DECISION **2021 NSUARB 27**
M09922

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE INSURANCE ACT

- and -

IN THE MATTER OF AN APPLICATION by **UNIFUND ASSURANCE COMPANY** for approval to change its rates and risk-classification system for private passenger vehicles

BEFORE: Stephen T. McGrath, LL.B., Member

APPLICANT: **UNIFUND ASSURANCE COMPANY**

FINAL SUBMISSIONS: February 3, 2021

DECISION DATE: **February 25, 2021**

DECISION: **Application is approved.**

1. INTRODUCTION

[1] Unifund Assurance Company applied to the Nova Scotia Utility and Review Board to change its rates and risk-classification system for private passenger vehicles. The company proposed rate changes that vary by coverage, but not by territory, and would result in an overall increase of 7.0%. In addition to changes to rates, the company asked the Board to approve its adoption of the 2020 Canadian Loss Experience Automobile Rating (CLEAR) table, changes to certain minimum deductibles, a "Quality Rating Factor" rating variable based on a client's credit information, and a group discount for university alumni.

[2] The Board must consider whether the proposed rates and risk-classification system are just and reasonable and in compliance with the *Insurance Act* (*Act*) and its regulations. The Board is satisfied Unifund's application meets these requirements and approves the company's proposed rates and risk-classification system.

2. ANALYSIS

[3] Unifund applied under the Board's *Rate Filing Requirements for Automobile Insurance – Section 155G Prior Approval* (*Rate Filing Requirements*). Since the filing of this application, Unifund received and responded to Information Requests (IRs) from Board staff. Board staff prepared a report to the Board with recommendations on the application. Before providing the report to the Board, Board staff shared it with Unifund. The company reviewed the report and provided comments to Board staff. Board staff removed duplicated information from the report and corrected an error. Board staff provided the revised report to Unifund, who identified an incorrect statement. That

statement was removed in the final version of the report (Staff Report), which was provided to the Board.

[4] Board staff examined all aspects of the ratemaking procedure to make recommendations in the Staff Report. Board staff consider that Unifund satisfactorily addressed all aspects of the ratemaking procedure in its application and IR responses.

[5] The Board will examine the following issues in this decision:

- reasonableness of the proposed rates
- 2020 CLEAR table
- minimum deductibles
- Quality Rating Factor
- group discount for university alumni

Reasonableness of the Proposed Rates

[6] Board staff reviewed the rate level indications developed by Unifund and had no concerns. Board staff recommended the Board use the company's indications to assess the reasonableness of the proposed rates.

[7] Despite indicated increases, Unifund proposed no change to its base rates for Property Damage – Tort, Direct Compensation Property Damage, Uninsured Automobile and S.E.F. #44. Unifund proposed increases to its base rates for Bodily Injury and Collision, but the proposed increases were somewhat lower than indicated.

[8] For Specified Perils, Unifund proposed a 0.1% increase despite an indicated reduction. The company said it intended to propose no change to its base rates, but was not able to hold the rate because of the impact of off-balancing its proposed CLEAR table change and the low average premium associated with this coverage.

[9] For Accident Benefits, the indications also suggested Unifund's base rate could be lowered, but Unifund chose to leave the rate unchanged. Unifund explained loss trends selected by Board staff consultant, Oliver, Wyman Limited, showed Accident Benefits claims growing by 4.5% per year. For rate stability, Unifund chose to avoid a reduction now when the coverage was trending to be increased in later filings. Although Accident Benefits is a mandatory coverage, the Board notes the proposed overall mandatory coverage change is lower than indicated.

[10] Unifund's proposed rates result in a return on equity that is below both the company's target and the low end of the Board's range for reasonable returns (both are 10%). However, the proposed return on equity is much closer to target than observed in previous Unifund applications. Although the Board has concerns about companies not taking their full indicated rate changes and the potential that creates for very large future increases, the change proposed by Unifund is a substantial step towards its indicated rates. The proposed changes for all coverages were also supported by Board staff. The Board finds the proposed changes to be reasonable and they are approved.

2020 CLEAR Tables

[11] Unifund uses the 2019 CLEAR (AB Alberta & Atlantic) - Collison, DCPD, and Comprehensive Separated table to assign rating groups for physical damage coverages. The company does not use CLEAR for rating Accident Benefits.

[12] Unifund proposed to adopt the 2020 version of this table, which the Board approved for use in January 2020. When asked if it wanted to amend the filing to use the 2021 CLEAR table, which the Board recently approved, Unifund indicated it wanted to

stay with the 2020 table. Unifund off-balanced the impact of the table change to make it revenue-neutral.

[13] Board staff recommended the Board approve the proposed adoption of the 2020 CLEAR table. The Board agrees with the recommendation and approves the adoption of the 2020 CLEAR table.

Minimum Deductibles

[14] Unifund proposed to change its minimum deductibles to $500 for Collison and All Perils and $250 for Comprehensive and Specified Perils. Unifund said the changes would better align the company with its competitors. Board staff supported this change.

[15] The Board finds the changes to deductibles are reasonable and they are approved.

Quality Rating Factor

[16] Unifund proposed the introduction of a new rating variable that relies on a client's credit score to determine eligibility for a discount. Unifund observed credit information has proven to be a significant indicator of the likelihood that a client will make an insurance claim. As well, the company noted its competitors were introducing credit information into their rating algorithms and that this is becoming quite common in Nova Scotia.

[17] Unifund said by introducing this credit-based rating variable, which it referred to as "Quality Rating Factor," the company could avoid being at a competitive disadvantage relative to those companies who have received approval to use credit for rating. With the proposed variable, the company could keep its better credit risks, who

should have lower claims experience, from seeking out other insurers who use credit information to provide discounts. Without the variable, Unifund said it could attract poorer credit customers with a greater risk of claims, which could cause its claims experience to deteriorate.

[18] In *Aviva Insurance Company of Canada (Re)*, 2020 NSUARB 14, the Board allowed the use of credit information as a rating variable for automobile insurance. The Board noted auto insurers used credit information in some provinces in Canada but were legislatively prohibited from doing so in others. There is no specific prohibition in the *Matters Considered in Automobile Insurance Rates and Risk-Classification Systems Regulations*, N.S. Reg. 183/2003, against using this information in Nova Scotia.

[19] In *Aviva*, the Board found the proposed use of credit information as a rating variable was not subjective or arbitrary and was reasonably related to the assumed risk. The Board also took into account a client would not need to provide credit information to obtain insurance. Although the client might be able to obtain a better rate by providing this information, they would not be denied insurance if they did not.

[20] In the present case, Unifund presented an actuarial analysis showing a correlation between a client's credit rating and their claims experience. Because Unifund did not have credit information for auto policies, for the purposes of its analysis, the company relied upon general credit information available by geographic area. The company determined the median credit rating for each postal code and linked this to its claims data over a five-year period.

[21] Unifund divided credit scores into various ranges and, based on its actuarial analysis, developed factors from its claims experience with clients in each segment.

These differentials, when applied to rates, produce discounts for each segment that increase as credit rating improves, beginning with no discount for clients in the segment with the worst credit scores.

[22] Unifund proposed to make the potential discounts available to new business only, effective July 1, 2021. Initially, Unifund will not extend the potential discounts to existing customers. The company plans to extend the discount program to renewing clients effective July 1, 2022, but this will require a later application to the Board to implement. Unifund said the delay will provide it with time to give advance notice to its renewing clients.

[23] Unifund does not need to off-balance the implementation of the proposed rating variable at this time because the change will not impact existing clients' premiums. Unifund expects to submit another filing that would see the variable, possibly with new differentials, apply to both new business and renewals. An appropriate off-balance factor could then be determined and applied.

[24] Unifund also said it would follow the Insurance Bureau of Canada's *Code of Conduct for Insurers' Use of Credit Information*. The *Code* applies to personal insurance, including automobile insurance policies, and provides insurers with guidelines on the use of credit information following principles of consumer protection and applicable federal and provincial laws. The choice to follow the *Code* is voluntary. Unifund responded to information requests from Board staff to show how some of its intended actions comply with the *Code*.

[25] Guideline 3 in the *Code of Conduct for Insurers' Use of Credit Information* addresses consent to the collection and use of credit information:

> 3. Gathering prior consent to collect and use credit information (written or verbal)

The insurer must secure prior consent to collect and use credit information from the consumer in accordance with the following principles and procedures:

a) Consent must be informed.

The following are characteristics of informed consent:

- Customers must not feel obliged to give consent;
- Customers must understand the nature and scope of the request. The request for consent must be clear and understandable to ensure that customers know specifically what they are consenting to and how that consent will be used;
- Consent must be specific and the insurer must not presume consent will be given. Consent may be given verbally, in writing or via an e-medium. E-medium consent should be a field that the policyholder can click on directly in order to give consent.

Prior to an agent or broker collecting credit information, the customer consent field (agent's or broker's screen) must be clear and explicit for the user. The field must not default to yes.

b) No one can give consent for another person. Consent must be obtained directly from each individual in the household if their credit information is to be used. Any applicant or co-applicant about whom credit information will be collected and used must either provide a signed consent form or provide verbal consent directly to the agent or broker.

c) Consent retention: The insurer must maintain the trail or proof of consent in the customer file (paper, e-medium or other). The retention period for the customer file is the minimum period required by law.

d) Duration of consent: The consent is valid for the duration that the policy is in effect. Unless withdrawn by the policyholder, consent is valid for as long as the policyholder has a continuous business relationship with the insurer, i.e., the policy is in force until cancelled. Under these circumstances, the insurer can request the insured's credit record or credit information from the consumer reporting agency, by relying on the initial consent.

Wording of consent question (Verbal or written)

Key elements to be included in the consent request:

i. Authorization to collect information from consumer reporting agencies;
ii. Nature of the information sought (e.g. credit information);
iii. Use made by the insurer of the credit information (what will it be used for);
iv. Consent use period (validity);
v. Right to withdraw and consequences (an insured may withdraw consent at any time in writing; however, he or she might not benefit from the insurer's best quote).

[Insurance Bureau of Canada, *Code of Conduct for Insurers' Use of Credit Information*]

[26] Unifund said it would require clients who seek a potential discount that reflects good credit ratings to consent to the company obtaining a credit score from a credit information supplier. The company confirmed a client does not have to provide consent to be insured by the company.

[27] As noted above, Unifund proposes to make the potential discounts available to new business only, effective July 1, 2021. Unifund will explicitly ask all new business clients for their consent to use credit information to achieve, potentially, a discount on their premiums.

[28] For its existing customers, Unifund explained that while clients consented to use credit at the time the policy was bound, the consent was limited to certain uses which did not include the use for rating automobile insurance. The company proposes to include notice that credit information about the client may be obtained for rating the automobile policy in renewal documentation. After providing information and details about the use of credit for rating and how to withdraw consent if desired, Unifund will tell the client that unless it hears back that consent is withdrawn, the company will treat the client as if the client gave consent to the new use. Unifund will also offer online and telephone support to clients to allow them to make an informed decision about providing consent for the credit check for rating the automobile policy.

[29] Clients who choose not to consent or who withdraw a consent that was previously given would not receive any credit-rating based discount. Clients who do consent may benefit from the potential discount if their credit score is good enough to warrant one. Unifund also said a client will not receive a discount if, despite providing consent, the company cannot find a credit score (i.e., no record, no score is available for

the client because there is not enough credit history to generate one, or there is an error at the credit score provider's end resulting in no score or an unknown score).

[30] Unifund does not intend to allow mid-term changes to the credit score, should a client request a refresh of the score. However, if the request is the result of an inaccurate score that the client had corrected with the credit rating agency (i.e., there was an error in the credit file), Unifund will update the credit information received from the agency and rerate the policy accordingly.

[31] Occasionally, a client may encounter an extraordinary life event that may adversely impact the client's credit score (e.g., identify theft, catastrophic event as declared by provincial authorities). If a client provides a written request to Unifund explaining the extraordinary life event, Unifund will consider it. If the client provides persuasive evidence as to the impact of the event, in compliance with Guideline 10 of the *Code of Conduct for Insurers' Use of Credit Information*, Unifund will consider making an exception to the rating implied by the actual credit score from the credit rating agency.

[32] Unifund will use the new variable to rate Bodily Injury, Property Damage-Tort, DCPD, Accident Benefits, Collision and Comprehensive & Specified Perils, including inexperienced occasional operator premiums. While the analysis suggested discounts could vary by coverage, Unifund proposed to use the same discounts. Board staff considered this approach to be a prudent starting point.

[33] The Board approves Unifund's proposed credit-based rating variable, Quality Rating Factor, including the proposed differentials. The Board has allowed other companies to introduce a similar rating variable and is satisfied the actuarial analysis undertaken by Unifund shows the proposed rating variable is not subjective or arbitrary

and is reasonably related to the assumed risk. The Board notes it will not be mandatory for a client to provide credit information to obtain insurance.

[34] Unifund said it intends to follow the Insurance Bureau of Canada's *Code of Conduct for Insurers' Use of Credit Information*. However, the Board is concerned the company's proposed approach to obtaining consent to the use of credit information from its existing customers may not adhere to the *Code's* guidance that consent must be specific (in writing, orally or via an e-medium) and the *Code's* direction around retaining proof of consent. As Unifund has not yet proposed to extend the discount to existing customers, the Board finds this does not need to be determined at this time. Given its commitment to follow the *Code*, Unifund should be prepared to address this issue when the company applies to extend the discount to existing customers.

Group Discount for University Alumni

[35] Unifund provides discounts to certain groups with which it has a formal relationship. Under s. 5(1) of the *Matters Considered in Automobile Insurance Rates and Risk-Classification Systems Regulations*, an insurer may use membership in certain organized groups as a risk-classification factor for automobile insurance:

> 5 (1) An insurer is permitted to use membership in an organized group as a risk-classification factor for automobile insurance if the group is
>
> (a) a group of employees, which may include retired employees, of the same employer; or
>
> (b) a group of persons that is
>
> (i) a labour union,
>
> (ii) a professional or occupational association,
>
> (iii) an alumni association, or

> (iv) a non-profit organization that has been in existence for at least 2 years, except an organization that is formed primarily for the purpose of purchasing or providing goods or services.

[36] In this application, Unifund proposed to add a new 10% discount for clients who are alumni of a university where the company has not entered a relationship with a specific group. Because it is somewhat unusual for an insurer to extend a discount to a group when the insurer has no established relationship with that group, Unifund said that before finalizing its application, the company discussed the matter with the Superintendent of Insurance. Unifund advised the Board the Superintendent considered its proposal complied with the regulations. Unifund also submitted a student who graduates from a university is a member of an organized group under the regulations because that individual automatically becomes an alumnus of the university and a member of their alumni association. Board staff noted Unifund's proposed discount is the same as the one it already offers to university alumni groups with whom the company has developed a formal relationship and recommended the Board approve the new discount.

[37] The Board approves Unifund's proposed 10% discount for clients who are alumni of a university where the company has not entered a relationship with a specific group. The Board accepts Unifund's evidence that university graduates are members of alumni associations, and its proposed new discount is therefore based on membership in an organized group under s. 5(1)(b)(iii) of the regulations. Further, although s. 5 of the regulations contemplates the use of membership in an organized group as a risk-classification factor for automobile insurance may be part of group marketing plan (as defined in s. 6), the Board does not interpret s. 5 as being restricted to such plans. The Board also notes that, while it is not bound by any interpretation of the regulations

provided by the Superintendent to Unifund, the Superintendent also had no concerns with the proposal.

3. SUMMARY

[38] The Board finds that the application follows the *Act* and its regulations, as well as the *Rate Filing Requirements*.

[39] The Board finds the proposed rates are just and reasonable, and approves the changes effective July 1, 2021, for new and renewal business.

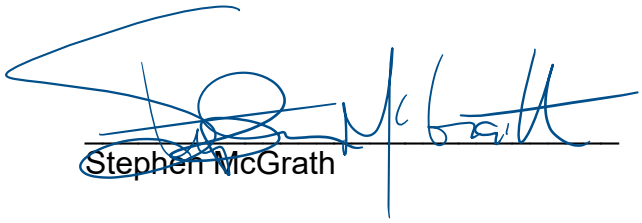
[40] The financial information supplied by Unifund satisfies the Board, under Section 155I(1)(c) of the *Act,* that the proposed changes are unlikely to impair the solvency of the company.

[41] The application qualifies to set a new mandatory filing date under the *Mandatory Filing of Automobile Insurance Rates Regulations*. The new mandatory filing date for Unifund for private passenger vehicles is December 1, 2022.

[42] Board staff reviewed Unifund's Automobile Insurance Manual filed with the Board and did not find any instances where the Manual contravened the *Act* and *Regulations*. The company must file an electronic version of its Manual, updated for the changes approved in this decision, within 30 days of the issuance of the order in this matter.

[43] An order will issue accordingly.

DATED at Halifax, Nova Scotia, this 25th day of February 2021.



Stephen McGrath