LAL WSIB Executive Briefing

A Discussion:
Leading WSI Issues of 2018

February 07, 2018

Leading WSI Issues of 2018

Agenda

- A quick review of the past:
  - The lead-up to the 2009 Auditor General report
  - The response starting in 2010
- The Present:
  - Current state of finances; the UFL
- The Immediate Future:
  - Premium Rates; Rate Framework; Chronic Stress; a new government

A Truncated Blast to the Past

- **1983:** Funding ratio dipped to 49%
- $2.7 billion UFL 1984 ($5.85 B in 2017 $)
- The Board responded with the start of the 30 year funding plan
  - (zero ULF by 2014)

A Truncated Blast to the Past

- 1984 to 1989 WCB focused on improving return to work and service delivery
- At the end of 1989:
  - UFL: $8.5 billion
  - Funding ratio receding to 38.7%
- By 1990 UFL up to $9.1 billion **[WCB 1990 Annual Report, p. 34]** ($15.3 B in 2017 $)

A Truncated Blast to the Past

- 1990 – 1995: WCB reorganized and reorganized (and . . . reorganized)
- By 1995, the unfunded liability was $10.9 billion ($16.24 in 2017 $)

A Truncated Blast to the Past

- 1995 – 2000: A new government and a new WSIA in 1998
  - UFL in 2000: $5.7 billion ($7.87 in 2017 $)
  - “. . . *the service delivery strategy initiative integrated a “new business model” into the organization that “****the work we are doing is paying off***” **[WSIB 2000 Annual Report, p. 15]**

A Truncated Blast to the Past

- Addressing the UFL is *fundamental* to achieving financial stability of the WSIB.

  May 28, 2004 *Third Party Audit of the Workplace Safety & Insurance Board on behalf of the Minister of Labour*

- *". . . insurance fund . . . substantially less than what is needed "*

  2005 Annual Report of the Office of the Auditor General of Ontario, at p. 362)

A Truncated Blast to the Past

- 2005: The Board’s “***most daunting challenge is economic*** . . . ***we have a significant unfunded liability***” [WSIB 2005 Annual Report, p. 5].
- WSIB remains committed to the elimination of the unfunded liability by 2014.

A Truncated Blast to the Past

- 2006: UFL slightly less than $6 B and that this "*result indicates we are starting to turn the financial corner*" **2006 WSIB Annual Report**
- 2007: UFL up to $8.1 B WSIB announces another reorganization 2007 Annual Report [at p. 32]

A Truncated Blast to the Past

- The Game Changer – Ontario Auditor General November 2009:
  - Auditor General stresses

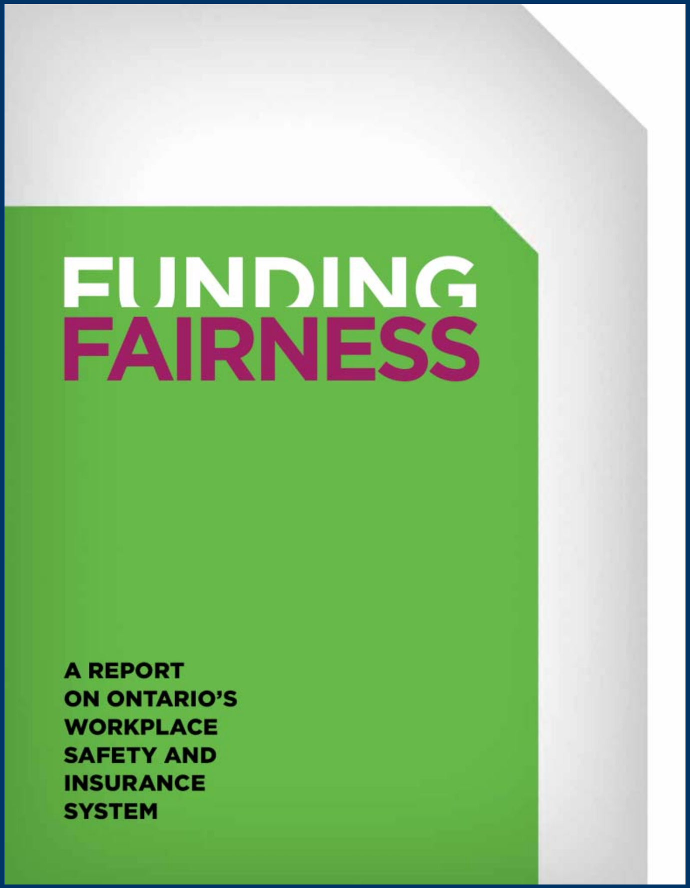
"there is a risk that the WSIB may not be able to meet its obligations"

"The time to start addressing this problem is now"

A Truncated Blast to the Past

- 2010: New CEO David Marshall
  - Instructions: **Fix It!**
- 2010: Funding Review: Harry Arthurs
- 2012 Funding Fairness report

A Truncated Blast to the Past



A Truncated Blast to the Past

- **Chapter 3:** ***A New Funding Strategy for the WSIB***
- **Chapter 4:** ***Premium Rate Setting: Principles and Processes***
- **Chapter 5:** ***Who Pays How Much?***
- **Chapter 6:** ***Employer Incentives and Experience Rating***

A Truncated Blast to the Past

- Government reacted:
  - **Minister of Labour** announced that the government will require the WSIB to reach 60% funding in 2017, 80% in 2022 and 100% by 2027.

The importance of all of this to Ontario employers

2008 Premium Rates

WSIB Manual

2008 PREMIUM RATE COMPONENTS

Schedule 1

Component	2008 Premium Rate Per $100 Of Insurable Earnings		Percentage of 2008 Premium Rate	2007 Premium Rate Per $100 Of Insurable Earnings		Percentage of 2007 Premium Rate
A. NEW CLAIMS COST						
1. GROSS NEW CLAIMS COST	1.045			1.043		
2. Second Injury Enhancement Fund (SIEF)						
a. *minus* Relief	(0.226)			(0.222)		
b. *plus* Transfer Charge	0.226			0.222		
3. NET NEW CLAIMS COST	1.046	1.046	46%	1.043	1.043	46%
B. OVERHEAD EXPENSES						
1. WSIB Administrative	0.283			0.271		
2. Legislative Obligations	0.085			0.079		
3. Accident Prevention	0.045			0.045		
4. TOTAL OVERHEAD EXPENSES	0.413	0.413	18%	0.395	0.395	17%
C. UNFUNDED LIABILITY		0.678	30%		0.726	32%
D. (GAIN)/LOSS		0.120	5%		0.098	4%
E. TOTAL PREMIUM RATE (A+B+C+D)		2.26	100%		2.26	100%

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The importance of all of this to Ontario employers

wsib 2017 Premium Rates Manual

2017 PREMIUM RATE COMPONENTS

SCHEDULE 1

Component	2017 Premium Rate Per $100 Of Insurable Earnings		Percentage of 2017 Premium Rate	2016 Premium Rate Per $100 Of Insurable Earnings		Percentage of 2016 Premium Rate
A. NEW CLAIMS COST						
1. New Claims Cost	0.930	0.930	38%	1.010	1.010	39%
B. OVERHEAD EXPENSES						
1. WSIB Administrative	0.334			0.330		
2. Legislative Obligations	0.145			0.153		
3. TOTAL OVERHEAD EXPENSES	0.479	0.479	20%	0.483	0.483	19%
C. PAST CLAIMS COST						
1. Past Claims Cost	1.019	1.019	42%	1.095	1.095	42%
D. TOTAL PREMIUM RATE (A+B+C)		2.43	100%		2.59	100%

Section 7 – ©WSIB Ontario 567

The importance of all of this to Ontario employers

- 2008:
  - $2.26 premium
    - 30% went to the UFL
- 2017:
  - $2.43 premium
    - 42% to the UFL

The importance of all of this to Ontario employers

- If all things stay the same
- But there is ZERO UFL contribution
- Based on 2017 performance
- **The system average premium rate would plummet to . . .**

The importance of all of this to Ontario employers

$1.41

The importance of all of this to Ontario employers

$2 billion would be returned to the Ontario economy

The importance of all of this to Ontario employers

A look at most of the sectors represented at this meeting

Rate Group 113
Nickel Mines

- 2018 premium rate: $5.31
- 2018 target rate: $7.15
- **Target with no UFL: $4.40**

2018 Premium Rate Components

Rate Group 113: Nickel Mines

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	2.517	2.834	2.834	12.6%
B. Administration Expenses	1.273	1.566	1.566	23.0%
C. Past Claims Cost	1.410	2.748	0.910	-35.5%
D. Total Premium Rate	5.20	7.15	5.31	2.1%

Rate Group 570
General Trucking

- 2018 premium rate: $6.97
- 2018 target rate: $7.05
- **Target with no UFL: $4.18**

2018 Premium Rate Components
Rate Group 570: General Trucking

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	2.883	2.961	2.961	2.7%
B. Administration Expenses	0.999	1.220	1.220	22.1%
C. Past Claims Cost	2.838	2.870	2.789	-1.7%
D. Total Premium Rate	6.72	7.05	6.97	3.7%

Rate Group 580
Misc. Transport Services

- 2018 premium rate: $5.24
- 2018 target rate: $5.24
- **Target with no UFL: $3.11**

2018 Premium Rate Components
Rate Group 580: Miscellaneous Transport Industries

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	2.148	2.194	2.194	2.1%
B. Administration Expenses	0.755	0.914	0.914	21.1%
C. Past Claims Cost	2.207	2.127	2.132	-3.4%
D. Total Premium Rate	5.11	5.24	5.24	2.5%

Rate Group 606
Convenience Stores

- 2018 premium rate: $2.04
- 2018 target rate: $2.04
- **Target with no UFL: $1.30**

2018 Premium Rate Components

Rate Group 606: Grocery And Convenience Stores

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	0.751	0.768	0.768	2.3%
B. Administration Expenses	0.492	0.530	0.530	7.7%
C. Past Claims Cost	0.847	0.745	0.742	-12.4%
D. Total Premium Rate	2.09	2.04	2.04	-2.4%

Rate Group 630
Vehicle Repairs

- 2018 premium rate: $3.71
- 2018 target rate: $3.71
- **Target with no UFL: $2.28**

2018 Premium Rate Components
Rate Group 630: Vehicle Services And Repairs

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	1.456	1.473	1.473	1.2%
B. Administration Expenses	0.682	0.813	0.813	19.2%
C. Past Claims Cost	1.402	1.428	1.424	1.6%
D. Total Premium Rate	3.54	3.71	3.71	4.8%

Rate Group 636
Other Sales

- 2018 premium rate: $1.23
- 2018 target rate: $1.23
- **Target with no UFL: $0.78**

2018 Premium Rate Components
Rate Group 636: Other Sales

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	0.435	0.461	0.461	6.0%
B. Administration Expenses	0.332	0.317	0.317	-4.5%
C. Past Claims Cost	0.553	0.447	0.452	-18.3%
D. Total Premium Rate	1.32	1.23	1.23	-6.8%

Rate Group 657
Auto Sales

- 2018 premium rate: $0.85
- 2018 target rate: $1.07
- **Target with no UFL: $0.68**

2018 Premium Rate Components

Rate Group 657: Automobile And Truck Dealers

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	0.342	0.404	0.404	18.1%
B. Administration Expenses	0.266	0.278	0.278	4.5%
C. Past Claims Cost	0.202	0.392	0.168	-16.8%
D. Total Premium Rate	0.81	1.07	0.85	4.9%

Rate Group 704
Electrical Contracting

- 2018 premium rate: $3.15
- 2018 target rate: $2.99
- **Target with no UFL: $1.88**

2018 Premium Rate Components

Rate Group 704: Electrical And Incidental Construction Services

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	1.269	1.148	1.148	-9.5%
B. Administration Expenses	0.672	0.726	0.726	8.0%
C. Past Claims Cost	1.459	1.112	1.276	-12.5%
D. Total Premium Rate	3.40	2.99	3.15	-7.4%

Rate Group 707
Mechanical Contracting

- 2018 premium rate: $3.75
- 2018 target rate: $3.52
- **Target with no UFL: $2.18**

2018 Premium Rate Components

Rate Group 707: Mechanical And Sheet Metal Work

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	1.548	1.379	1.379	-10.9%
B. Administration Expenses	0.747	0.803	0.803	7.5%
C. Past Claims Cost	1.755	1.337	1.568	-10.7%
D. Total Premium Rate	4.05	3.52	3.75	-7.4%

Rate Group 723
ICI Construction

- 2018 premium rate: $4.07
- 2018 target rate: $3.74
- **Target with no UFL: $2.31**

2018 Premium Rate Components

Rate Group 723: Industrial, Commercial & Institutional Construction

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	1.697	1.474	1.474	-13.1%
B. Administration Expenses	0.787	0.834	0.834	6.0%
C. Past Claims Cost	1.916	1.429	1.762	-8.0%
D. Total Premium Rate	4.40	3.74	4.07	-7.5%

Rate Group 728
Roofing

- 2018 premium rate: $12.59
- 2018 target rate: $12.32
- **Target with no UFL: $7.27**

2018 Premium Rate Components

Rate Group 728: Roofing

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	5.267	5.208	5.208	-1.1%
B. Administration Expenses	1.747	2.066	2.066	18.3%
C. Past Claims Cost	6.606	5.048	5.316	-19.5%
D. Total Premium Rate	13.62	12.32	12.59	-7.6%

Rate Group 732
Heavy Civil Construction

- 2018 premium rate: $5.98
- 2018 target rate: $5.61
- **Target with no UFL: $3.39**

2018 Premium Rate Components
Rate Group 732: Heavy Civil Construction

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	2.489	2.287	2.287	-8.1%
B. Administration Expenses	1.000	1.102	1.102	10.2%
C. Past Claims Cost	2.981	2.217	2.591	-13.1%
D. Total Premium Rate	6.47	5.61	5.98	-7.6%

Rate Group 764 Homebuilding

- 2018 premium rate: $7.24
- 2018 target rate: $6.36
- **Target with no UFL: $3.86**

2018 Premium Rate Components

Rate Group 764: Homebuilding

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	2.780	2.616	2.616	-5.9%
B. Administration Expenses	1.079	1.211	1.211	12.2%
C. Past Claims Cost	3.971	2.536	3.413	-14.1%
D. Total Premium Rate	7.83	6.36	7.24	-7.5%

Rate Group 919 Restaurants

- 2018 premium rate: $1.52
- 2018 target rate: $1.52
- **Target with no UFL: $0.96**

2018 Premium Rate Components

Rate Group 919: Restaurants And Catering

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	0.521	0.572	0.572	9.8%
B. Administration Expenses	0.392	0.394	0.394	0.5%
C. Past Claims Cost	0.667	0.555	0.554	-16.9%
D. Total Premium Rate	1.58	1.52	1.52	-3.8%

Rate Group 921
Hotels

- 2018 premium rate: $2.82
- 2018 target rate: $2.94
- **Target with no UFL: $1.84**

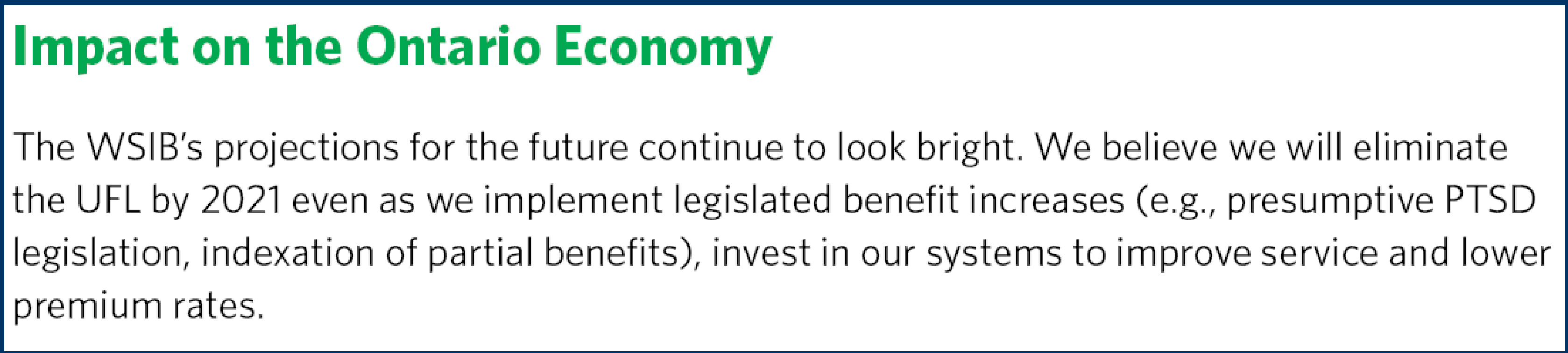
2018 Premium Rate Components

Rate Group 921: Hotels, Motels And Camping

Component	2017 Premium Rate	2018 Target Rate	2018 Premium Rate	Percentage Change
A. New Claims Cost	0.946	1.135	1.135	20.0%
B. Administration Expenses	0.544	0.701	0.701	28.9%
C. Past Claims Cost	1.200	1.100	0.984	-18.0%
D. Total Premium Rate	2.69	2.94	2.82	4.8%

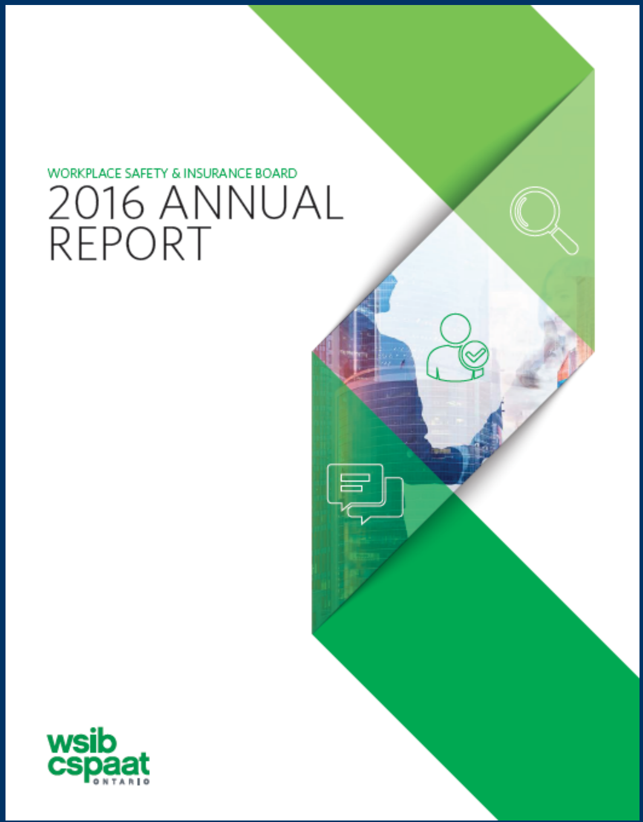
So, how is the WSIB doing?

So, how is the WSIB doing?


Impact on the Ontario Economy

The WSIB's projections for the future continue to look bright. We believe we will eliminate the UFL by 2021 even as we implement legislated benefit increases (e.g., presumptive PTSD legislation, indexation of partial benefits), invest in our systems to improve service and lower premium rates.

So, how is the WSIB doing?



So, how is the WSIB doing?

Elizabeth Witmer
Chair
Présidente du conseil

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April 30, 2017

The Hon. Kevin Flynn, MPP
Minister of Labour
400 University Avenue, 14th Floor
Toronto, ON
M7A 1T7

Dear Minister,

On behalf of the Board of Directors of Ontario's Workplace Safety and Insurance Board (WSIB), I am pleased to submit the WSIB's 2016 Annual Report. This document includes the financial statements for the year as submitted by the external auditors of the WSIB as appointed by the Lieutenant Governor in Council, working under the direction of the Auditor General.

2016 was another encouraging year for the WSIB, as we continue to build a system that is fiscally secure and more responsive to the needs of injured workers and employers alike. Most notably, after reaching an unsustainable high of $14.2 billion in 2011, our Unfunded Liability (UFL) ended 2016 at $4.0 billion on a sufficiency basis - and continues to fall at a pace well ahead of the legislated timetable for its elimination. This is being achieved at the same time as significant new investments are being made to strengthen programs of care for injured workers, together with the ongoing introduction of new technologies to enhance the service experience for injured workers and employers.

We look forward to working with you in 2017, as we build the most responsive workplace compensation system together.

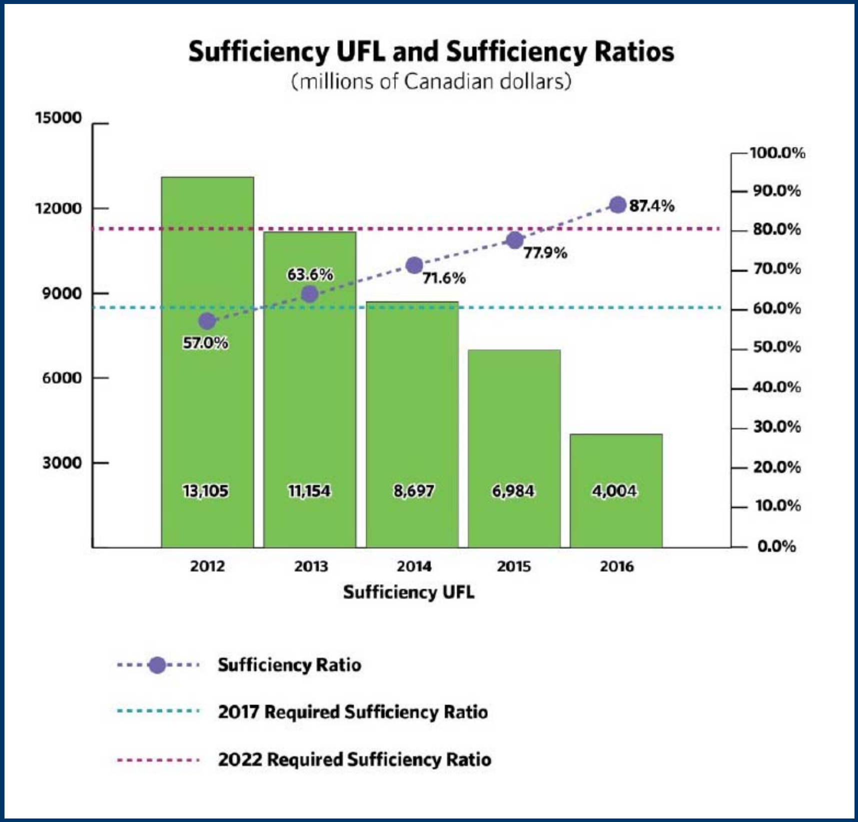
Sincerely,

Elizabeth Witmer
Chair

So, how is the WSIB doing?

Most notably, after reaching an unsustainable high of $14.2 billion in 2011, our Unfunded Liability (UFL) ended 2016 at $4.0 billion on a sufficiency basis - and continues to fall at a pace well ahead of the legislated timetable for its elimination. This is being achieved at the same time as significant new investments are being made to strengthen programs of care for

So, how is the WSIB doing?



So, how is the WSIB doing?

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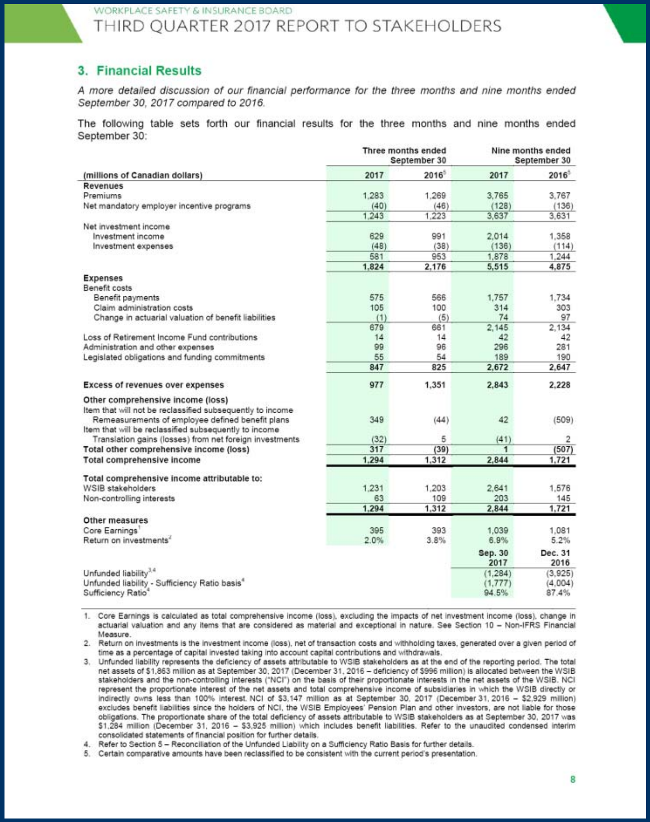

WORKPLACE SAFETY & INSURANCE BOARD

THIRD QUARTER 2017 REPORT TO STAKEHOLDERS

3. Financial Results

A more detailed discussion of our financial performance for the three months and nine months ended September 30, 2017 compared to 2016.

The following table sets forth our financial results for the three months and nine months ended September 30:

	Three months ended September 30		Nine months ended September 30	
(millions of Canadian dollars)	**2017**	**2016[5]**	**2017**	**2016[5]**
Revenues				
Premiums	1,283	1,269	3,765	3,767
Net mandatory employer incentive programs	(40)	(46)	(128)	(136)
	1,243	1,223	3,637	3,631
Net investment income				
Investment income	629	991	2,014	1,358
Investment expenses	(48)	(38)	(136)	(114)
	581	953	1,878	1,244
	1,824	**2,176**	**5,515**	**4,875**
Expenses				
Benefit costs				
Benefit payments	575	566	1,757	1,734
Claim administration costs	105	100	314	303
Change in actuarial valuation of benefit liabilities	(1)	(5)	74	97
	679	661	2,145	2,134
Loss of Retirement Income Fund contributions	14	14	42	42
Administration and other expenses	99	96	296	281
Legislated obligations and funding commitments	55	54	189	190
	847	**825**	**2,672**	**2,647**
Excess of revenues over expenses	**977**	**1,351**	**2,843**	**2,228**
Other comprehensive income (loss)				
Item that will not be reclassified subsequently to income				
Remeasurements of employee defined benefit plans	349	(44)	42	(509)
Item that will be reclassified subsequently to income				
Translation gains (losses) from net foreign investments	(32)	5	(41)	2
Total other comprehensive income (loss)	**317**	**(39)**	**1**	**(507)**
Total comprehensive income	**1,294**	**1,312**	**2,844**	**1,721**
Total comprehensive income attributable to:				
WSIB stakeholders	1,231	1,203	2,641	1,576
Non-controlling interests	63	109	203	145
	1,294	**1,312**	**2,844**	**1,721**
Other measures				
Core Earnings[1]	395	393	1,039	1,081
Return on investments[2]	2.0%	3.8%	6.9%	5.2%
			Sep. 30 2017	**Dec. 31 2016**
Unfunded liability[3,4]			(1,284)	(3,925)
Unfunded liability - Sufficiency Ratio basis[4]			(1,777)	(4,004)
Sufficiency Ratio[4]			94.5%	87.4%

1. Core Earnings is calculated as total comprehensive income (loss), excluding the impacts of net investment income (loss), change in actuarial valuation and any items that are considered as material and exceptional in nature. See Section 10 – Non-IFRS Financial Measure.
2. Return on investments is the investment income (loss), net of transaction costs and withholding taxes, generated over a given period of time as a percentage of capital invested taking into account capital contributions and withdrawals.
3. Unfunded liability represents the deficiency of assets attributable to WSIB stakeholders as at the end of the reporting period. The total net assets of $1,863 million as at September 30, 2017 (December 31, 2016 – deficiency of $996 million) is allocated between the WSIB stakeholders and the non-controlling interests ("NCI") on the basis of their proportionate interests in the net assets of the WSIB. NCI represent the proportionate interest of the net assets and total comprehensive income of subsidiaries in which the WSIB directly or indirectly owns less than 100% interest. NCI of $3,147 million as at September 30, 2017 (December 31, 2016 – $2,929 million) excludes benefit liabilities since the holders of NCI, the WSIB Employees' Pension Plan and other investors, are not liable for those obligations. The proportionate share of the total deficiency of assets attributable to WSIB stakeholders as at September 30, 2017 was $1,284 million (December 31, 2016 – $3,925 million) which includes benefit liabilities. Refer to the unaudited condensed interim consolidated statements of financial position for further details.
4. Refer to Section 5 – Reconciliation of the Unfunded Liability on a Sufficiency Ratio Basis for further details.
5. Certain comparative amounts have been reclassified to be consistent with the current period's presentation.

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So, how is the WSIB doing?

	Sep. 30 2017	Dec. 31 2016
Unfunded liability[3,4]	(1,284)	(3,925)
Unfunded liability - Sufficiency Ratio basis[4]	(1,777)	(4,004)
Sufficiency Ratio[4]	94.5%	87.4%

So, how is the WSIB doing?

- As at September 30, 2017 WSIB almost fully funded
- **As of today, WSIB very likely has reached 100% funding!**

The emerging question: Is 100% funding enough?

Figure 5: Funding requirements for other jurisdictions

	Funding Targets	Funding Status (% of assets/liabilities)
Alberta	114% to 128%	134.3%
Manitoba	130%	143.3%
New Brunswick	110%	123.2%
Newfoundland and Labrador	100% to 120%	112.0%*
Northwest Territories and Nunavut	125%	116%*
Nova Scotia	N/A	77%*
Prince Edward Island	100% to 110%	123.9%
Quebec	N/A	99.5%*
Saskatchewan	105% to 120%	144.7%
Yukon	125%	155%

*2014 results (all others are 2015)

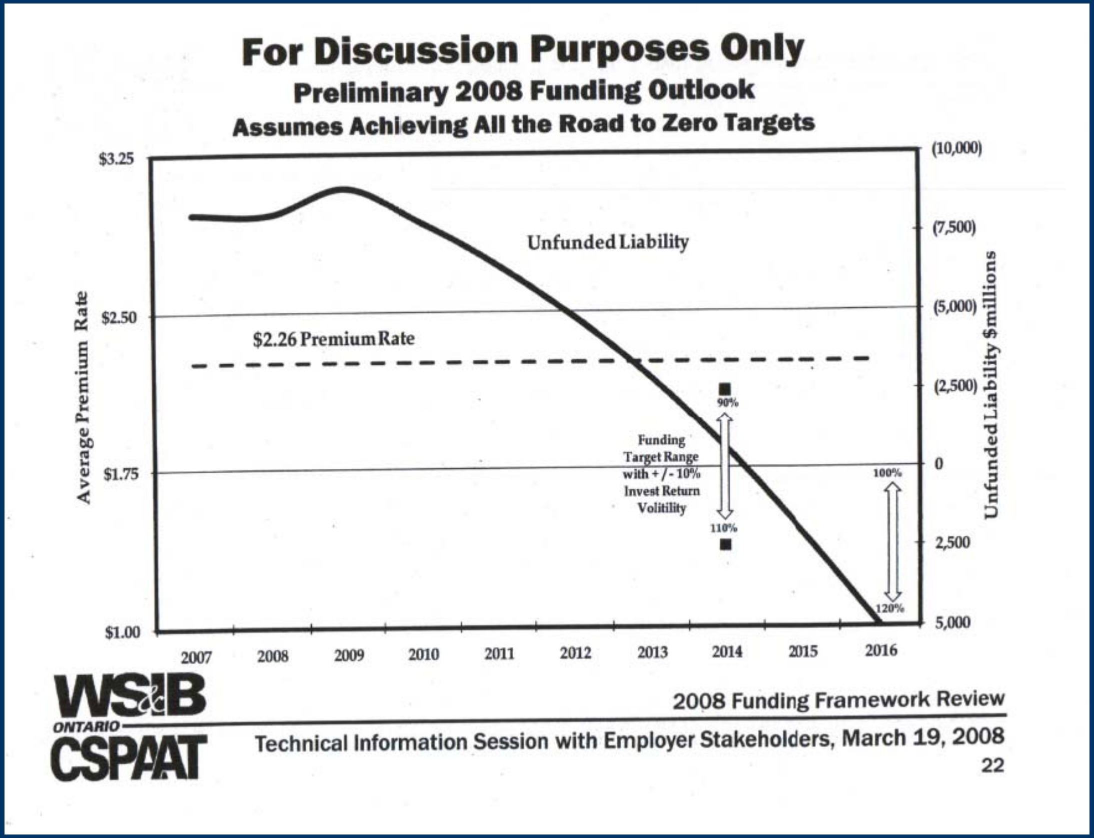
Is 100% funding enough?

- **Q: Should funding target be 100%?**
  - Means APR goes up or down if more or less than 100%
  - Potentially volatile year to year to year
- **Q: Should funding target be a range?**
  - Such as:
    - 90%-110%?
    - 95%-105%

Is 100% funding enough?

- Q: Or, should the UFL component be converted to "contingency fund" component?
  - Such as:
    - 125% 130% 135%?
  - Premiums remain high until "contingency" level reached

Range idea floated by WSIB a decade ago



Suggestion: A Two Step Process

- **Step #1:**
  - Get to 100% funding level (likely where we are now)
  - All rate groups move to target, i.e., significant reductions in premium rates
- **Step #2:**
  - Once at target, implement new funding target policy

Range idea has its benefits

- Ensures sufficient funding to meet present and future obligations
- WSIB itself suggested a 90-110% range a decade ago
- A reasonable proposition:
  - Get to 100%; reduce rates; put "range policy" in place (95%-105% or 90% - 110%)

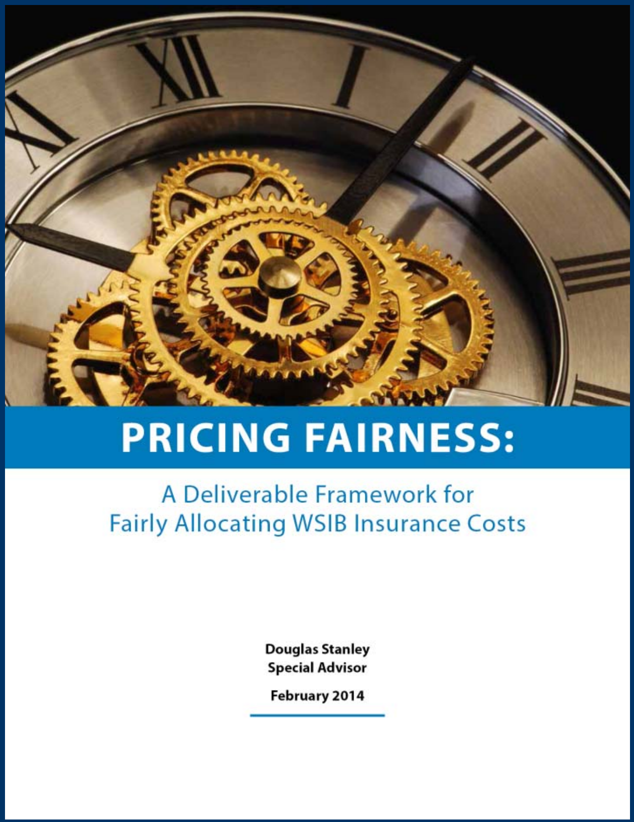
Is 100% funding enough?

Discussion

Next Issue: Rate Framework

- **Questions:**
  - Does the WSIB rate framework require advocacy intervention at this stage?
  - Has the WSIB bitten off more than it can chew?
  - Is this an issue for an incoming government?

Rate Framework Review
Where it Started



Rate Framework Review
Where it Started

"This is not an effort to reduce the costs of the system, but an effort to ensure that the WSIB continues to have the support of employers in raising the funds necessary to pay the benefits that injured workers are entitled to."

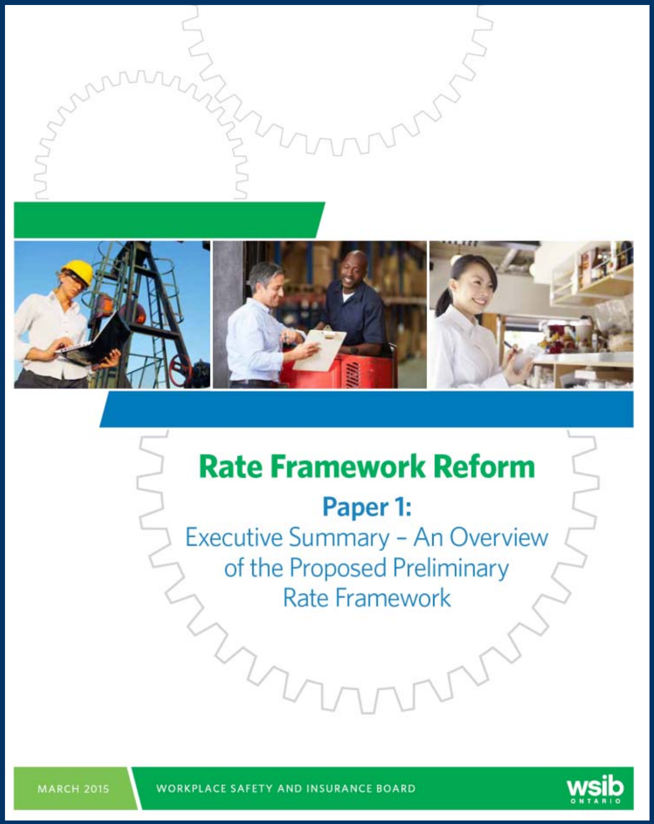
Rate Framework Review Employers Respond 2013-14

- What is the problem? Is this project a solution looking for a problem? Employers have not been calling for this. This is 100% a WSIB initiative.
- A massive reclassification was successfully developed over the period 1988 – 1993 which still meets the needs of employers.
- **Basically, don’t do it!**

Rate Framework Review
WSIB Approved November 2016

- (They did) From the WSIB website:
- On November 14, the Workplace Safety and Insurance Board's (WSIB) Board of Directors approved the Rate Framework. On behalf of the Board of Directors, we would like to thank you for your ongoing support as we look towards a targeted implementation in January 2019, at the earliest. This approval will allow the WSIB to move forward with the important work of implementation, including significant system modifications necessary for a 2019 implementation.

Rate Framework Review



Rate Framework Review

PAPER 1 | EXECUTIVE SUMMARY – AN OVERVIEW OF THE PROPOSED PRELIMINARY RATE FRAMEWORK

MESSAGE FROM THE CHAIR AND PRESIDENT & CEO

In recent years, stakeholders, experts and the WSIB have identified a number of fundamental challenges to the WSIB's current classification and premium rate setting approach.

Following the recent engagement with stakeholders, Mr. Douglas Stanley released his final *Pricing Fairness* report, in which he recommends that the WSIB develop an Integrated Rate Framework that would change the way employers are classified and the way premium rates are set.

After a careful review of Stanley's recommendations, consideration of stakeholder perspectives and challenges, the WSIB's own analysis and advice from a team of actuarial experts from the firm Morneau Shepell, the WSIB committed to bring forward a proposed preliminary Rate Framework for discussion with stakeholders.

The WSIB's objectives are to consider reforms that ensure that everyone pays their fair share for workplace coverage, to ensure that there is a reasonable balance between premium rate stability and responsiveness, and to make it easier for stakeholders to understand and engage in the process.

The proposed preliminary Rate Framework described in these technical papers builds upon Stanley's recommendations and proposes a plausible working model – a way forward for the WSIB to distribute the costs of the system in a fair and transparent manner.

Its key features are:

- A simplified, transparent and modernized classification system, aligned to an accepted national standard;
- A fair process that prospectively sets premium rates, reflecting individual employers' claims experience relative to their industry; and
- Considerations for a reasonable transition path to ensure employers can gradually adjust to the new premium rate setting process.

Although the WSIB is proposing a plausible working model, there are a number of options and key questions for further consideration. The WSIB understands that it is only with stakeholders' varied and unique perspectives that it will be able to make informed decisions on the issues currently faced by the system.

The WSIB is thankful for the support and thoughtful engagement of stakeholders in the Rate Framework Reform initiative and looks forward to further opportunities to hear the diverse perspectives as we consider potential reforms to the current approaches for employer classification and premium rate setting.

Yours truly,

Elizabeth Witmer
Chair

I. David Marshall
President & CEO

March 31, 2015

WSIB RATE FRAMEWORK REFORM 2

Rate Framework Review

The WSIB's objectives are to consider reforms that ensure that everyone pays their fair share for workplace coverage, to ensure that there is a reasonable balance between premium rate stability and responsiveness, and to make it easier for stakeholders to understand and engage in the process.

Rate Framework Review

Preliminary Rate Framework Key Goals:

1. **Clear and Consistent:** A new streamlined and simpler classification structure that is clear and consistent in its application as a foundation.
2. **Fairly Allocated Premiums:** An approach that ensures a fair premium for workplace coverage, based on each employer's risk and claims experience to ensure occupational health and safety is top of mind for employers as it relates to their premiums.
3. **Balanced Rate Responsiveness:** A reasonable consideration for premium rate stability, while also ensuring responsiveness to risk and claims experience attained through occupational health and safety efforts to reduce workplace injuries and return workers to productive work.
4. **Transparent and Understandable:** A Rate Framework that stakeholders can easily understand, and promotes active and informed participation.

Rate Framework Review

OVERVIEW | PAPER 3: THE PROPOSED PRELIMINARY RATE FRAMEWORK

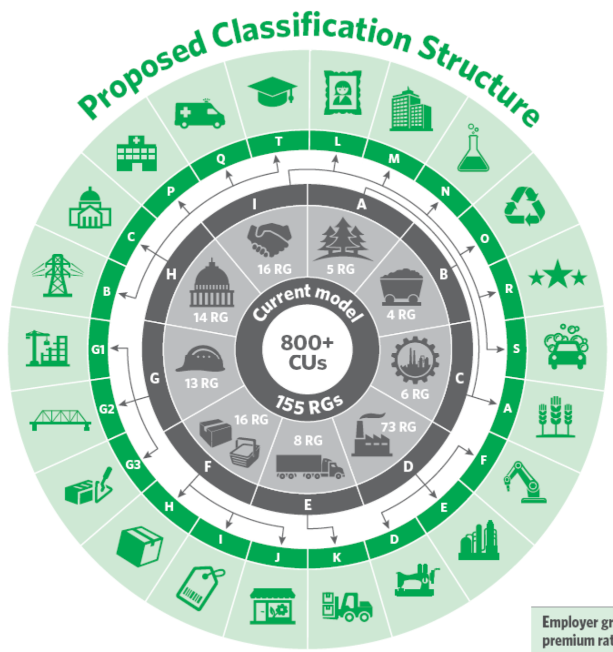
Step 1 – Employer Classification

North American Industry Classification System

The proposed preliminary Rate Framework seeks to replace the WSIB's current employer classification system with a 22 class structure adapted from the 2012 North American Industry Classification System (NAICS), the most recent version of the NAICS, which is updated every five years. The proposed classification structure is based on significantly fewer employer groupings for the purpose of setting premium rates, compared to the current 155 RG and 840 CU structure. It is intended to create a structure that is simple and understandable.

Rate Framework Review

Figure 1: SIC to NAICS-based Classification Structure



PROPOSED CLASSIFICATION STRUCTURE

A	Primary Resource Industries
B	Utilities
C	Public Administration
D	Food, Textile and Related Manufacturing
E	Resource and Related Manufacturing
F	Machinery and Other Manufacturing
G1	Building Construction
G2	Infrastructure Construction
G3	Specialty Trades Construction
H	Wholesale Trade
I	General Retail
J	Specialized Retail And Department Stores
K	Transportation and Warehousing
L	Information and Culture
M	Finance
N	Professional, Scientific and Technical
O	Administrative, Waste and Remediation
P	Hospitals
Q	Health and Social Services
R	Leisure and Hospitality
S	Other Services
T	Education

	CURRENT SYSTEM	PROPOSED PRELIMINARY RATE FRAMEWORK
Employer groupings for premium rate setting purposes	155 RGs	22 classes & 1,550 risk bands

This diagram is intended to show the broad mapping of the current RGs to the proposed preliminary Rate Framework classes. It is not intended to show where each individual employer or business activity would be assigned in the proposed preliminary Rate Framework.

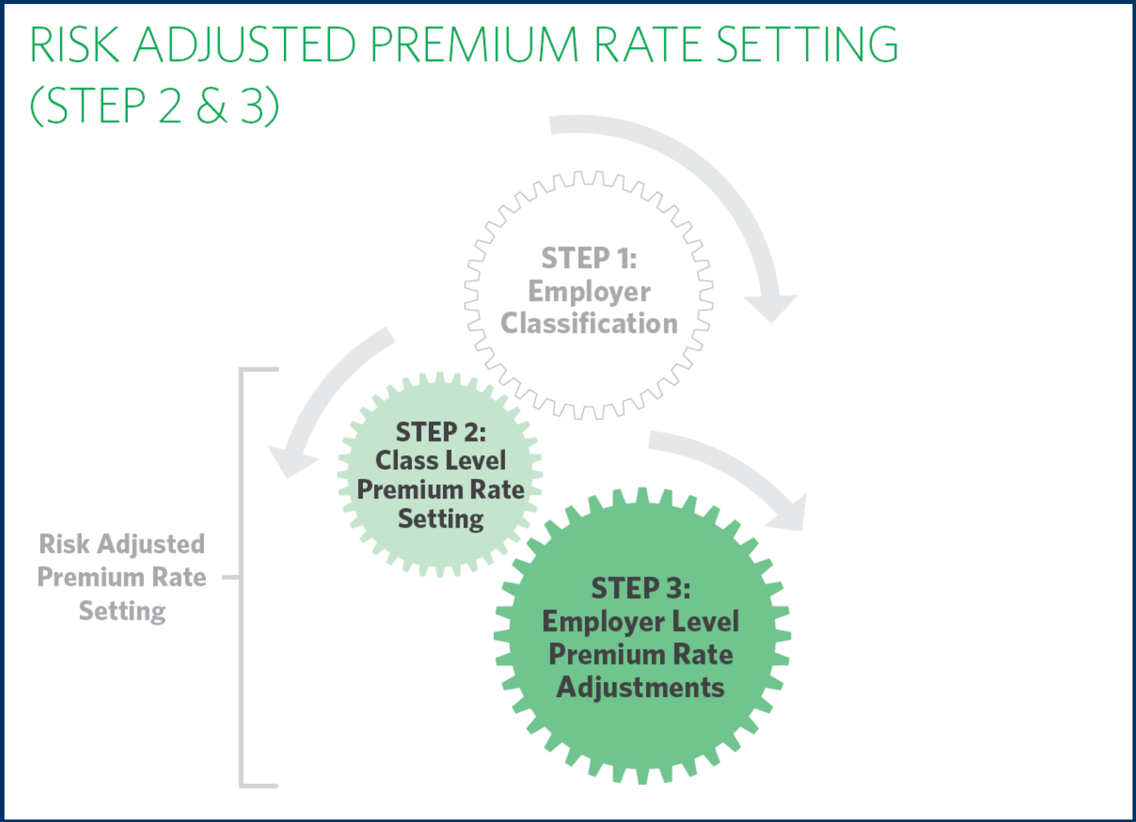
Rate Framework Review

Step 2 & 3 – Risk Adjusted Premium Rate Setting

Paper 3: The Proposed Preliminary Rate Framework will detail for stakeholders how an employer's premium rate would be calculated under the proposed preliminary Rate Framework, based on the following steps:

- **Step 2: Class Level Premium Rate Setting** would create an average premium rate for each individual class ("Class Target Premium Rate") based on the valuation of collective liabilities of new claim costs for employers within their respective classes, their allocation of administrative costs and the apportionment of the past claim costs for a particular class; and
- **Step 3: Employer Level Premium Rate Adjustment** would adjust the Class Target Premium Rate for individual employers based on their risk, represented by their own claims experience and insurable earnings relative to their Class Target Premium Rate, to arrive at their individual risk band position and corresponding Employer Actual and Target Premium Rates.

Rate Framework Review



Rate Framework Review

Rate Framework Review

Step A: Determining an Employer's Actuarial Predictability

In Step A, four employers are used to demonstrate what factors the WSIB considers when determining an employer's actuarial predictability. Employers A & B represent medium sized employers that have an individual responsibility of 40% (0.4), and collective responsibility of 60% (0.6). Employer C & D represent small employers that have an individual responsibility of 2.5% (0.025), and collective responsibility of 97.5% (0.975).

Rate Framework Review

Step B: Determining an Employer's Total Claims Cost

The WSIB would review all of the injuries that occurred over a rolling six year period. This means that fo the 2014 premium year, for example, the WSIB would use 2007 to 2012 injury years.

Then, the WSIB would summarize all the associated costs that have been paid for those registered claims, taking into consideration the claim limits assigned at the employer level (as outlined earlier in the paper).

Figure 20: Illustrative Example of an Employer's Total Claims Cost Over a Six Year Period

Six year window including claim costs from Jan 1, 2007 to Dec 31, 2012						
	Incurred claim costs paid by year					
Injury year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
2007						Total claim costs
2008						
2009						
2010						
2011						
2012						

Rate Framework Review

The following examples are intended to guide the reader through the Employer Level Premium Rate Adjustment process. In this step, the WSIB would determine Employer A, B, C and D's total claim costs (CC) over a six year period.

EMPLOYER A Claims Cost – $0.5461M	**EMPLOYER B** Claims Cost – $0.8278M
EMPLOYER C Claims Cost – $0M	**EMPLOYER D** Claims Cost – $0M

Rate Framework Review

Step C: Determining an Employer's Insurable Earnings

The WSIB would then obtain the insurable earnings for the same six year period (up to each year's annual maximum earnings) for each employer, as they were recorded for the reporting and payment of premiums.

The following illustrative example shows each employer's insurable earnings.

EMPLOYER A **Insurable Earnings – $108.95M**	**EMPLOYER B** **Insurable Earnings – $172.328M**
EMPLOYER C **Insurable Earnings – $0.0345M**	**EMPLOYER D** **Insurable Earnings – $0.655M**

Each employer's risk profile is determined based on the claim costs that the employer paid into the system versus the earnings that were reported for that same time period.

Rate Framework Review

Step D: Determining an Employer's Risk Profile

Using Steps B & C, the WSIB would then determine an employer's risk profile:

Formula 1: Determining an Employer's Risk Profile

$$\frac{\text{Step B}}{\text{Step C}} \times 100 = \text{Employer's Risk Profile}$$

EMPLOYER A

$$\frac{\text{CC}}{\text{IE}} \quad \frac{\$0.5461\text{M}}{\$108.95\text{M}} \times 100 = 0.5012$$

EMPLOYER B

$$\frac{\text{CC}}{\text{IE}} \quad \frac{\$0.8278\text{M}}{\$172.328\text{M}} \times 100 = 0.4804$$

EMPLOYER C

$$\frac{\text{CC}}{\text{IE}} \quad \frac{\$0\text{M}}{\$0.0345\text{M}} \times 100 = 0$$

EMPLOYER D

$$\frac{\text{CC}}{\text{IE}} \quad \frac{\$0\text{M}}{\$0.655\text{M}} \times 100 = 0$$

Rate Framework Review

Step E: Determining the Class Risk Profile

Formula 2: Determining the Class Risk Profile

$$\frac{\text{Total Class Claims Cost}}{\text{Total Class Insurable Earnings}} \times 100 = \text{Class Risk Profile}$$

In order to compare how the employer's risk profile compares to the class risk profile, the WSIB needs to obtain the total claims costs and insurable earnings for the class of that employer. The following illustrative example depicts the calculation of the class risk profile.

EMPLOYER A

$$\frac{\$0.1881M}{\$48.8004M} \times 100 = 0.3854$$

EMPLOYER B

$$\frac{\$0.1944M}{\$53.3197M} \times 100 = 0.3646$$

EMPLOYER C

$$\frac{\$0.1501M}{\$41.5661M} \times 100 = 0.3611$$

EMPLOYER D

$$\frac{\$0.2317M}{\$36.5435M} \times 100 = 0.6340$$

Rate Framework Review

Step F: Determining an Employer's Adjusted Risk Profile

In this step, the WSIB would need to determine how much an employer's individual claims cost/ experience can be considered in undertaking the Employer Level Premium Rate Adjustments.

In order to calculate the employer's adjusted risk profile, the WSIB would multiply the employer's actuarial predictability factor (from Step A (p. 49) where the WSIB discussed individual and collective experience) against their risk profile (Step D) and calculate their adjusted risk profiles as follows:

Formula 3: Determining an Employer's Adjusted Risk Profile

(Step A x Step D) + [(1.0 – Step A) x Step E] = Employer Adjusted Risk Profile

Rate Framework Review

The following illustrative example demonstrates how to determine an employer's risk adjusted risk profile.

EMPLOYER A

(0.40 x 0.5012) or 0.2005 + [(1.0 - 0.4) x 0.3854 or 0.2312] = 0.4317

EMPLOYER B

(0.40 x 0.4804) or 0.1922 + [(1.0 - 0.4) x 0.3646 or 0.2188] = 0.4110

EMPLOYER C

(0.025 x 0.0) or 0 + [(1.0 - 0.025) x 0.3611 or 0.3521] = 0. 3521

EMPLOYER D

(0.025 x 0.0) or 0 + [(1.0 - 0.025) x 0.6340 or 0.6182] = 0.6182

Rate Framework Review

Step G: Determining an Employer's Risk Profile Index

In this step, the WSIB would assess the employer's results against the class risk profile (Step E) to determine how this employer performed versus the average of all the other employers in the sam
This calculation gives the WSIB the employer's risk profile index.

Formula 4: Determining an Employer's Risk Profile Index

$$\frac{\text{Step F}}{\text{Step E}} \times 100 = \text{Employer's Risk Profile Index}$$

EMPLOYER A

$$\frac{0.4317}{0.3854} \times 100 = 112.01\%$$

EMPLOYER B

$$\frac{0.4110}{0.3646} \times 100 = 112.73\%$$

EMPLOYER C

$$\frac{0.3521}{0.3611} \times 100 = 97.5\%$$

EMPLOYER D

$$\frac{0.6182}{0.6340} \times 100 = 97.5\%$$

Rate Framework Review

Step H: Determining an Employer's Target Premium Rate

In order to calculate the Employer Target Premium Rate that each employer should be paying (that is primarily based on their individual experience), the WSIB would need to determine the employer's target risk band relative to the Class Target Premium Rate, as well as the collective cost component of the class.

To do this, the WSIB would locate the employer's risk profile index on the risk bands and obtain the corresponding premium rate.

The outcome of this calculation would outline each Employer Target Premium Rate. This represents what the employer should be paying based on their actuarial predictability and their individual claims experience.

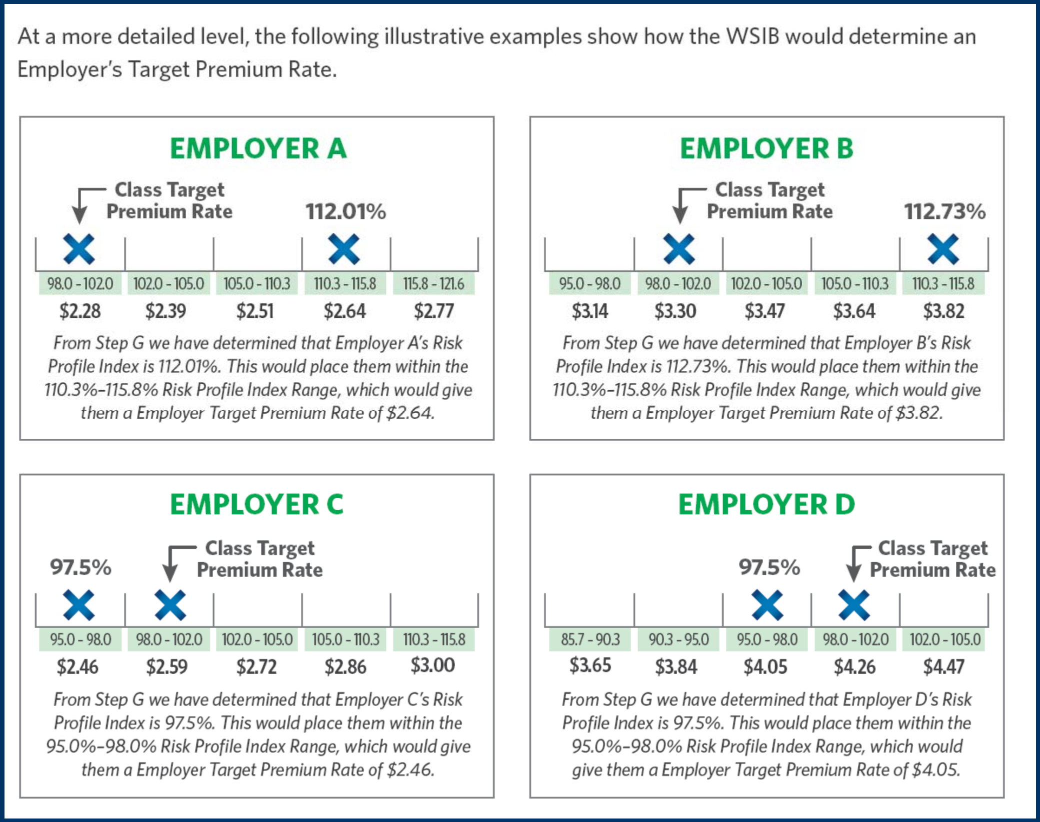
To show employers how their Employer Target Premium Rate would compare to their Class Target Premium Rate, the attached chart outlines at the class level, the minimum and maximum range of the risk bands, as well as the range of actual lowest and highest Employer Target Premium Rates.

Rate Framework Review

Figure 22: Class Target and Employer Target Premium Rates

Class Letter	Class Description	Class Target Premium Rate ($)	Employer Target Premium Rate (H): Risk Band Range ($): Minimum Band	Highest Band	# of Risk Bands	Actual Risk Band Rates ($): Lowest	Highest
A	Primary Resource Industries	4.68	0.24	14.94	83	3.40	14.94
B	Utilities	1.06	0.20	3.44	58	0.74	3.44
C	Public Administration	3.86	0.20	12.05	80	2.35	10.41
D	Food, Textile, and Related Manufacturing	3.08	0.20	10.13	79	1.07	10.13
E	Resource and Related Manufacturing	3.30	0.20	10.98	81	0.73	10.98
F	Machinery and Related Manufacturing	3.20	0.20	9.82	79	0.53	9.82
G1	Building Construction	5.22	0.26	16.64	83	2.64	16.64
G2	Infrastructure Construction	4.87	0.24	15.50	83	3.02	15.50
G3	Specialty Trades Construction	4.57	0.23	14.35	83	1.95	14.35
H	Wholesale Trade	1.73	0.20	5.49	67	0.79	5.49
I	General Retail	1.66	0.20	4.91	65	0.33	4.91
J	Specialized Retail and Department Stores	1.46	0.20	4.34	63	0.46	4.34
K	Transportation and Warehousing	4.26	0.22	13.98	83	1.03	13.98
L	Information and Culture	0.61	0.20	2.09	48	0.26	2.09
M	Finance	1.37	0.20	4.50	63	0.68	4.50
N	Professional, Scientific and Technical	0.55	0.20	2.06	48	0.20	2.06
O	Administrative, Waste and Remediation	2.59	0.20	8.39	75	1.08	8.39
P	Hospitals	1.13	0.20	3.67	59	0.27	3.67
Q	Health and Social Services	2.28	0.20	6.86	72	0.65	6.86
R	Leisure and Hospitality	1.90	0.20	5.75	68	0.74	5.75
S	Other Services	2.43	0.20	7.71	74	0.63	7.71
T	Education	0.43	0.20	1.37	40	0.20	1.37
	Schedule 1	2.46	2.46		1,534	2.46	

Rate Framework Review



At a more detailed level, the following illustrative examples show how the WSIB would determine an Employer's Target Premium Rate.

EMPLOYER A

Class Target Premium Rate | 112.01%

98.0 - 102.0	102.0 - 105.0	105.0 - 110.3	110.3 - 115.8	115.8 - 121.6
$2.28	$2.39	$2.51	$2.64	$2.77

From Step G we have determined that Employer A's Risk Profile Index is 112.01%. This would place them within the 110.3%–115.8% Risk Profile Index Range, which would give them a Employer Target Premium Rate of $2.64.

EMPLOYER B

Class Target Premium Rate | 112.73%

95.0 - 98.0	98.0 - 102.0	102.0 - 105.0	105.0 - 110.3	110.3 - 115.8
$3.14	$3.30	$3.47	$3.64	$3.82

From Step G we have determined that Employer B's Risk Profile Index is 112.73%. This would place them within the 110.3%–115.8% Risk Profile Index Range, which would give them a Employer Target Premium Rate of $3.82.

EMPLOYER C

97.5% | Class Target Premium Rate

95.0 - 98.0	98.0 - 102.0	102.0 - 105.0	105.0 - 110.3	110.3 - 115.8
$2.46	$2.59	$2.72	$2.86	$3.00

From Step G we have determined that Employer C's Risk Profile Index is 97.5%. This would place them within the 95.0%–98.0% Risk Profile Index Range, which would give them a Employer Target Premium Rate of $2.46.

EMPLOYER D

97.5% | Class Target Premium Rate

85.7 - 90.3	90.3 - 95.0	95.0 - 98.0	98.0 - 102.0	102.0 - 105.0
$3.65	$3.84	$4.05	$4.26	$4.47

From Step G we have determined that Employer D's Risk Profile Index is 97.5%. This would place them within the 95.0%–98.0% Risk Profile Index Range, which would give them a Employer Target Premium Rate of $4.05.

Rate Framework Review

Step I: Determining an Employer's Risk Band Movement

There may be a difference (varying from a very small to a large variance) between what an employer should be paying as their Employer Target Premium Rate and what the employer is paying under the current system. Some employers (especially those who are seeing their premium rates increase) would not want to experience drastic changes in their premium rates from one year to the next to reach their Employer Target Premium Rate.

To determine what would be the "right balance" of employer movement, the WSIB evaluated a number of scenarios, including moving employers up or down:

- when employers had a premium rate change ranging from 5 to 20% relative to the performance of their class;
- when employers had a premium rate change greater than 10 to 20%; and
- by limiting the total (class and employer level) premium rate change from 10 to 20%.

How will your sector fare? (in this case trucking?

RG 570 Employers Projected Risk Band Premium Rate

- The chart below outlines possible risk bands for employers in RG 570 who will be moving to Class **K1 – Rail, Water, Truck & Postal Service Transportation**, by showing the number and percentage of employers and their projected risk band premium rate.

K1 – Rail, Water, Truck & Postal Service Transportation - RG 570: 2016 Employer Projected Rate

	Lowest Band	Risk Bands									Highest Band	
Risk Band Movement from Class Premium Rate (Risk Band 0)		<-3	-3	-2	-1	**Average 0**	1	2	3	>3		Total
Risk Band Rate	$5.60	-	$7.23	$7.61	$8.02	$8.44	$8.86	$9.30	$9.77	-	$25.92	
# of Employers	1	63	124	651	6,763	243	112	142	100	433	19	8,631
% of Employers		0.8%	1.4%	7.5%	78.4%	2.8%	1.3%	1.6%	1.2%	5.0%		100.0%

$\underbrace{\text{<-3 to -1}}_{88.1\%}$ $\underbrace{\text{1 to >3}}_{9.1\%}$

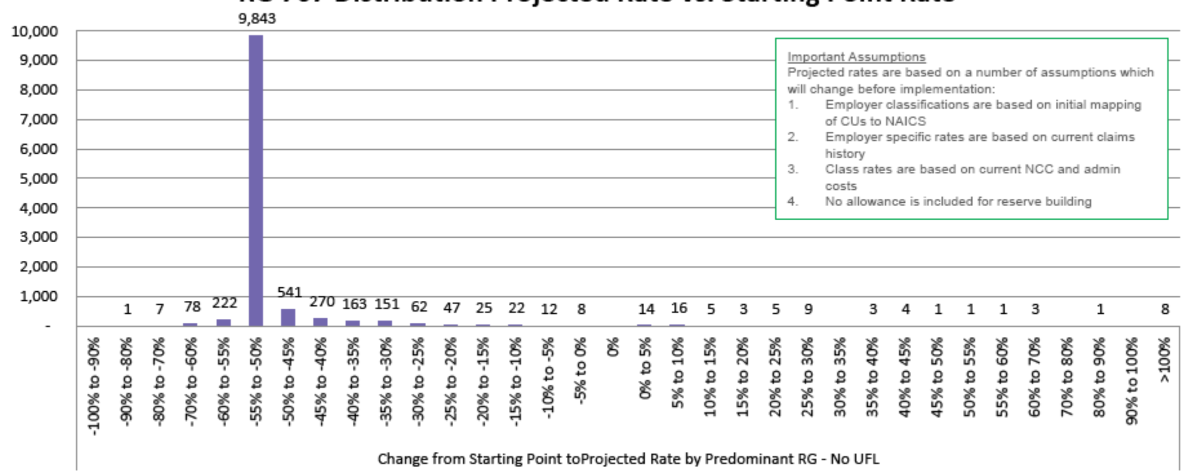
How will Mechanical Contracting fare?

Rate Group 707: Mechanical And Sheet Metal Work

2017 Rate	2018 Rate	Projected Rate (no UFL)
4.05	3.75	G4 1.97

RATE GROUP	CU	CU DESCRIPTION	CURRENT CLASS	NAICS CODE 6 DIGITS	NAICS 6 DIGITS BASELINE DESCRIPTIONS	RFM CLASS/ SUBCLASS	RFM CLASS/SUBCLASS NAME
707	4241-002	Drain Contractors	G	238220	Plumbing, heating and air-conditioning contractors	G4	Construction - Building equipment construction.
	4241-099	Plumbing, Heating, and Air Conditioning, Installation	G				
	4244-000	Sheet Metal and Other Duct Work	G				
	4256-000	Thermal Insulation Work	G	238299	All other building equipment contractors		
	4259-000	Industrial Maintenance and Repair Contracting	G				

RG 707 Distribution Projected Rate vs. Starting Point Rate



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How will Mechanical Contracting fare?

2017 Rate	2018 Rate	Projected Rate (no UFL)
4.05	3.75	G4 1.97

Rate Framework Review

- The WSIB Problem:
  - Very few employers are aware of RFR
  - **<u>Not one</u> employer in Ontario has *any* knowledge on impact**
  - The WSIB has a massive communication task before it

Rate Framework Review

- Remember market value reassessment (MVR) in the real estate market?
  - stark similarities and matching risks
  - MVR studied for years before implementation
  - the proverbial "*stuff hit the fan*"
  - sparking tax-payer revolt
  - which triggered another decade or more of post-implementation "reforms"

Rate Framework Review

- MVA became a political lightening-rod:
  - One expert:
    - no matter how *"desirable the long-run outcome of any policy may be, its transitional effects may be sufficiently undesirable in political terms to kill it."*
    - *Losers value losses more than winners value gains*
- RFR risks a repeat of this

Rate Framework Review

- Two huge concerns (besides the technical understanding):
  - **One:** No one knows where they will stand
    - Employers (many in this room) have demanded that WSIB publish “shadow rates”
  - **Two:** The UFL represents between 40 – 50%+ of most rates
    - Employers (many in this room) have demanded linking RFR implementation with zero UFL

Rate Framework Review

- The WSIB has been listening (maybe)
  - RFR implementation delayed until January 2020
  - WSIB will begin massive communication plan later this year
  - This will include the release of shadow rates

Rate Framework Review Discussion Points

- Should all (current) rate groups be at target before RFR implementation?
  - WSIB suggests it will be so but has not expressly linked UFL with RFR
    - Just the opposite - has said they are not linked

Rate Framework Review Discussion Points

- There are two components to RFR
  - A new classification grid (based on NAICS)
    - (North American Industry Classification System)
  - A new premium setting model
    - A complex prospective premium scheme
- Each element on its own is huge
- Together: **Unprecedented**

Rate Framework Review Discussion Points

- A thought:
  - If all rate groups are at targets
  - And, rates are significantly reduced (i.e., -40%)
  - Is a new classification scheme even needed?
  - Is a new pricing model needed?

Is it worth the risk of failure?

Rate Framework Review Discussion Points

- Consider this:
  - Keep the current classification grid
    - Employers never asked for it in the first place
  - But implement a new prospective pricing model (if needed) based on current classification

Rate Framework Review

- Rate Framework Policy Consultation
  - A series of policies released a few months ago
  - Deadline for consultation was January 15, 2018
  - This means that more than 5 years into RFR project, the details are not yet decided

Rate Framework Review

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Via email

October 06, 2017

Ms. Kate Lamb, Chief Corporate Services Officer
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

Dear Ms. Lamb:

Re: Rate Framework Policy Consultation

A. Preamble and introduction: The need to regroup and start fresh:

1. At the joint **Chair Advisory Group** ["CAG"] meeting September 28, 2017 it became clear that either the proposed rate framework policies:

   a. advanced propositions and reflected results that WSIB policy officials intended but were unable to effectively and clearly explain both with respect to the need and the result; or

   b. advanced propositions that presented a plethora of unintended consequences,

   c. such that, regardless of the results being intended or unintended, parts of the proposed policies were ill-conceived and/or poorly drafted or both.

2. This observer believes it is more the former than the latter and the proposed policies represent an institutional objective to override legitimate and *bona fide* corporate organizational choices with the primary purpose to maximize the scope of employer taxation.

3. WSIB officials were unable to adequately explain the "mischief" being corrected. While asked on several instances the "why" behind the policies, that is, what the Board is attempting to "fix", WSIB policy officials were unable to adequately respond.

4. In the absence of these explanations, one is therefore left with only one reasonable conclusion – under the guise of rate framework, the WSIB is attempting to slice through legal and proper corporate organizational choices to maximize WSIB revenue collection prowess, fueled by an inherent institutional indifference to the lawful business reasons behind a company's business organizational choices and business practices.

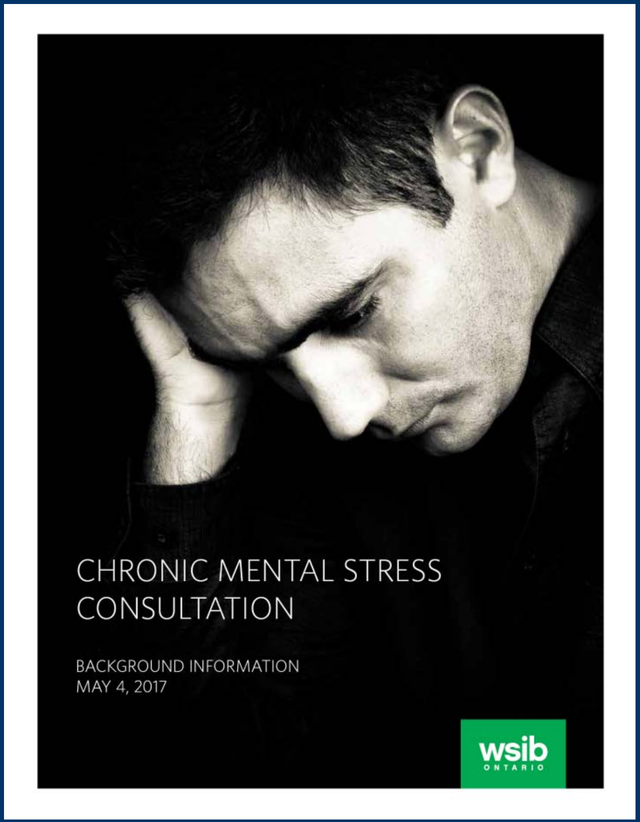
5. The RFR draft policies seem to commence with a false premise that WSIB taxation exposures rest large as motivating reasons for organizational structural decisions. This is simply not the case.

6. This communication is not to be considered to be a full and final response to the proposed policies. A full response is neither possible or appropriate at this juncture. In the CAG

Rate Framework Review Discussion Points

Discussion

Chronic Stress



Chronic Stress

PROPOSED LEGISLATION: OVERVIEW

- The government has introduced amendments to the *Workplace Safety and Insurance Act, 1997* (WSIA) that, if passed, would allow for entitlement for chronic mental stress.
- The proposed legislative amendments, if passed, would:
    1. Allow entitlement for chronic mental stress arising out of and in the course of employment
    2. Maintain the existing exclusion from entitlement for mental stress caused by an employer's decisions or actions (e.g. termination, demotions, transfers, discipline, etc.)
    3. Come into force January 1, 2018
- The proposed legislative amendments related to chronic mental stress do not include any transitional provisions and would only apply to workers whose injury occurs **on or after** the date the amendments come into force.

Chronic Stress

DRAFT MENTAL STRESS POLICY

The draft policy would replace the current Traumatic Mental Stress policy (15-03-02), for accidents on or after the date the legislation comes into force, and address both traumatic and chronic mental stress.

In support of the proposed implementation strategy, the draft policy contains the following three key entitlement criteria for chronic mental stress:

1 Diagnostic Requirements

DSM Diagnosis

- There must be a diagnosis under the ***Diagnostic and Statistical Manual of Mental Disorders*** (DSM) by an appropriate regulated health professional (e.g. family physician)
- May require a psychologist or psychiatrist diagnosis at a later date to confirm ongoing entitlement

2 Injuring Process

Substantial Work-Related Stressor

- Entitlement may be granted for chronic mental stress caused by a ***substantial work-related stressor(s)***, including workplace bullying or harassment
- Stressor(s) must be excessive in comparison to normal pressures/ tensions experienced by workers in similar circumstances

3 Causation Standard

Significant Contributing Factor

- The ***substantial work-related stressor(s)*** must have ***significantly contributed*** to the chronic mental stress for there to be entitlement

Chronic Stress

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Operational Policy

Draft for Consultation Purposes

Document Number: 15-03-14

Section
Claims – In the Course of and Arising Out of

Subject
Traumatic or Chronic Mental Stress (Accidents on or After January 1, 2018)

Policy

A worker is entitled to benefits for traumatic or chronic mental stress arising out of and in the course of the worker's employment.

A worker is not entitled to benefits for mental stress caused by decisions or actions of the worker's employer relating to the worker's employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the employment.

NOTE

Additional guidelines apply to first responders and other designated workers who are claiming entitlement for posttraumatic stress disorder, see 15-03-13, Posttraumatic Stress Disorder in First Responders and Other Designated Workers.

Purpose

The purpose of this policy is to provide entitlement guidelines for claims for traumatic or chronic mental stress with accident dates on or after January 1, 2018.

Guidelines

Traumatic mental stress

A worker will generally be entitled to benefits for traumatic mental stress if the mental stress is caused by one or more traumatic events arising out of and in the course of the worker's employment. For more information see 15-02-02, Accident in the Course of Employment.

In order to consider entitlement for mental stress related to one or more traumatic events, the WSIB decision-maker must identify that one or more traumatic events occurred. A traumatic event may be a result of a criminal act or a horrific accident, and may involve actual or threatened death or serious harm against the worker, a co-worker, a worker's family member, or others. In most cases a traumatic event will be sudden and unexpected.

In all cases, the event(s) must arise out of and occur in the course of the employment, and be

- clearly and precisely identifiable, and
- objectively traumatic.

Date
4 May, 2017

15-03-14 Draft CMS Policy For Consultation

Draft for Consultation Purposes

Page
1 of 6

3695A (09/99)

Chronic Stress
Initial Policy Proposal

Chronic mental stress

A worker will generally be entitled to benefits for chronic mental stress if the mental stress is caused by a substantial work-related stressor, including workplace bullying or harassment, arising out of and in the course of the worker's employment. For more information see 15-02-02, Accident in the Course of Employment.

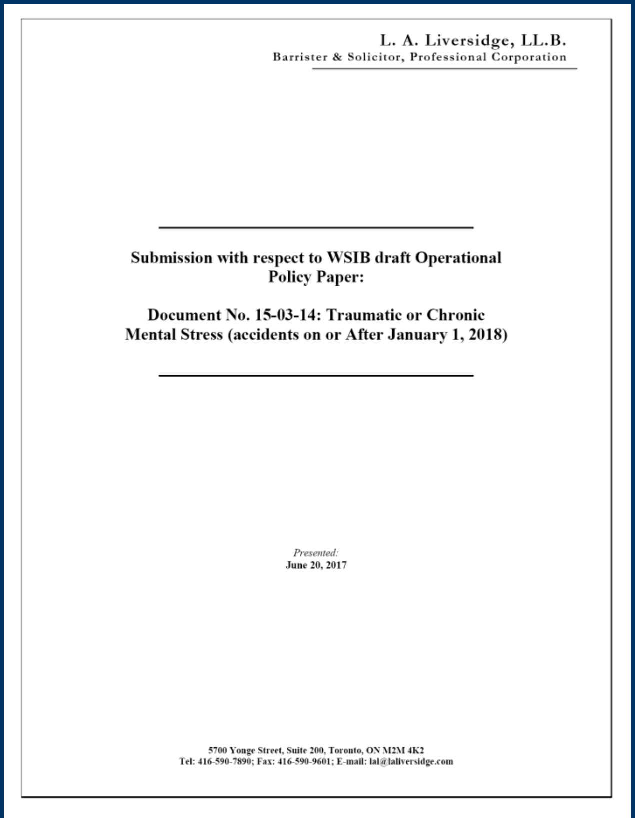
Substantial work-related stressor

A work-related stressor will generally be considered substantial if it is excessive in intensity and/or duration in comparison to the normal pressures and tensions experienced by workers in similar circumstances.

Chronic Stress

- The change in the law and the WSIB policy will add between $150 - $200 million in costs annually
- The issue though is NOT costs
- The real question is whether the WSIB drew the line in the right place
- **<u>LAL position</u>: They did not**

Chronic Stress


L. A. Liversidge, LL.B.
Barrister & Solicitor, Professional Corporation

Submission with respect to WSIB draft Operational Policy Paper:

Document No. 15-03-14: Traumatic or Chronic Mental Stress (accidents on or After January 1, 2018)

Presented:
June 20, 2017

5700 Yonge Street, Suite 200, Toronto, ON M2M 4K2
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Chronic Stress

- Paper was submitted to WSIB
- Has been favourably received
- Several other employer associations supported the paper
- **<u>Result</u>**: WSIB accepted all of the major recommendations

How and why the stress policy came about

- The short narrative:
  - stress policy flows from WSIA amendments
    - **Bill 127, *Stronger, Healthier Ontario Act* (Budget Measures), *2017***, introduced April 27, 2017 and which received Royal Assent May 17, 2017.

Chronic Stress

- As at January 1, 2018 the WSIA will read as follows:

Mental stress

13 (4) Subject to subsection (5), a worker is entitled to benefits under the insurance plan for chronic or traumatic mental stress arising out of and in the course of the worker's employment. 2017, c. 8, Sched. 33, s. 1.

Same, exception

13 (5) A worker is not entitled to benefits for mental stress caused by decisions or actions of the worker's employer relating to the worker's employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the employment. 2017, c. 8, Sched. 33, s. 1.

Chronic Stress

- Before the amendment the WSIA expressly denied employment related chronic stress
- (PTSD is and always has been allowed)

Chronic Stress

- One may incorrectly conclude that compensation for chronic stress in Ontario is a relatively new issue.
- This of course is not at all the case.
- The issue of chronic stress has a long and winding history in the Ontario WSI system.

Chronic Stress: History

- Prior to 1998, the (then named) *Workers' Compensation Act* ["pre-1998 Act"] was silent on chronic stress
- However, the **Workers' Compensation Board** treated chronic stress as a non-compensable entity

Chronic Stress: History

- Treatment of chronic stress changed after the creation of the **Appeals Tribunal** in 1985
- By the late 1980s, the WCAT had issued several decisions granting entitlement for chronic stress
  - (see for example, **W.C.A.T. *Decision No. 918* (1988), 9 W.C.A.T.R. 48** and **W.C.A.T. *Decision No*. 1087/87 (1989), 10 W.C.A.T.R. 82**, along with many others)

Chronic Stress: History

- WCB started policy review.
  - Several policy discussion papers released:

1989 WCB Ontario: ***"Discussion Paper on Compensation for Chronic Occupational Stress, January 30, 1989"***

1989 WCB Ontario: ***"Options Paper, The Compensability of Disabilities Resulting from Workplace Stressor, July 14, 1989"***

1990 WCB Ontario: ***"Policy Proposal, Compensation for Disablements Arising from Workplace Stressors, April 20, 1990"***

1991 Ontario WCB: ***"Policy Proposal, Compensation for Disablements Arising from Workplace Stressors, May 8, 1991"***

Chronic Stress: History

- WCB never did approve a chronic stress policy
  - 1990 to 1995 was a volatile time
    - WCB Board of Directors was bipartite and effectively deadlocked on core policy issues, including stress
  - Both opposition parties opposed entitlement for stress
  - In 1995 the PCs formed government

Chronic Stress: History

- New WSIA effective January 1, 1998.
  - The WSIA removed chronic stress as a compensable entity:
    - 13 (4) Except as provided in subsections (5) and 14 (3), a worker is not entitled to benefits under the insurance plan for mental stress.

Chronic Stress: History

- The need explained by the Minister of Labour as follows:
  - We want to restore the system to its original mandate.
  - *In the past number of years, compensation has been paid for conditions whose connection to the workplace is often difficult to determine. Chronic mental stress is an obvious example.*
    - (Hansard, April 24, 1997)

Chronic Stress: History

- This remained the state of the law until the release of a series of decisions of the **Appeals Tribunal** held that s.13(4) was unconstitutional
  - (see the *de facto* leading case, ***Decision No. 2157/09*** **(April 29, 2014)**).
  - While able to strike down the effect of the offending section for the immediate case before it, the Appeals Tribunal could not strike down the section itself.

Chronic Stress: History

- 2014 – 2017:
  - WSIB continued to apply s. 13(4)
  - Absurd result
    - same set of facts being deemed non-compensable by the WSIB and yet compensable by the WSIAT
  - **Budget 2017** repealed WSIA s. 13(4) and expressly allowed entitlement for chronic mental stress

Recommendations to the WSIB

- The LAL paper argues, with strong support from the 1999 British Columbia Royal Commission on Workers' Compensation, that stress cases are distinctive from other WSI cases and require a distinctive legal treatment.

Recommendations to the WSIB

- The Board’s proposed stress policy is critiqued
  - it is not a workable template through which to distinguish work-related chronic stress from non-work-related chronic stress.
  - A different approach is called for.

Recommendations to the WSIB

- The Canadian experience is reviewed:
  - the four provinces that allow chronic stress
    - *all* apply the "*predominant cause test*"
  - the remaining provinces do not allow entitlement for chronic stress
  - Ontario has not presented a reasoned analysis for a different approach

Recommendations to the WSIB

- Adopt *predominant cause test*

WSIB changed its policy

wsib
ONTARIO

Operational Policy

Document Number: 15-03-14

Section
Claims - In the Course of and Arising Out of

Subject
Chronic Mental Stress (Accidents on or After January 1, 2018)

Standard of proof and causation

In all cases, the WSIB decision-maker must be satisfied, on a balance of probabilities, that the substantial work-related stressor

- arose out of and in the course of the worker's employment, and
- was the **predominant cause** of an appropriately diagnosed mental stress injury.

These cases will start being allowed in 2018

- Workers' compensation has just become even more complex
- Stress cases will likely be more numerous and more complex than WSIB anticipates

CMS Cases:
The Need for Monitoring

- 2018 premium rates reflected CMS costs
- However, WSIB had (has) zilch experience
- Used PTSD cases as the predictive proxy

CMS Cases:
The Need for Monitoring

- But PTSD cases and CMS cases are:

CMS Cases:
The Need for Monitoring

Row Labels	Sum of Claims Count
A - Forest Products	106
B - Mining And Related Industries	287
C - Other Primary Industries	96
D - Manufacturing	2,411
E - Transportation And Storage	1,384
F - Retail And Wholesale Trades	2,520
G - Construction	588
H - Government And Related Services	5,111
I - Other Services	2,330
Grand Total	**14,833**

CMS Cases: Suggestion

Demand quarterly updates from WSIB

WSIB Financial Discipline Lacking in the Past

- WSIB fiscal discipline always has been questionable
- From 2010 to 2015 the focus was financial sustainability – the system was at risk
- All signs suggest a return to the "state of nature" – benefit enrichment:
  - Indexation; PTSD; CMS; OD

WSIB Financial Discipline Lacking in the Past

- The “new discipline” of 2010 has abated
- In a **June 16, 2009** speech to the Economic Club of Canada, WSIB Chair said:

  “I want to make it clear that our ability to fund the current obligations of the workplace safety and insurance system remains secure”

WSIB Financial Discipline Lacking in the Past

- On November 9, 2009 Minister of Labour wrote to an employer association:

  “. . . the WSIB confirms that its ability to fund the ongoing obligations of the workplace safety and insurance system remains secure”

WSIB Financial Discipline Lacking in the Past

- Less than 3 weeks later, Ontario AG said:

"there is a risk that the WSIB may not be able to meet its obligations"

Potential for a New Government June 2018

- WSI is not a political issue (at this moment)
- Over last three years, all parties united on benefit enrichment
- Early signals suggest PCPO leadership race may adjust leanings of PCPO

Potential for a New Government June 2018

- If there is a new government, suggest immediate high level engagement with Ministers of Finance and Labour
  - WSIB reporting to the Minister of Finance through the Financial Services Commission of Ontario [“FSCO”] is worthy of serious consideration

Potential for a New Government June 2018

- FSCO regulates:
  - 360 insurance companies,
  - 7,908 pension plans,
  - 188 credit unions
  - 56 loan and trust companies
  - 1,120 mortgage brokerages
  - 2,419 mortgage brokers
  - 6,796 mortgage agents
  - 83 mortgage administrators
  - 1,634 co-operative corporations

Potential for a New Government June 2018

- FSCO's Mandate, Vision and Values
  - To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.
  - To be a progressive and fair regulator working with its stakeholders to support a strong financial services sector.

Potential for a New Government June 2018

- **Recommendation #1:**
  - Establish a new WSIB regulatory framework governed through the Ministry of Finance and FSCO

Potential for a New Government June 2018

- 72 month lock-in:
  - Since 1990 benefits are “locked-in” at 72 months
  - Regardless of post 72 month earnings:
    - benefits are not adjusted downwards
    - but benefits are adjusted upwards post 72 months
  - This leads to systemic over-compensation

Potential for a New Government June 2018

- The case to repeal the 72 month lock-in is now long established
- Minister of Labour confirmed intention to repeal lock-in on October 22, 2012

Potential for a New Government June 2018

Ontario

NEWS

Ministry of Labour

Promoting Sustainability of Ontario's Workers' Compensation System

McGuinty Government Moving Forward with Proposed Amendments to Workplace Safety and Insurance Act

NEWS

October 22, 2012

Ontario is moving toward amending the Workplace Safety and Insurance Act (WSIA) to promote the long-term stability of the workers' compensation system.

Proposed changes to the WSIA would, if passed, allow the Workplace Safety and Insurance Board (WSIB) to:

- Review Loss of Earnings benefits after 72 months — currently benefits are generally 'locked in' after 72 months, even if an injured worker's condition improves or they rejoin the workforce.

Potential for a New Government June 2018

- Nothing happened
- **Recommendation #2:**
  - Reintroduce this issue to a new government and demand implementation

Potential for a New Government June 2018

Any other issues?

The Past, Present and Future

"So it goes"

Billy Pilgrim, as oft repeated in Kurt Vonnegut's "*Slaughterhouse Five*"