collision victims. Accident benefits provide coverage regardless of fault and reinforce a system that is built on care, with a focus on the motor vehicle victims recovering from injury.

We recommend a review of the current accident benefits offerings in Newfoundland and Labrador to ensure the limits and coverages support a client’s recovery, which is the goal of accident benefits coverage.

The table below compares Newfoundland and Labrador’s costs with two provinces that have mandatory accident benefits coverage.

	Newfoundland and Labrador	Nova Scotia	Alberta
Medical & rehabilitation	\$25,000	\$50,000	\$50,000
Disability income	\$140 per week	\$250 per week	\$400 per week

Implement Pre-Approved Evidence Based Treatment Protocols

Intact’s experience with evidence based treatment protocols in other provinces demonstrates a faster path to recovery. We strongly recommend the use and continued development of new evidence based treatment protocols. Whenever possible, the best treatment modalities with a proven track record of success should be available to the customer. This is in keeping with the goal of providing access to care aimed at returning customers back to health.

The objective of the protocols is to ensure people who are injured in car accidents receive early and consistent treatment for their injuries. Some of the benefits include:

- The customer’s auto insurer is the first payer, limiting out of pocket expenses for customers.
- Private health plan collateral benefits won’t be accessed while treatment is being received.
- Easier and faster access to care is provided through pre-approval.

- Medical referrals are not required.
- The initiating health practitioner will have the ability to begin treatment more quickly and with assurances of payment.
- Customers have clarity on what to expect with treatment, its duration and what happens at its conclusion.

Clearly articulated evidence based treatment protocols detail expectations and provide clarity for all parties involved. Information on evidence based treatment protocols should be readily accessible and published in a centralized website.

All evidence based treatment protocols must clearly indicate that unless insurers receive compelling medical evidence to the contrary, the customer will be discharged and medical and rehabilitative treatment will end when treatment has concluded.

It is important to note that Newfoundland and Labrador does not need to start from scratch with respect to treatment protocols. The use of evidence based programs is an established norm in Nova Scotia and Alberta auto insurance. Plans should be developed and accessible for all stakeholders and used as a quick reference for the treating health professional, along with an accompanying fee schedule for services. We recommend a government-issued fee schedule that aligns with the provincial health care rates.

The progressive implementation of evidence based treatment protocols paired with a fee schedule will ensure that costs are fair for the treatment received and support the recovery of eligible collision victims.

Passive Treatment — Introducing Per Visit Caps and Ultimate Limits

There is an opportunity to be clearer and more transparent with customers in terms of what is afforded under the policy and where caps and limits apply. This is the current approach with disability policies, where a schedule of limits and coverage are clearly outlined at the time of the purchase of the policy.

If a customer does not fall within an evidence based program of care and passive treatments such as massage therapy and chiropractic care are being pursued, such treatment should be subject to clear per-visit caps and maximum limits. It is not uncommon within disability policies to see clear wording for these types of treatment, such as chiropractic treatment at a \$50 maximum per visit, up to a calendar year maximum of \$250. The use of ultimate limits for passive treatment already exists within Alberta's first-party benefit system, for example. Through the use of clear, unambiguous language, we can avoid misunderstandings with consumers, avoid disputes and ensure we focus on care.

Timely Repair and Replacement of Vehicles Damaged in an Auto Collision

- Transition from the current property damage claims settlement model to DCPD



Residents of Newfoundland and Labrador choose their insurer when they purchase automobile insurance. However, when there is a collision under the existing claims settlement model for which the person is not at fault, they don't necessarily get to access service from their chosen insurer.

When they deal directly with the at-fault party insurer, there can be additional hurdles and delays. In cases where Intact would handle the loss directly with our client, our customer-focused approach ensures repairs are done quickly. This also minimizes the time and costs associated with subrogation against the other insurer. It also further benefits the client, as claims are handled more efficiently and costs are more easily predicted, allowing for more accurate premium calculations.

A positive customer experience is a key priority at Intact and we welcome opportunities to work directly with our customers.

Encouraging Innovation and Driving Competition

- We recommend transitioning to a market-based approach for rate regulation, driving competition through the replacement of the current prior approval framework with a file-and-use framework, where the focus is on overall rate regulation.



As a national insurer, we appreciate the intent of automobile insurance rate regulation and recognize the government's role with regards to a mandated product aimed at protecting consumers and ensuring availability, while keeping prices affordable for consumers and maintaining insurer solvency.

The current framework requires submission and prior approval. Often, by the time companies receive approval, their actuarial indications are outdated, which means rates are not based on the most current and relevant information.

We recommend a two-phase approach to reform rate regulation in Newfoundland and Labrador.

Phase 1— Transition to a file-and-use framework. This would allow new rates to be used immediately after filing, rather than waiting for approval. Service NL and the Public Utilities Board could then disapprove within a mandated time frame if the rate is deemed unjustified. This would allow you to continue to closely monitor actions taken by insurers within Newfoundland and Labrador while allowing the industry to adapt more quickly.

Phase 2— Ultimately, we would like to see rate regulation transition to a use-and-file framework. This would allow for rates to be changed immediately, subject to filing within a specified period of time. We appreciate this is a significant step from where we are today, which is why we are proposing the phased approach.

Revising the current framework to a file-and-use (and ultimately use-and-file) system has many potential benefits, including:

- Increased competition with new insurers entering the market.
- Insurers can quickly adjust pricing upwards or downwards to respond to competition. (Currently, a filing takes at least three months to approve once submitted.)
- Insurers invest in developing new products and service options to attract new and retain existing clients within the province, thus fostering innovation.
- Enhanced segmentation allows insurers to charge a premium that is more reflective of an individual's risk, which in turn drives greater competition in the marketplace.

South Carolina is a recent example of a market where the state government changed its approach to regulating auto insurance rates. Up until the late 1990s, South Carolina had a prior approval framework. Between 1997 and 1999, the government changed its approach by implementing a flex-rating framework where, for rate changes at or below 7%, insurers could implement them in the market without approval from the regulator.

The result has been more insurance options for consumers and more competitive prices since more insurers have entered the market. The market concentration of the top four insurers declined from 64% in 1995 to 58% in 2008

and the top eight insurers declined from 84% in 1995 to 79% in 2008.¹ The participants in this market are competing and innovating and there are now 14 usage-based insurance (UBI) products available.

Prior to the change, the average premium in the state was increasing at a rate higher than the regional and national averages. After the change, the average premium trend aligned with the regional and national averages. Based on the most recently available data, although insurers can increase their rates by up to 7% without approval, the average premium increased by only 2.1% per year between 2000 and 2014—just a bit higher than the national average of 1.6%—at a time when the annual inflation rate was 2.3%.

Prior to the change, the only insurance option available to up to 42% of vehicles in the market was the residual market. As of 2013 in South Carolina, there were no vehicles insured in the residual market.²

1 Data from National Association of Insurance Commissioners (NAIC).

2 Data from American Insurance Plans Service Office (AIPSO).

Stabilize Premiums

- In addition to all of these recommendations, which would support the stabilization of premiums, we encourage the Government of Newfoundland and Labrador to explore the implementation of a risk sharing pool.



Risk Sharing Pool

Alberta, Nova Scotia, New Brunswick, Ontario and Quebec have all implemented a risk sharing pool, allowing insurers in the market to pool certain risks and establish tiered access to compulsory insurance. This is a form of risk management. Under this system, insurance companies come together to form a pool of high-risk drivers who cannot otherwise access insurance in the regular market. The pool is distributed among the insurers who operate in the market, which protects drivers in the regular market from higher premiums.

We recommend that the Superintendent of Insurance of Newfoundland and Labrador task the Board of Directors of the Facility Association to develop a strategy to depopulate the Facility Association using a risk sharing pool that would be administered by the Facility Association. The risk sharing pool should require all insurers, brokers and agents to participate in the program.

Again, you do not need to start from scratch. For your reference, we have included a summary comparison chart of the risk sharing pools currently in place across the country. In developing a risk sharing pool structure for Newfoundland and Labrador, you can pick and choose from existing practices in other provinces in order to create the best system for the residents of Newfoundland and Labrador.

	Ontario	Alberta Non-Grid	Alberta Grid Risk	New Brunswick	Nova Scotia	Québec
Result sharing	50% Market Share (in earned units) + 50% Pool Used (in earned units).	Market Share not ceded (in earned units)				Market share, written premium
Eligibility	PPV not eligible to the FARM and insured against TPL for at least the statutory limit.			Need to have 1 driver entitled to the "Recently licensed driver and good driving record" discount	Drivers with less than 6 years driving experience with no accidents or convictions	
Limit	5% Previous year direct written units (can be appealed to the board)	4% Previous year (direct-grid ceded) written units	Unlimited	8% Previous year direct written units	Unlimited	<ul style="list-style-type: none"> • 10% written premium total Auto • 33% for each sub-risk (PPV, ATV, MCY, etc)
Limit applicable to	At holding level					At company level
15 day rule	If a new risk is ceded within a 15 day period, the new vehicle ceding date will be the vehicle inception date					Isn't possible since the new rules
% of risk ceded	85%	100%				100%
Expense allowance	<p>Ceded: Vary by insurer: based on information used to calculate the expense factor in rate filing.</p> <p>Assumed: Blended rate from every member company.</p>	Determined by Board in consultation with Superintendent		Determined by Board in consultation with Superintendent	Determined by the Board of Directors	29% (Premium taxes paid on a net basis so expenses reduced by 3.5% if risk is ceded.
Other rules	Need to order MVR					Can cede risks with up to 10% deviation (if more deviation, company absorbs the excess deviation)

	Ontario	Alberta Non-Grid	Alberta Grid Risk	New Brunswick	Nova Scotia	Québec
Other rules	Allow to take in and take out business as much as you want					Cannot withdraw risks mid-term.
Other rules	A risk that is in the pool and had a claim cannot be withdrawn before the next renewal.					Cannot cede risks mid-term except under certain circumstances.
Other rules	For Accident Benefits, if the claim involves none of the vehicles (i.e. the insured was struck as a pedestrian), the Pool pays a share; for example, if there are two vehicles insured with the Company and one transferred to the Pool, the Pool would pay one-half of the claim.					
Accounting info	Assumed results have a 2 months lag. We get 2 months of estimate. Market share for the current year is updated in July of the following year. Until then, the market share of the past year is used. This can cause a sudden change in July. FA does a big reserve review at Q2. This will be implemented by FA in August and into our system in October. If Pools make an impact of +/- 5 millions (IFC) in a quarter end, we will book it one month earlier.					
Accounting info	Pools usage is updated each quarter*. (Used in the calculation of our market share). YTD data is used by FA, which makes the change in the first quarter the biggest.					

Educate and Inform Stakeholders

- Educate and inform all stakeholders about the outcomes of the reform to ensure all parties involved have a clear understanding of what is changing and why.



We know from experience that a consumer who is mandated to purchase automobile insurance is not always fully informed and that education is essential to the success of automobile insurance reform. All stakeholders must have a clear understanding of the purpose and goals of the reform, what is and is not covered, etc. Clarity is key to avoiding conflict.

Obtaining automobile insurance is seen by some as just a formality to getting their car on the road but a lack of understanding becomes clear when a collision occurs. This is when the consumer is faced with full complexity of the current system. Should the Government of Newfoundland and Labrador implement significant changes to auto insurance, it will be important that consumers, insurers and third parties have a clear understanding of the new system. We recommend a comprehensive education campaign highlighting the steps taken to simplify access to coverage and the dollars that will be saved by removing inefficient and redundant processes, providing transparency about all the changes.

A government-led campaign explaining the change in direction and benefits to customers will go a long way to ensuring a broad base understanding of and support for the auto insurance product.

Conclusion

As we stated insurance is about people not things. What we are proposing will benefit Newfoundlanders and Labradoreans. They will have an insurance system that will work better for them.

We thank you for the opportunity to make a written submission for the consideration of the Board of Commissioners of Public Utilities and Service NL. We are confident that our eight-point plan will ensure the long-term sustainability of auto insurance in the province and ultimately result in premiums more in line with the rest of Atlantic Canada.

We emphasize the importance of fair and sustainable automobile insurance in Newfoundland and Labrador to ensure:

- A product that is built around rehabilitation and care, not cash, for collision victims;
- Faster repairs to automobiles by focusing on customers;
- An environment that fosters healthy competition and innovation to stabilize claims costs and insurance premiums in the long term.

We believe these reforms will help to achieve your goals and appreciate the opportunity to assist in the Newfoundland and Labrador Automobile Insurance Review 2017/18.

