

**ICBC NOW INSOLVENT: IS A TAXPAYER BAIL-OUT IMMINENT?**

The government released ICBC's third-quarter financial summary on February 7<sup>th</sup> well ahead of the 2019/20 budget and 2018/19 financial updates (including from other self-supporting Crown corporations) which will be released on February 19<sup>th</sup>.<sup>1</sup> Apparently, the government did not want the continuing bad financial news from ICBC to distract from the expected positive tone of the upcoming budget, hence the early release.<sup>2</sup>

The Q3 report was the latest in a series that exposed continuing operating losses, with the combined Basic and Optional operating loss for nine months at \$860 million. ICBC now forecasts the year-end operating loss at almost \$1.2 billion, which is \$566 more than the original forecast of a year ago.

Table 1 shows the original budget and the actual (or forecasted) operating loss and the equity for 2017/18 and 2018/19. In recent years ICBC has had a difficult time accurately forecasting its claims costs and operating results.

**Table 1—Comparison of Budget and Actual Results (\$=million)**

	----- 2017/18 -----		----- 2018/19 -----	
	Budget	Actual	Budget	Forecast
<b>Net Loss</b>	(225)	(1,325)	(614)	(1,180)
<b>Equity</b>	2,030	987	439	e(300)
<b>MCT Ratio</b>	64	31	e 12	e(8)

Sources: 2017/18 budget from February 2018 service plan, 2017/18 actual from the 2017/18 annual report, 2018/19 budget from the February 2018 service plan and the 2018/19 net loss forecast from ICBC. ICBC did not provide a forecast for the year-end equity and MCT, therefore these are my estimates.

**Liabilities Now Exceed Assets**

Perhaps the most disturbing aspect of the Q3 report is that the combined Basic and Optional liabilities exceed assets by 119 million. In the absence of a forecast from ICBC, I have estimated the year-end capital reserve (equity) shortfall at \$300 million.<sup>3</sup>

<sup>1</sup> <https://www.icbc.com/about-icbc/company-info/Documents/Statement-of-Operations-third-quarter.PDF>

<sup>2</sup> One must question why the release of ICBC's audited year-end statements requires some 16 weeks after the close of the year, when the quarterly report can be issued after only four weeks from the close of the reporting period.

<sup>3</sup> The ICBC equity of --\$119 million reflects the poor financial markets as of 31 December 2018. The markets improved in January, and if the improvement holds until 31 March 2019 the capital reserve position may be somewhat better than the final quarter operating forecast losses may suggest.

The combined capital reserve has fallen from \$3.1 billion as of 31 December 2015 to a reported minus \$119 million three years later. This means that the provincial government is now actually backstopping ICBC's ability to pay the cost of claims.

The government may allow the insolvency to continue while the coverage changes planned for 1 April 2019 reduce the cost of injury claims settlements. In its 2019 rate request to the B.C. Utilities Commission ICBC estimates that the net effect of the coverage changes, especially the \$5,500 cap on pain and suffering claims for minor injuries, will reduce forecasted Basic claims costs by \$1.2 billion for 2019/20.<sup>4</sup>

The options facing the government regarding ICBC's capital reserve were canvassed in my commentary of 17 December 2018.

Finance minister Carole James is clearly worried that the rapid loss of ICBC's capital reserve may require a taxpayer bailout. In the recent second quarter forecast she increased the government's 2018/19 forecast allowance from \$350 million to \$950 million, partly because of the uncertainty about ICBC's deteriorating finances.

We might expect that the government will set aside some of the 2018/19 surplus to partially re-inflate ICBC's capital reserves.<sup>5</sup>

### **Will the Announced Coverage Changes Be Sufficient?**

Attorney General Edy is still confident that the \$5,500 cap on pain and suffering claims for minor injuries (which is now broadly defined) and the other coverage changes will produce enough savings in the claims cost forecast to allow ICBC to stabilize its finances. Continuing with the unfortunate "dumpster fire" analogy, he was quoted by Rob Shaw as saying that "We're headed in the right direction.... The fire trucks are finally on scene. We've just got to get the water through the hoses."<sup>6</sup>

The corporation and the attorney general cite a variety of reasons for the steady deterioration in the operating losses, including a rapid increase in the number and cost of medical reports, higher vehicle damage costs and the emergence of a 20% increase in the cost (severity) of litigated injury settlements.

Unfortunately, it is not possible to fully review some of these assertions. Key volume and severity information in the 2017 claims study prepared by Ernst Young to support the \$1.2 billion net savings estimate was redacted by ICBC, using the highly suspect argument that disclosing this information could harm the corporations' financial

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<sup>4</sup> Although the Basic rates must still increase by 6.3%, see [https://www.bcuc.com/Documents/Proceedings/2018/DOC\\_53062\\_B-1-ICBC-2019-RRA.pdf](https://www.bcuc.com/Documents/Proceedings/2018/DOC_53062_B-1-ICBC-2019-RRA.pdf)

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[http://www.bcpolicy Perspectives.com/media/attachments/view/doc/commentary\\_icbc\\_capital\\_17\\_december\\_2018/pdf/commentary\\_icbc\\_capital\\_17\\_december\\_2018.pdf](http://www.bcpolicy Perspectives.com/media/attachments/view/doc/commentary_icbc_capital_17_december_2018/pdf/commentary_icbc_capital_17_december_2018.pdf)

<sup>6</sup> <https://vancouver Sun.com/news/politics/icbc-financial-losses-worsen-to-1-18-billion-this-year> also see <https://www.theglobeandmail.com/canada/british-columbia/article-bcs-public-auto-insurance-provider-icbc-posts-860-million-net-loss/>

interest.<sup>7</sup> Thus, ICBC can use selected statistics and comparisons which explain the rapid increase in the estimate for current and prior years' claims costs, and avoid presenting the full picture, such as the change in the number and cost of unrepresented claims and those claims that are represented but not litigated.

### **Is Full No-Fault in the Offing?**

The Trial Lawyers Association of BC announced that it was planning a legal challenge to the new Basic coverage changes. If this challenge proceeds it will add a number of years of uncertainty to the quest to end the financial losses at ICBC. If the legal challenge succeeds in weakening or reversing the coverage changes then the government will likely be forced to legislate a full no-fault coverage model, similar to those already operating in Saskatchewan and Manitoba. In fact, the changes which take effect on 1 April 2019 already move B.C. well along the coverage continuum toward the pure no-fault model.

The government may choose to pre-empt the planned legal action by moving more quickly to the no-fault model if the anticipated savings from the coverage changes and the redesign of the Basic premium do not produce the planned savings.

### **What Has Not Been Discussed**

Clearly the best solution to reducing the cost of injury and property damage claims is to reduce the number of crashes. Other than expanding the use of existing intersection red-light camera, the government has not announced a concerted effort to enhance the enforcement of existing traffic rules.

Instead, those drivers who are ticketed for a moving violation face a potential 40% increase in financial penalties. The increase in the financial penalty may improve driver behaviour, but if the rules are not enforced the incentive to follow the rules is severely reduced.

The government has not indicated that it is prepared to assist in stabilizing ICBC's finances by paying for those policies (the seniors' discount) and services (driver licensing fees, enhanced policing, intersection camera fines and fine collection) which

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<sup>7</sup> ICBC stated; "... the Product Reform Costing Report contains confidential information which, if made public, could influence ICBC's settlement negotiations with claimants. Disclosure of this information would prejudice ICBC and its Basic insurance policyholders and thereby harm ICBC's financial interest. In addition, the Product Reform Costing Report also contains data that includes information on a total claims cost basis, including both Basic and Optional insurance. Disclosure of this information would harm ICBC's financial interest." ICBC covering letter of 14 December 2018, [https://www.bcuc.com/Documents/Proceedings/2018/DOC\\_53062\\_B-1-ICBC-2019-RRA.pdf](https://www.bcuc.com/Documents/Proceedings/2018/DOC_53062_B-1-ICBC-2019-RRA.pdf)

have benefited the provincial taxpayer.<sup>8</sup> It has relied instead on the coverage changes to reduce injury claims costs, and on a redesigned Basic premium to transfer more costs to higher risk younger drivers, and those who caused a crash.

## **Enhanced Transparency**

The corporation is to be commended for providing a slightly more fulsome summary of its operations and equity position in its third quarter summary compared to the highly aggregate previous quarterly statements. The split between the Basic and the Optional programs is welcome (if long overdue) as revenue and costs can now be more closely tracked between reporting periods.

ICBC still has some way to go to match the reporting of the public auto insurers in Saskatchewan and Manitoba (or even of B.C. Hydro), but the small steps to greater accountability are welcome.<sup>9</sup>

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The writer is a retired senior BC government public servant whose paper describing the BC government's manipulation of the finances of BC Hydro from 2008 to 2014 was published by *BC Studies* in November 2016. *BC Studies* published his paper on the 40-year financial history of ICBC in 2013. He has been an intervener in the BC Utilities Commission's recent reviews of both ICBC's and BC Hydro's rate requests

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<sup>8</sup> I had estimated these benefits to the government at approximately \$200 million; see [http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional\\_paper\\_no\\_47\\_4\\_december\\_2017/pdf/occasional\\_paper\\_no\\_47\\_4\\_december\\_2017.pdf](http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_47_4_december_2017/pdf/occasional_paper_no_47_4_december_2017.pdf)

<sup>9</sup> The amount of disclose in the Q2 statement was discussed in [http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional\\_paper\\_no\\_64\\_icbc\\_q2\\_results\\_24\\_nov\\_2018/pdf/occasional\\_paper\\_no\\_64\\_icbc\\_q2\\_results\\_24\\_nov\\_2018.pdf](http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_64_icbc_q2_results_24_nov_2018/pdf/occasional_paper_no_64_icbc_q2_results_24_nov_2018.pdf)