

INSURANCE CORPORATION OF BRITISH COLUMBIA -- OCCASIONAL PAPER No 18
 RISE IN BASIC CLAIMS COSTS: A STATISTICAL SUMMARY 2012 TO 2015 AND OUTLOOK

BACKGROUND

After several years of low interest rates and rapidly rising claims costs, exacerbated by the government’s rate suppression policy, ICBC is facing a financial crisis. From 2012 to 2016/17 some \$1.4 billion of Optional funding will have been expended to keep the Basic capital reserve from falling below the minimum requirement. By the end of the current year both the Basic and the Optional capital reserves will have declined to their regulatory minimum levels.

The purpose of this paper is to review the expenditure and claims data presented by ICBC in its annual reports and its current rate request submission to the BC Utilities Commission. The focus is on the rising claims and costs with an attempt to isolate specific factors that are driving the growth in claims costs.

From 2012 to 2015 the annual reports show that Basic current year claims costs rose by \$548 million (26.4%), while Optional current year claims costs rose by \$228 million (24%). The three-year average annual increase of 8.8% for Basic and 8.0% for Optional was about four times the annual rate increase in the provincial CPI.

Despite the growth in claims, and especially in the more time consuming and expensive injury claims, ICBC reduced staffing in its claims division in 2012 and 2013. This misguided attempt to save operating expenditures (over the three years the claim services expenditures were flat) resulted in a significant delay in the time to settlement, and a \$2.0 billion (30%) increase in the Basic unpaid claim (backlog) liability.

NUMBER OF BASIC CLAIMS

Table 1 shows the growth in bodily injury (BI) and property damage (PD) for the Basic program for 2012 compared to 2015. The PD numbers are for not at fault claims as the at fault PD claims are paid from the Optional program. ICBC does not release detailed claims data for the Optional program.

Table 1 CLAIM COUNTS

	2012	2015	CHANGE	PERCENT
Bodily Injury	34,570	42,470	7,900	22.9
Property Damage	156,000	201,900	45,900	29.5
Total Claims	190,570	244,370	53,800	28.2

Source: BCUC, ICBC 2016 RRA, IR1, RM 4.1

BI claims rose dramatically (12%) in 2015 compared to the approximate 5% average growth in the prior two years. PD claims jumped 23% in 2014, but the growth rate moderated to 4.5% in 2015. The average cost of a BI claim (\$38,000) is approximately 14X greater than average cost of a PD claim (\$2,700).

THE GROWTH IN BODILY INJURY CLAIM COSTS

Table 2 shows the amounts paid by ICBC to settle BI claims in 2012 and 2015. These are ICBC's numbers of the value of claims actually closed or settled in these two periods, and exclude the value of pending claims.

Table 2 VALUE OF BI CLAIMS SETTLED (\$=millions)

	2012	2015	CHANGE	PERCENT
General&Special Damages	757.1	928.2	171.7	22.6
Part 7 Benefits	446.8	465.5	18.7	4.2
ICBC Defense Costs	284.3	308.5	24.2	8.5
TOTAL PAYMENTS	1,488.2	1,702.2	214.0	14.4

Source: BCUC, ICBC 2016 RRA, IR1, BCUC 13.4.

The largest growth is in general damages. The Part 7 benefits, which include medical rehabilitation, future wage loss, home care and death benefits had the lowest increase.

MILD SOFT TISSUE CLAIMS

In response to an information request by the writer ICBC provided a break-down of Basic settled claims between those that ICBC defined as mild soft tissue injury (STI) and the balance of the claims. Table 3 shows the number of settled exposures (claims), the cost and the average cost per settled exposure in 2012 and 2015. The dollars include ICBC's defense costs.

Table 3 BI EXPOSURES SETTLED

	2012	2015	CHANGE	PERCENT
Claims Settled	38,735	47,206	8,471	21.9
Amount Paid (\$=m)	1,313.5	1,711.6	398.1	30.3
Average Paid/Exposure (\$)	33,911	36,258	2,347	6.9

Source: BCUC, ICBC 2016 RRA, IR1, RM 3.4 to 4.1

Table 4 shows the information excluding mild STI claims settled.

Table 4 BI EXPOSURES SETTLED EXCLUDING MILD STI

	2012	2015	CHANGE	PERCENT
Claims Settled	22,233	25,192	2,959	13.3
Amount Paid (\$=m)	1,119.5	1,426.5	307.0	27.4
Average Paid/Exposure (\$)	50,350	56,625	6,275	12.5

Source: BCUC, ICBC 2016 RRA, IR1, RM 3.4 to 4.1

Table 5 shows the information for mild STI claims settled.

Table 5 BI MILD STI EXPOSURES SETTLED

	2012	2015	CHANGE	PERCENT
Claims Settled	16,502	22,014	5,512	33.0
Amount Paid (\$=m)	194.0	285.1	91.1	47.0
Average Paid/Exposure (\$)	11,756	12,962	1,206	10.3

Source: BCUC, ICBC 2016 RRA, IR1, RM 3.4 to 4.1

The claims settled data show a marked increase in the number of mild STI settlements (33%) compared to the increase in non STI settlements (13.3%). This shows that much of the growth in settled claims involve mild STI claims, although the average settlement cost of a non-STI claim is over 4X greater.

THE EFFECT OF LEGAL REPRESENTATION

ICBC says a major contributing factor to the growth of BI claims costs is a trend for claimants to be represented by a lawyer. ICBC maintains that legal representation adds complexity and cost. The legal profession maintains that claimants who are legally represented generally receive larger and fairer settlements.

Comparing the information provided by ICBC on all settled claims, in 2015 some 45.8% were legally represented, down from 46.4% in 2012. For claims valued up to \$25,000 the representation rate was about 28% in 2015, down from about 34% in 2012. The decline in the representation rate for claims up to \$25,000 can be explained by the growth of mild STI claims settled shown in Table 5. More non-represented mild STI settled claims pulled down the over-all average. Most personal injury lawyers would find cases valued at less than \$25,000 uneconomic.

The great majority of claims settled for more than \$25,000 were legally represented; 91% in 2012 and 93% in 2015. Of the total settlement cost of \$1.3 billion in 2012, some 88.5% were for legally represented settlements. Of the \$1.7 billion settlement cost for 2015, approximately 88.2% of the settlements were legally represented.

It would appear from the data that there was not an increase in legal representation from 2012 to 2015.

THE FUTURE – CASES PENDING

In its 2016 rate request ICBC says that it has begun a major staffing (or re-staffing) initiative for claims adjudication staff, in an effort to speed settlements and lower the growth trend for claims costs. It believes that more staff will allow more attention to individual claim files, improving the time to closure rate (ICBC does not publish average time to closure information). Less delay should result in a lower settlement cost per claim.

Such a change may resolve claims faster, but only if ICBC delegates more financial authority to the primary case managers. One of the criticisms of the current practice is that the monetary limits require many cases to be referred to higher authority levels, which adds time and cost to the ultimate settlement.

The growth in the BI claims backlog shows the effects of more claims and the staffing reduction in the claims division. From 2008 to 2010 ICBC recorded about 51,500 pending BI claims at year-end. Since

then there has been a steady increase, and by 2015 there were almost 70,000 BI claims pending (up 36%).¹

Between 2010 and 2015 the Basic unpaid claim liability rose from approximately \$4.6 billion to \$6.95 billion, or 51%. In the same five years, the Optional unpaid claim liability rose from \$1.67 billion to \$2.15 billion, or 29%. Optional claims are much more weighted to PD costs for the at fault vehicle damage. The Optional BI comes into effect when the Basic third-party limit of \$200,000 is exceeded.

In the province's second quarter budget forecast ICBC forecasts that the cost of current claims is now expected to rise by 13.6%, compared to the 5.4% originally forecast,² indicating more pressure on the capital reserves for 2015/16.

The restricted processing capacity of the claims division has resulted in many more claims entering the backlog, and the increased financial liability has required more assets to maintain a constant capital reserve ratio.

Even with the increased staffing it will take ICBC some years to bring the backlog down to pre-2011 levels.

THE FUTURE – ICBC'S BASIC FORECAST TO 2020/21.

On November 23, 2016, ICBC filed a five-year financial forecast for the Basic program using assumptions required by the BC Utilities Commission.³ It also filed two other more optimistic, and less plausible, forecasts. Even the most plausible forecast contains a number of questionable positive assumptions.⁴ However, this forecast shows the average cost per Basic claim (the loss cost trend) rising from 5% in the 2016 request to 5.2% in 2017, 5.9% and 6.3% for the next two years.

The forecast assumes that the rate suppression policy remains in effect for these years, thereby requiring a further infusion of \$1.5 billion in capital transfers from "other sources" which ICBC did not specify.

The five-year Basic forecast does not provide any hope or suggestion that the growth in claims costs will soon moderate.

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

¹ See BCUC, ICBC 2016 RRA, IR 1, RM 4.1.

² See http://www.fin.gov.bc.ca/SecondQuarterlyReport_2016-17%20FINAL.PDF, p. 19.

³ http://www.bcuc.com/Documents/Proceedings/2016/DOC_48181_B-6_ICBC-Response-to-Ex-A-9.pdf

⁴ http://www.bcpolicyperspectives.com/media/attachments/view/doc/bcuc_icbc_2016_rra_5_year_forecast_24_november_2016/pdf

