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<b>NOTICE NUMBER:</b>	<b>01-2016</b>
<b>TITLE:</b>	<b>PRIVATE PASSENGER USAGE BASED INSURANCE APPROVAL PROCESS</b>
<b>DATE:</b>	<b>January 7, 2016</b>

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## **PURPOSE**

The purpose of this Notice is to establish the process that the Superintendent of Insurance (Superintendent) requires insurers to follow in implementing Usage Based Insurance (UBI) programs for private passenger vehicles, which may begin starting **April 1, 2016**.

### (1) Rating Factors

The rating factors proposed for establishing UBI scores have been examined using the *Automobile Insurance Rating Factors Framework of Considerations of Superintendent of Insurance* as a starting point. The framework can be found on the Superintendent's website, on the [Information for Insurers](#) page.

UBI is not a rating factor in and of itself. Insurers are not authorized to employ UBI scores as an element of the insurer's algorithm for establishing premiums for basic or additional private passenger automobile insurance coverage. Rather, UBI programs may use a number of individual rating factors in combination with one another in order to establish a score upon which a UBI discount is based.

The Superintendent has approved the following rating factors for use in UBI discount programs:

- Acceleration
- Turning
- Speed
- Braking
- Time of day
- Distance driven (mileage)
- Frequency of use

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The Superintendent has not approved any other criteria for use in establishing UBI scores. In particular insurers are not authorized to employ the following rating factors for use in UBI discount programs:

- Territory
- Type of road
- GPS location tracking

GPS data may be used to measure and support permitted rating factors in UBI discount programs as long as the GPS data are not used to determine an insured's territory, type of road, or GPS location. For the rating factor of Speed, GPS data may be used to determine a vehicle's speed at any given time but comparisons of vehicle speed with posted speed limits are not permitted.

In the future, if new UBI rating factors are developed and proposed for use, those rating factors must be submitted to the Superintendent for consideration and approval. The Superintendent will utilize the *Rating Factors Framework* to determine whether proposed new rating factors will be permitted for use in UBI discount programs.

## (2) Privacy Requirements

The Superintendent has considered the privacy implications associated with UBI and has concluded that information collected for the purpose of a UBI program should be treated as personal and identifiable. As a result, insurers, and any third party service providers that insurers contract with, are required to comply with Alberta's *Personal Information Protection Act (PIPA)*.

To ensure that both insurers and third party service providers comply with PIPA when offering UBI discount programs, insurers must, prior to implementing any UBI discount program, complete the following steps:

- (a) File a Privacy Impact Assessment (PIA) with the Office of the Information and Privacy Commissioner (OIPC);
- (b) Work with the OIPC to address any concerns raised by the OIPC; and
- (c) Obtain acceptance of the PIA from the OIPC and provide evidence of that acceptance to the Superintendent.

Acceptance of a PIA by the OIPC is not approval. Rather, it reflects the OIPC's opinion that the submitter of the PIA has considered the requirements of PIPA and has made a reasonable effort to protect privacy. A PIA cannot be used to obtain a waiver of, or relaxation from, any requirement of PIPA or to prevent a review by the Commissioner if an individual files a complaint.

To assist insurers in completing a PIA, the OIPC has prepared a guide, available on its website: [https://www.oipc.ab.ca/media/640838/guide\\_pia\\_guidelines\\_for\\_insurers\\_ubi\\_jan2016.pdf](https://www.oipc.ab.ca/media/640838/guide_pia_guidelines_for_insurers_ubi_jan2016.pdf).

In addition to working with the OIPC, insurers must comply with the Office of the Superintendent of Financial Institutions (OSFI) Guideline B-10 Outsourcing of Business Activities, Functions and Processes in their dealings with third party service providers. This guideline can be found on the Superintendent's website, on the [OFSI Guidelines adopted and issued by Alberta](#) page.

An insurer that implements a UBI discount program without adhering to the process identified above, may be found to be engaging in an unfair act or practice and may be subject to an administrative penalty under the *Insurance Act*.

### (3) Informed Consent

Informed consent requirements can be found in Appendix A of this notice. Before implementing any UBI discount program in Alberta, insurers must submit informed consent documents, including telephone and electronic scripts if informed consent may be obtained verbally or electronically, to the Superintendent for approval.

## **STEPS REQUIRED TO OBTAIN APPROVAL FOR A UBI DISCOUNT PROGRAM**

1. File a PIA with the OIPC and work with OIPC to obtain acceptance of the PIA.
2. Provide evidence of the accepted PIA and any informed consent documentation to the Superintendent's Office.
3. Notify the Superintendent's Office which rating factors will be used in the proposed UBI program.
4. Notify the Automobile Insurance Rate Board (AIRB) pursuant to any filing guidelines established by the AIRB. The AIRB is currently completing filing guidelines that will be available effective February 2, 2016 on AIRB's website - [Filing Guidelines](#) page.

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## **CHANGES TO A UBI PROGRAM ALREADY IN PLACE**

Any changes to a previously-approved UBI discount program (including, but not limited to, using different rating factors, changing third party service providers, or amending informed consent documentation or scripts), may require one or more of the steps above to be repeated. Insurers should contact the OIPC to clarify when addendums to PIAs are expected. Steps above that apply to changes to a previously-approved UBI program must be completed before any changes are implemented.

## **CONDITIONS ON UBI**

### **(a) Surcharging and UBI as a rating program**

UBI may only be offered as a discount program on approved rating programs and may include discounts both for enrolment and for driving behaviour measured by approved UBI rating factors. Any use of UBI for the purpose of surcharging is prohibited. UBI may not be offered as a stand-alone rating program.

### **(b) Excluding an insured**

An insurer offering a UBI program may not exclude from participation in the program any policyholder in its book of business if the policyholder is able to support the UBI technology utilized by the insurer. An insurer may identify target markets for its UBI program, but subscription must be available to any policyholder that wishes to opt in, subject to the ability of the insured to support the insurer's UBI technology.

### **(c) Limits on use of UBI data**

Data collected for UBI purposes cannot be used by an insurer:

- For claims purposes without the explicit consent of an insured, who is under no obligation to provide consent and whose participation in a UBI program cannot be denied based on a refusal to provide such consent. Consent may be obtained either upon a policyholder's subscription to a UBI discount program or after a claim is made, but the policyholder's explicit consent only applies to the policyholder and not to any other insured who may be operating the vehicle at the time a claim arises. Consent must be obtained from each insured to whom UBI data applies in the context of a claim that has arisen;

- For underwriting purposes (including, but not limited to, declining risks, cancelling risks, or refusing to renew risks); or
- To confirm, verify or validate rating factors currently used in the insurer's rating program (for example, UBI-based mileage cannot be used to verify self-reported distance driven that is provided by the policyholder to the insurer during the underwriting process.)

(d) Fees and charges

If there are any fees or charges associated with UBI participation that could be considered part of the premium, the insurer must discuss those fees or charges with the Superintendent of Insurance and the AIRB prior to implementation.

(e) Voluntary participation

Participation in a UBI program must be voluntary and a policyholder must not feel obligated to give consent.

(f) Adverse contractual action

If any insured under a policy violates the terms and conditions of a UBI program, the insurer cannot take adverse contractual action. Adverse contractual action may only be taken for reasons set out in section 555 of the *Insurance Act* and the Adverse Contractual Action Regulation.

(g) Terminating a UBI discount

An insurer may terminate a UBI discount if any insured violates the terms and conditions of a UBI program (for example, unplugging the telematics device that collects and transmits data). If the insurer wishes to terminate a UBI discount, it must provide written notice to the policyholder 15 days in advance of the termination. An insurer is not required to re-offer a UBI discount to a policyholder if any insured under the policy has violated the terms and conditions in the past.

(h) Termination by policyholder

A policyholder may terminate participation in a UBI discount program at any time and for any reason in the policyholder's discretion, without cost or penalty to the policyholder. If the policyholder wishes to terminate participation in a UBI discount program, the policyholder must give notice to the insurer in the form and manner prescribed by the insurer.

If you have questions regarding this Notice, please contact our office, either by e-mail at [TBF.insurance@gov.ab.ca](mailto:TBF.insurance@gov.ab.ca), or by phone at (780) 427-8322 (toll-free in Alberta by first dialing 310-0000).

[ORIGINAL SIGNED]

Mark Prefontaine  
Superintendent of Insurance

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## Appendix A:

**Informed Consent Requirements for UBI Programs**

The following items must be addressed in obtaining informed consent from consumers:

- Participation in a UBI discount program must be voluntary and a policyholder must not feel obliged to give consent to participate.
- Consent may be verbal, in writing or in electronic form. If consent is obtained verbally, the insurer must subsequently provide written or electronic confirmation of the verbal consent to the policyholder. Electronic consent must be in accordance with the *Insurance Act* (s. 547).
- Insurers must advise policyholders how information is being collected, what information is being collected, and by whom.
- Insurers must advise policyholders of where information is being stored and security measures in place to protect information. If information is being collected or stored outside of Canada, the insurer must notify the policyholder in accordance with section 13.1 of PIPA. Where information is being collected or used by a company to which the United States *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (PATRIOT Act) of 2001 applies, then insurers must make policyholders aware of PATRIOT Act implications.
- Insurers must advise policyholders of all parties that may have access to UBI information.
- Insurers must advise policyholders that UBI information could be disclosed without consent in order for the insurer to comply with a subpoena or court order. This could apply to law enforcement activities, court proceedings involving claims, or both.
- Policyholders must be told how information will be used (including any proposed uses for marketing or for offering additional services such as vehicle locator, anti-theft, fraud detection, vehicle diagnostics or roadside assistance programs) and assured that personal information will not be used for any other purposes.
- Policyholders must specifically be informed which behaviours are being measured and how data is measured.

- Insurers must provide to policyholders the name, position name or title of a person who is able to answer on behalf of the insurer the policyholder's questions about the collection, use or disclosure of information.
- Insurers must identify all potential third parties that may have access to personal information, that may use personal information, or to whom personal information may be disclosed.
- The policyholder and any insured to whom UBI data pertains have rights of access to, correction of, and care of their information in accordance with Part 3 of PIPA.
- The policyholder may vary or withdraw consent at any time. If the policyholder varies or withdraws consent, the insurer must comply with the requirements of section 9 of PIPA.
- If additional information will be collected beyond what is necessary for the purpose of the insurer's UBI program, or if secondary uses will be made of information that is collected, insurers need to obtain explicit verbal, written or electronic consent of the policyholder and of any insured to whom the UBI data pertains.
- If an insurer obtains or attempts to obtain consent by
  - providing false or misleading information respecting the collection use or disclosure of the information,
  - or using deceptive or misleading practices,

the consent provided or obtained under those circumstances is not valid and the insurer may be found to be engaging in an unfair act or practice and may be subject to an administrative penalty.