

Exposure Draft on Claims Settlement Practices Feedback Statement - Summary of Key Feedback Received and Bank Negara Malaysia's Responses

In June 2023, Bank Negara Malaysia (BNM) issued an Exposure Draft on Claim Settlement Practices for public consultation. BNM received feedback from 39 respondents. Among the 39 respondents were 23 general insurer and takaful operators (GITO), 7 registered adjusters, 2 Government agencies i.e. Jabatan Pengangkutan Jalan (JPJ) and Malaysia Automotive, Robotics & IoT Institute (MARii), Financial Markets Ombudsman Service (FMOS)¹, Federation of Automobile Workshop Owners' Association of Malaysia (FAWOAM), Malaysian Brokers Association, 2 law firms and 2 members of the public. We greatly appreciate the effort made in providing feedback and suggestions for BNM's consideration.

This Feedback Statement is intended to summarise the key feedback received and BNM's responses to provide greater insights on BNM's regulatory expectations to achieve the desired outcomes of transparency. Other relevant feedback, suggestions and queries have been incorporated in the Policy Document on Claims Settlement Practices (PD CSP).

No.	Area	Feedback Received	Bank Negara Malaysia's Response
1.	Effective date of the PD CSP	<p>Majority of the industry respondents (GITO) disagreed with the PD CSP being effective immediately upon issuance. Feedback indicated that the PD CSP should be effective at least 6 months upon its issuance mainly due to resources and time required to operationalise the policies and procedures in the PD CSP. This includes system enhancements, staff training and briefing the relevant stakeholders e.g. intermediaries such as agents and registered adjusters.</p> <p>Meanwhile, some industry respondents requested more time such as 9 and 12 months to ensure completion of system enhancements.</p>	<p>Upon reviewing industry feedback, BNM has taken into consideration both the need for timely implementation of the PD CSP to prevent adverse consumers outcomes and the industry's operational readiness. Accordingly, BNM has set the PD CSP's effective date for six months upon its issuance, on 2 January 2025.</p> <p>However, there are requirements that will take effect immediately upon the issuance of the PD CSP on 1 July 2024 covering areas related to consumers and their safety, requirements unchanged from the previous CSP Guidelines, and those already in effect. These include:</p> <ul style="list-style-type: none"> (a) third-party property damage claims (TPPD)²; (b) betterment charges; (c) vehicle valuation; and (d) actual total loss (ATL) and beyond economic repair (BER) motor claims.

¹ Previously known as Ombudsman for Financial Services.

² Paragraphs 14.11 to 14.26 which refers to requirements on third-party property damage claims (TPPD) are effective from 1 July 2024 onwards, i.e. applies prospectively to all TPPD submission arising from losses/accidents occurring from 1 July 2024 onwards.

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2.	Increasing the minimum rates for Compensation for Assessed Repair Time (CART) scale, applicable where a claimant is unable to produce satisfactory documentary evidence to support a claim for CART	<p>Majority of the industry respondents disagreed with the proposed increase in the CART scale based on inflation rate, which is an increase by 69% based on inflation-adjusted for the period between December 1997 to June 2022 – using the Consumer Price Index for transport. Their concerns centred around the possibility that higher CART amounts payable could lead to increased claims costs, potentially driving up motor insurance premiums and encouraging a higher number of CART claims. There were also concerns that this increase might result in more fraudulent claims.</p> <p>On the other hand, some industry respondents supported the proposed rate increase, recognising that it would help address consumer complaints about the current low rate of CART scale.</p> <p>Nevertheless, upon further engagement, the industry provided feedback that the inflation-based increase in the CART scale is unlikely to have a significant impact on insurance premiums. This means consumers could benefit from a more realistic and fair compensation rate without facing steep increases in premium costs.</p>	<p><i>(Please refer to paragraph 4.1 of the PD CSP on the effective dates).</i></p> <p>CART refers to the compensation that a claimant may receive for the assessed repair time for their damaged vehicle. This does not include the total number of days the vehicle is in the workshop. The number of days for the computation of CART must be based on the recommendation of the registered adjuster or assessment of the in-house assessor on the number of days required to repair the damaged vehicle.</p> <p>The CART scale as provided in Appendix II of the PD CSP is only applicable when a claimant <u>cannot produce receipts for the actual cost</u> of alternative transport arrangements (e.g. receipts for public transportation, ride-share fares or vehicle rentals) to support its CART claim. The CART scale defines the minimum amount payable and serves as a starting point and upward adjustments may be made by GITO according to the circumstances of each claim. For example, GITO may adjust the final payable amount to include additional days for unforeseen delays which are beyond the control of the third-party claimants.</p> <p>After careful deliberation, BNM has decided to increase the CART scale³ in line with inflation, which is more reflective of the current cost of transportation. This decision was made with the consumer's best interests in mind, taking into account industry feedback and actuarial analysis that indicate the adjustment will not significantly increase overall claims costs and premiums. This increase aims to ensure that consumers receive fair compensation that accurately reflects today's economic environment.</p> <p>Nevertheless, with the rise of digital ride-sharing services and the widespread availability of online rental receipts, it is expected that</p>

³ For the avoidance of doubt, this scale serves as a starting point and upward adjustments may be made by the GITO according to the circumstances of each case, where receipts cannot be produced.

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			<p>there may be less reliance on the CART scale in the future⁴. Instead, it is anticipated that more compensation will be based on the actual amounts paid in receipts produced. However, GITOs may adjust the final amount paid for vehicle rentals based on a replacement vehicle of equivalent type and capacity as the third-party claimant's damaged vehicle.</p> <p>As such, consumers are reminded to retain relevant receipts as this will:</p> <ul style="list-style-type: none"> (a) allow consumers to receive fairer compensation based on their actual expenses, providing a fairer and more accurate outcome for consumers; and (b) reduce disputes on the CART amount payable, in turn lengthening the claims process for consumers.
3.	Transparency in registered adjuster and in-house assessor's recommendations	Majority of the industry respondents expressed concerns that transparency in registered adjusters' recommendations may lead to more disputes between GITOs and repairers and thus, further delay the motor claims' turnaround time (TAT). This concern was raised particularly due to the absence of a dispute resolution framework at this juncture.	<p>This requirement aims to address the significant variance observed between claims estimated by repairer and the final claims approved by GITOs. BNM is of the view of that by making the recommendations of registered adjusters and in-house assessors transparent to repairers via the claims estimating systems and to consumers upon request, it places greater accountability and responsibility on both GITOs and registered adjusters and in-house assessors to be objective and transparent in their recommendations.</p> <p>Moving forward⁵, registered adjusters and in-house assessors are required to provide clear details to support any adjustments to the final claims amount. Additionally, GITOs must ensure that the approval or offer letter specifies the basis and reasoning for any material differences between the registered adjuster's recommendation and the GITO's final approved or offered amount.</p> <p>These measures are expected to enhance the overall claims experience for consumers by reducing disputes between GITOs,</p>

⁴ In light of the ease of reproducing and safekeeping digital receipts.

⁵ From 2 January 2025 onwards.

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			<p>registered adjusters and repairers in the long run, in turn speeding up the claims process.</p> <p>This also reinforces BNM's commitment to key stakeholders on upholding transparency which aligns with a key principle in the PD CSP. Ensuring transparency in the recommendations of registered adjusters and in-house assessors lays the groundwork for the successful implementation of the upcoming Insurers and Takaful Operators-Repairers' Code of Conduct (COC) and the establishment of the Independent Dispute Resolution Framework (IDRF). As such, the IDRF to be put in place will effectively address concerns on the lack of a structured dispute resolution mechanism.</p> <p>These initiatives are part of BNM and the industry's ongoing efforts to improve the motor claims ecosystem, ultimately ensuring better consumer outcomes.</p>
4.	Competency and qualification of GITOs' in-house assessors	Some respondents raised concerns on the need for increased competency and qualifications of GITO's in-house assessor, i.e. continuous professional development (CPD), similar to those required of registered adjusters. This is based on the understanding that in-house assessors should be clearly differentiated from registered adjusters, who are subject to higher standards of professionalism, qualification, and training as independent parties carrying out adjusting work.	<p>BNM is of the view that minimum qualifications and training are required for GITOs' in-house assessors⁶ as they perform similar roles to registered adjusters i.e. to assess losses. As such, the requirements introduced in the PD CSP requires GITOs to ensure that their in-house assessors are:</p> <ul style="list-style-type: none"> (a) adequately qualified and competent to carry out objective claims assessments, including determining the cause, circumstances and quantum of loss related to a motor insurance/takaful claim; and (b) provided with relevant and continuous training to keep pace with the latest technical, technological, environmental and other developments in the motor ecosystem in order to deliver high-quality claims assessments.

⁶ In-house assessor refers to a GITO's personnel who assesses repair estimates for the purpose of informing claims settlements by the GITO. This includes a GITO's personnel carrying out desktop assessment and/or field inspection in assessing repair estimates of a damaged motor vehicle for the purpose of informing claims settlement by the GITO. For the avoidance of doubt, in-house assessors are employees of GITOs and not independent parties, and does not include adjusters registered under section 2(1) of the Financial Services Act 2013.

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			To this end, GITOs should be guided by the qualification and training requirements under the Policy Document on Registration Procedures and Requirements on Professionalism of Adjusters.
5.	Management of Third-Party Service Providers for Motor Claims	The industry raised concerns on various parties contributing to the persistent issues in the motor ecosystem, which remains unaddressed.	<p>Recognising that certain issues and parties within the motor claims ecosystem extend beyond BNM's purview and direct oversight, BNM has taken proactive steps to mitigate these issues by leveraging on GITOs' management of third-party service providers.</p> <p>Measures introduced in the PD CSP aim to strengthen GITOs' accountability on its third-party service providers. Moving forward⁷, GITOs are held to higher standards, particularly in areas such as:</p> <ul style="list-style-type: none"> (a) ensuring fair and adequate contractual obligations via GITO's service level agreements with its panel repairers and panel registered adjusters, i.e. clearly defined service standards in GITO's SLAs to minimise disputes; (b) managing complaints from its consumers and third-party service providers in a timely, fair and effective manner; and (c) establishing effective whistleblowing policies, procedures and mechanisms for any person, including third-party service providers, to raise issues or wrongdoings encountered during the claims settlement process, to the GITO in a secure and trusted manner. <p>By establishing these standards, BNM seeks to not only improve the accountability and responsibility of GITOs within the claims processing chain, but also to ensure that consumers benefit from a more reliable and equitable claims experience.</p>
6.	Actual Total Loss (ATL) and Beyond Economic Repair (BER) Motor Claims	Various issues surrounding ATL and BER vehicles have been raised by several stakeholders. This includes: (a) lack of clarity on the application and definition of ATL and BER;	Given the public safety implications arising from these issues, BNM has collaborated extensively with Jabatan Standards Malaysia (JSM), MARii, the Ministry of Transport (MOT) and JPJ to strengthen the process involving ATL and BER vehicles. Comprehensive safeguards have been established to protect

⁷ From 2 January 2025 onwards.

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		<p>(b) improper deregistration and disposal of ATL vehicles, despite safety concerns this poses (i.e. ATL vehicles are considered not roadworthy and unsafe to be on the road);</p> <p>(c) the misuse of ATL and BER vehicle identities through the illegal transfer of number plates to cloned vehicles, leading to a growing number of vehicle owners falling victim to fraudulent activities; and</p> <p>(d) significant challenges faced by consumers in obtaining/renewing insurance/takaful coverage for the BER vehicles they have purchased.</p>	<p>consumers and combat fraudulent activities, such as vehicle cloning, within the ATL and BER ecosystem.</p> <p>In view of this, BNM has established definitions for ATL and BER vehicles to ensure consistent application across industries, as follows⁸:</p> <p>(a) ATL refers to the condition of a motor vehicle that has sustained severe damage which has compromised the structural integrity of the main chassis, to the extent that the damaged motor vehicle cannot be repaired or restored to a safe state and thus, can only be scrapped.</p> <p>(b) BER refers to the condition of a damaged motor vehicle which is repairable but not financially feasible to be repaired or restored to a roadworthy condition.</p> <p>In simple terms, ATL vehicles refer to severely damaged vehicles which are beyond repair, which must be deregistered and must not return to the road. On the other hand, BER vehicles are those that are badly damaged but can still be repaired though at a high cost. Once repaired, these vehicles are safe to return to the roads.</p> <p>The PD CSP outlines requirements with respect to GITOs' timely reporting to JPJ, proper handling of ATL and BER vehicles by relevant stakeholders and insurance/takaful coverage by GITOs for BER vehicles⁹. Specifically, BNM has introduced several key requirements for GITOs, such as:</p> <p>(a) Setting strict deadlines for reporting ATL and BER vehicles to JPJ. Additionally, GITOs are required to enhance their systems to automate this reporting process, reducing the risk of manipulation and fraudulent activities.</p> <p>(b) Given that ATL vehicles are unsafe to return to the road, BNM requires GITOs to ensure all ATL vehicles are properly deregistered and disposed of. Specifically, GITOs are</p>

⁸ The definitions are aligned with the definition of ATL and BER in JSM's voluntary standards on Motor Vehicle Aftermarket: Smash Repair Requirements at [JSM - MySQL](#).

⁹ Incorporated into the PD CSP and continues to be effective upon issuance PD CSP issued on 1 July 2024.

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			<p>required to send ATL vehicles to an Authorised Automotive Treatment Facility (AATF), where available¹⁰, to ensure environmentally responsible disposals. This is in line with the expectations on financial institutions to effectively manage all material risks, including climate-related risks.</p> <p>(c) For BER vehicles that are deemed repairable, GITOs must ensure that the said vehicles undergo the appropriate inspection and are certified as roadworthy by an authorised vehicle inspection provider such as Puspakom Sdn Bhd (PUSPAKOM) before BER vehicles can be resold in the used car market and return to the road. This requirement safeguards consumers by ensuring that vehicles re-entering the secondhand market are both safe and certified for road use.</p> <p>(d) With respect to motor insurance/takaful coverage for BER vehicles, BNM has outlined expectations for GITOs to provide due consideration and make reasonable efforts to serve consumers who ultimately purchase repaired BER vehicles.</p> <p>BNM will continue to work closely with key stakeholders such as the MOT, JPJ, Insurance Services Malaysia Berhad (ISM), PUSPAKOM and industry associations to ensure these requirements are adequately operationalised. This includes efforts to address the misperceptions of ATL and BER vehicles through a nationwide consumer awareness and education campaign, to be led by the GITO industry.</p>
7.	Motor timelines for claims processing	Common concerns from various stakeholders were raised on delays in motor claims, specifically for third-party property damage (TPPD) claims.	<p>BNM has revised and shortened the timelines for all motor claims processes that GITOs must adhere to¹¹, with the aim of enhancing efficiencies to reduce the TAT for motor claims. This is intended to enhance the consumer experience by expediting the claims process.</p> <p>Additionally, each GITO is required to publish a Motor Consumer Service Charter (MCSC), informing consumers of its client service commitments and any value-added services. This</p>

¹⁰ Within **five (5) working days** upon deregistration, subject to exceptional circumstances such as difficulty in obtaining a policy owner's written consent.

¹¹ From 2 January 2025 onwards.

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		<p>To address the delays in TPPD claims, industry feedback received requested for BNM to mandate the submission of Own Damage Knock-for-Knock (OD KfK) claims, where comprehensive policies coverage applies. This is in view of the significant delays in first notification of loss (FNOL) for TPPD/TPPD KfK claims due to various parties within the motor ecosystem, which will be addressed by mandating OD KfK claims submissions.</p> <p>Nevertheless, upon further engagement with the industry and some legal community members, it was found that mandating OD KfK may lead to heightened legal and reputational risks.</p>	<p>transparency empowers consumers to make informed decisions when selecting the motor insurance/takaful provider that best meets their needs. For example, by detailing each GITO's motor claims processing TAT, the MCSC promotes healthy competition among GITOs, driving improved service quality and ultimately benefiting consumers through enhanced service standards.</p> <p>Upon reviewing industry feedback, BNM considered making the submission of OD KfK claims mandatory to expedite the TPPD claims process and provide faster resolutions for comprehensive policyholders/takaful participants. However, recognising the importance of preserving consumer choice, BNM has decided to take an alternative approach, as below.</p> <p>GITOs are required to offer and advise consumers on the option of submitting an OD KfK claim and the benefits of doing so. This approach aims to achieve the same outcome of quicker claims resolution without limiting consumer choice.</p> <p>Moving forward¹², GITOs are required to:</p> <ul style="list-style-type: none"> (a) contact their policyowner/takaful participant upon being made aware of an impending claim to offer the option of submitting an OD KfK claim; (b) inform their policyowner/takaful participant that their No Claims Discount (NCD) will not be affected if an OD KfK claim is submitted; and (c) advise their policyowner/takaful participant on the benefit of submitting an OD KfK claim. <p>GITOs are also required to submit a quarterly report on its KfK claims take-up rates. This is to enable monitoring on the effectiveness of GITOs efforts to promote awareness and take-up rates for OD KfK. Given the clear benefits arising to policyholders that qualify for such, GITOs are expected to actively promote the availability and benefits of the OD KfK option to its policyholders / takaful participants.</p>

¹² From 1 July 2024 onwards, i.e. applies prospectively to all TPPD submission arising from losses/accidents occurring from 1 July 2024 onwards.

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8.	Non-motor timelines for claims processing	In the Exposure Draft for CSP, it was proposed for non-motor claims timelines to be shortened and streamlined with the shortened motor claims timelines. However, feedback received showed strong pushback from industry to shorten non-motor claims timelines given the higher complexity, verifications required and reinsurance arrangements involved in the processing of non-motor claims compared to motor claims.	<p>Taking into consideration the industry's feedback and the low number of complaints received by BNMLINK on delays in non-motor claims processing over the years, BNM has retained the existing timelines for all non-motor claims due to its complexity and challenges¹³.</p> <p>Nevertheless, to enhance operational efficiency, BNM has reduced the timelines for GITOs to appoint registered adjusters for all non-motor claims, aligning it with the shortened timelines for motor claims in this respect.</p> <p>GITOs are also strongly encouraged to develop and publish their own Customer Service Charter for non-motor claims, especially for personal lines. These charters will highlight each GITO's key service commitments for non-motor claims, providing greater transparency and better informing consumers within the non-motor insurance/takaful sector as well.</p>

¹³ For example, claims assessment for non-motor claims requires longer time compared to motor claims i.e. fire, medical, personal accident claims where there is death which requires detailed investigation involving post-mortem report, grant of probate and police investigation outcome as well as personal line fire policies involving valuation of the houseowner's items which involves intricate assessments e.g. valuation of jewelry.