

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

---

The Administrator's Annual Report  
**2020-2021**



5

years of preparedness

Cover Image: Photo by Steve Boyko (2020), Winnipeg, Manitoba

---

***Published by the Administrator of the***

Fund for Railway Accidents Involving Designated Goods

Suite 830, 180 Kent Street

Ottawa, Ontario, Canada

K1A 0N5

Tel.: (613) 991-1727

Fax: (613) 990-5423

[www.fraidg-ciafimd.gc.ca](http://www.fraidg-ciafimd.gc.ca)

The Honourable Omar Alhabra, P.C., M.P.  
Minister of Transport  
Ottawa, Ontario  
K1A 0N5

Dear Minister:

Pursuant to section 155.93 of the *Canada Transportation Act*, I have the honour of presenting to you the Annual Report for the Fund for Railway Accidents Involving Designated Goods to be laid before each House of Parliament.

The report covers the fiscal year ending March 31, 2021.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anne Legars', with a horizontal flourish at the end.

Anne Legars, LL.M., CAE  
Administrator of the  
Fund for Railway Accidents Involving Designated Goods

# TABLE OF CONTENTS

---

<b>INTRODUCTION</b> .....	3
<b>1. ACTIVITY REPORT</b> .....	5
1.1. Readiness for the assessment and payment of claims.....	6
1.1.1. Action plan progress report .....	10
1.2. Assurance that records and systems are properly maintained.....	11
1.3. Annual report to the minister of transport for tabling in parliament and outreach activities.....	14
Five years of preparedness.....	16
2016-2021 highlights .....	17
2016-2021: strategic orientations and results.....	18
<b>2. FINANCIAL REPORT</b> .....	22





# INTRODUCTION

---

The Fund for Railway Accidents Involving Designated Goods (the Fund, or the Rail Fund) is a specified purpose account in the accounts of Canada, established under section 153.4 of the *Canada Transportation Act* (the Act). The Fund compensates victims of damages caused by a major crude-by-rail accident. Compensation starts after federally regulated railway companies have paid damages up to the amount required by law, and for which they must have insurance coverage. This mandatory insurance coverage is based on the risk, type and volume of crude oil they transport. It varies between \$100 million to \$1 billion.

The Fund is financed through a levy, a per-tonne fee charged to shippers, which is collected and remitted by the first railway to carry the crude oil in Canada.

A railway company involved in a crude oil accident is liable for damages without fault or negligence having to be proven. If more than one railway company is liable, the railway companies are jointly and severally liable each up to the amount of the minimum liability insurance coverage they are required to have by law.

In the event of a disaster, the Fund has no limit to how much it can compensate. The Fund also has access to additional federal money through the Consolidated Revenue Fund, should the balance available with the Fund be insufficient to pay all eligible claims.

This annual report covers the fiscal year ending March 31, 2021.



This is the 5<sup>th</sup> annual report of the Fund, which turns 5 on June 18, 2021.

**This is also the 5<sup>th</sup> annual report submitted by the present Administrator, whose current five-year term (2018-2023) was preceded by two interim mandates (in 2016, then in 2017).** In order to provide an overview of those first five years, an additional section, at the end of the activity report, summarizes the 2018-2021 strategic planning cycle and sets out future directions.



With the ongoing Coronavirus disease (COVID-19) pandemic, the Administrator had to overcome many challenges. Although staff was able to switch to remote work from the first shutdown in March 2020, the pandemic had an impact on the Fund and on the activities carried out by the Administrator's office. These impacts are indicated throughout the report by a COVID-19 icon.



## 2020-2021 AT A GLANCE

---

**No accidents** involving the Fund, but six accidents monitored by the Administrator

**\$1.79 per tonne** collected from shippers of crude oil by rail

**Over \$9.5 million** in levies (a "per-tonne" fee) collected this year

A total of over **\$84 million accumulated** by the Fund at the end of the fiscal year

Advancement of the **readiness action plan** to provide compensation

**Recruiting and onboarding of new staff** to take over the development of the Fund's program

Statutory five-year **Special Examination** in 2021

# 1. ACTIVITY REPORT

---

## THE FUND'S 2020-2021 FISCAL YEAR WAS MARKED BY THE FOLLOWING EVENTS:

- ▶ **No railway accidents involving crude oil.** No railway accident involving crude oil happened during the fiscal year.
- ▶ **Indexation of levy.** On April 1, 2020, the levy was adjusted from \$1.76 to \$1.79 per tonne for the 2020-2021 fiscal year, a 1.7% increase. The levy, a per-tonne fee, is paid by the shippers which is collected and remitted by the first federally regulated railway to carry the crude oil in Canada. As announced on March 27, 2021, for the fiscal year starting on April 1, 2021, the levy is \$1.80 per tonne, a 0.6% increase.
- ▶ **Rebuilding of the team.** Further to the passing in March 2020 of the Director who had been hired in December 2019, the Director position was filled again in October 2020 after a six-month executive search. The Policy Analyst position was also re-filled in August 2020 after the previous analyst left in July 2020. A second lawyer, who had gone through the Fall 2019 lawyer recruitment competition, was also hired

to round out the team, starting March 1, 2021. All in all, most of the fiscal year was spent recruiting and onboarding new staff to take over the development of the Fund's program. However, these new recruits have been able to team up rapidly thereafter and have restart moving the program forward.

- ▶ **Increasing the Fund's readiness.** The Office of the Administrator is implementing an action plan to facilitate access to justice and compensation for victims in case of a rail accident triggering the Fund. Strategic corporate initiatives undertaken or further developed this year as part of this action plan include:
  - Sourcing external resources for claims assessment and management;
  - Pre-planning and collaboration with railways carrying crude oil;
  - Communications plan in case of an accident;
  - Survey on topics of interest to stakeholders for the Fund's 5<sup>th</sup> anniversary.



► **Ship-source Oil Pollution Fund's (Ship Fund) Special Examination: impact on the Rail Fund.**

The Rail Fund and its sister Fund, the Ship Fund, share the same address and the same Administrator and Deputy Administrator, who have both been cross-appointed to the two Funds. Each Fund's program is managed by a team leader (for the Rail Fund: the Director) reporting to the Administrator, and the Corporate Services serving both Funds are managed by the Director, Corporate Services, also reporting to the Administrator. The costs of Corporate Services are pro-rated between the two Funds. The statutory five-year Special Examination of the Ship Fund was carried out during the Fall of 2020 and reviewed the governance and management of this Fund's program and of the joint Corporate Services. The findings and recommendations of this Special Examination are, to a large extent, relevant to the Rail Fund which will also be undergoing a Special Examination in 2021, as required by legislation.

**The Act provides that the Administrator is responsible for:**

- Establishing and paying out claims (sections 154.6 and 155 of the Act);
- Ensuring records and systems are properly maintained (section 155.92 of the Act);
- Submitting an annual report to the Minister of Transport for tabling in Parliament (section 155.93 of the Act).

This annual report is therefore structured along these core elements of the Administrator's statutory mandate.

## **1.1. READINESS FOR THE ASSESSMENT AND PAYMENT OF CLAIMS**

The Office of the Administrator has continued monitoring and following up on railway accidents, based on incident notifications received from the Transportation Safety Board of Canada (TSB). No crude-by-rail accident happened in 2020-2021.

Receiving, investigating, assessing and paying claims in case of a crude-by-rail accident where damages exceed the railway's limit of liability is at the heart of the Administrator's mandate. No such accident happened since the Fund was established in 2016.

**Monitoring of crude-by-rail accidents.** The six railway accidents involving crude oil that have happened since June 2016 and that are being monitored are described on pages 7 and 8. Although the Fund will probably not be triggered by any of these accidents, the Administrator continues monitoring all of them until the time bar for claiming against the railway company is reached.

Should the Fund be contacted by potential claimants in relation to any of these accidents, these claimants would be redirected to the contact persons within the relevant railway companies responsible for the compensation of damages until the subject railway has paid up to its limit of liability.



## 2016-2021 PORTFOLIO OF RAILWAY ACCIDENTS INVOLVING CRUDE OIL

### Red Deer, Alberta – June 8, 2018

On June 8, 2018, a Canadian Pacific Railway (CP) train, heading south, derailed near Red Deer, Alberta. Seven cars came off the track, six of which were carrying crude oil. Out of the six cars carrying crude, one train car was leaking oil. The derailment occurred in a rural, non-residential area. There were no injuries reported. The damages will not exceed the railway's limit of liability; therefore, the Fund will not be triggered for compensation purposes.

### St. Lazare, Manitoba – February 16, 2019



(Source: TSB)

On February 16, 2019, a Canadian National Railway (CN) train derailed near St. Lazare, Manitoba, in the rural municipality of Ellice-Archie. The train had 108 cars carrying crude oil, out of which 37 cars derailed. At least 14 out of these 37 derailed cars leaked approximately 820,000 litres of oil. CN's environmental team led the cleanup. There was no fire, no injuries, or evacuation. The derailment occurred on property owned by a rancher. Oil spilled in a small area on top of deep ice and snow covering a pond which is used to water cattle in the summer. Officials assured there was no danger of oil contaminating the nearby Assiniboine River. Although the scope of the damage is unknown, it was confirmed that the damages caused by the accident did not reach the railway's limit of liability. Therefore, the Fund will not be triggered for compensation purposes.

### Barwick, Ontario – May 4, 2019

On May 4, 2019, a CN freight train carrying crude oil, heading east, derailed near Barwick, Ontario. Five cars carrying crude oil and one sand buffer car derailed. No leaks or exposures were reported. There were no injuries and no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

### Guernsey, Saskatchewan (Lanigan) – December 9, 2019



(Source: TSB)

On December 9, 2019, a CP freight train carrying crude oil, heading east, derailed near Guernsey, Saskatchewan. A total of 33 cars derailed, 19 of which lost their entire load of crude oil, releasing about 1.5 million litres of crude oil. About 20 cars were engulfed in a large fire which burned for approximately 24 hours. No injuries or casualties were reported. However, there is concern that damages may have impacted the traditional land of the Kawacatoose First Nation. There was no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

## Guernsey, Saskatchewan – February 6, 2020



(Source: CP)

On February 6, 2020, a CP train, heading east, derailed near Guernsey, Saskatchewan. In total 32 cars derailed and an estimated 1.6 million litres of crude oil was released. The crude oil ignited and resulted in 19 cars catching fire. CP's emergency response teams were working with local first responders to contain the fire and ensure the clean-up of the area. No injuries or casualties were reported, but as a precaution due to air quality, 85 residents of the town of Guernsey were evacuated. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

## Emo, Ontario – February 18, 2020



(Source: CN)

On February 18, 2020, a CN train, heading east, derailed near Emo, Ontario. In total 31 cars derailed, including 26 cars carrying crude oil, 5 of which released their load. CN's environmental teams led the clean-up. Six homes in the area were evacuated as a precautionary measure. There were no injuries or casualties reported, as well as no fire and no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

### Party by Statute

If proceedings are commenced against a federally regulated railway company for damages, the Act provides that this railway shall name the Administrator as party by statute, even though the railway's limit of liability has not been reached. This has not happened this year, neither since the Fund was established.

**Progress made this year with respect to the Fund's readiness include:**

- ▶ **Sourcing external resources for claims assessment.** A Request for Information (RFI) was published in October 2020 as part of the process for the prequalification of Claims Assessment Services and Request for Proposal (RFP). This eventually led to the development of a Request For Standing Offer (RFSO), which will be published in the first half of the 2021-2022 fiscal year. Therefore, the Administrator's office is about to have a pool of prequalified external resources ready for assessing claims should a crude-by-rail accident trigger the Fund's jurisdiction. This pool will be refreshed after a number of years. In parallel, the possibility of accessing the government's prequalified pools of external service providers is being discussed, which might provide additional options in the longer run.
- ▶ **Pre-planning and collaboration with railways carrying crude oil.** The Administrator's office developed scenarios of collaboration with the railways with respect to the transition of claims management when the limit of liability of the railway is being reached. These scenarios are being discussed with railways carrying crude oil, including through the Railway Association of Canada (RAC).
- ▶ **Engagement with all federally regulated railways prior to any accident.** Railway companies that do not pay the levy may still be captured by the liability and compensation regime, for example if a crude-by-rail accident happens on their railway track segment, or if their tanker cars are part of a train that is involved in an accident. Last fiscal year, the Administrator therefore reached out to all federally regulated railway companies holding a Certificate of Fitness under the *Canada Transportation Act* and sent them a 2020 Annual Crude-by-rail Update Form. The goal is to facilitate further engagement and communication in case of a crude-by-rail accident, especially with companies that have not yet been involved with the Office of the Administrator. This engagement practice has continued this year with the circulation of the 2021 edition of the Annual Crude-by-rail Update Form.
- ▶ **Communications plan in case of an accident.** An external firm has been selected to help develop and implement a crisis and media management plan as well as related tools and training material in case of an accident triggering the Fund's involvement and liability.



## 1.1.1. ACTION PLAN PROGRESS REPORT

In 2020-2021, the Administrator continued to work on the action plan aimed at ensuring the Fund's readiness to manage and assess claims. The action plan includes:



### Communication protocols

**In progress**

Work with railway companies carrying crude oil to develop communication protocols in case of spills.



### External claims assessment services

**In progress**

Retain, on a stand-by basis, resources specialized in claims assessment for different types of damages that can be compensated under the regime, so that the Fund can manage large volumes of claims, if needed.



### Network of key stakeholders and payers

**Ongoing**

Consolidate the key stakeholders' network and the key payers' network.



### Key payers readiness plan

**Ongoing**

Develop a key payers' network readiness plan, including a number of best practices and tools.



### Claims policies and guidelines

**In progress**

Develop claims management policies and assessment guidelines, and circulate them for comments.



### Engagement with relevant federal entities

**In progress**

Work with other federal entities who would be involved in the compensation of damages following an accident, such as the Canadian Transportation Agency (CTA) (who would be involved in assessing damages caused by fire) and the Federal Court administration (who would be involved in reviewing the Administrator's assessment decisions).



### Discussions on new types of claims

**In progress**

Hold discussions with federal and provincial entities who also have a mandate to assess (1) pure environmental losses or a loss of non-use value relating to a public resource, or (2) Aboriginal peoples' claims for loss of fishing, hunting or gathering opportunities.



### Research and consultation on new fields of law

**Ongoing**

Conduct additional research and consultation on new fields of law.



### Scenario based training

**To come in 2021-2022**

Hold periodic workshops, including workshops dedicated to table-top indemnification scenarios.

## 1.2. ASSURANCE THAT RECORDS AND SYSTEMS ARE PROPERLY MAINTAINED

On the corporate management side, the most notable developments during the fiscal year include:

- ▶ **Rebuilding of the team.** The first six months of the fiscal year were marked by the executive search and competition for the replacement of the Director of the Fund, who passed away in March 2020 after only a few months in the position. A new director was appointed in mid-October. At the same time, the policy analyst position had to be filled again after the policy analyst recruited in 2019 decided in July 2020 to pursue a career change. Furthermore, another lawyer was hired in addition to the one recruited in 2019, as it became clear that the team would need more legal resources to shoulder the program development. The Administrator did not reopen competitions to fill the policy analyst and lawyer positions, as she went back to excellent candidates who had been through the initial competition process and were still available and interested. By the last quarter of the fiscal year, the new team had been onboarded and was up and running.
- ▶ **New balance between the two Funds.** A new “three -pillar” model was implemented in 2019 to upgrade the management of the Fund, its sister Fund (Ship Fund) and their joint corporate services (see organizational chart at p. 13). The Administrator and Deputy Administrator are cross-appointed for the two Funds, which share

their staff and premises. Direct costs are billed directly to each Fund, and indirect/shared costs are prorated between the Funds according to the terms of an MOU between the Funds. The 2020-2021 fiscal year marks a new balance between the two Funds, with the Rail Fund catching up in terms of internal and external resources dedicated to its program. As a consequence, the Rail Fund also bears this year a larger share of the Funds’ joint corporate services (rent, payroll, finance, IM/IT, communications, procurement services, etc.).

- ▶ **Validation of the revenue side and alignment for the five-year Special Examination.** The Fund is approaching its fifth year of existence and its first Special Examination will take place in 2021 as required by section 155.94 of the Act. This Special Examination will focus on financial and management matters relevant to the Fund, which will notably include a review of the revenue side of the Fund. As part of the preparation for the Special Examination, the Administrator’s office has been exploring third-party sources for validating levy collection and crude-by-rail volumes. A research project has been established with this goal in mind, and the Administrator’s staff are working closely with experts in the transportation and financial auditing fields. While the staff continues to work with Transport Canada in verifying this data, it is important that all possible sources of information that could assist in the verification process are considered.

► **The Ship Fund's Special Examination: value and impact for the Rail Fund.** The Ship Fund also has to carry out statutory Special Examinations every five years under its own legislation. Its last Special Examination took place in the Fall of 2020, and the report was issued at the end of December 2020. The systems and practices selected for examination included:

- Governance and risk management
- Internal management, performance measurement and reporting
- Operations management: review of claims process
- Human resources
- Information technology and information management

The Examiner found that, for the period under examination (March 2015 to September 2020), there was reasonable assurance that there were no significant deficiencies in the Office of the Administrator's systems and practices examined.

Some opportunities for improvement were identified in three of the five areas under examination and recommendations were made accordingly on:

- Governance
- Human resources and Information technology
- Information technology and management.

The Administrator agreed with all of the recommendations.

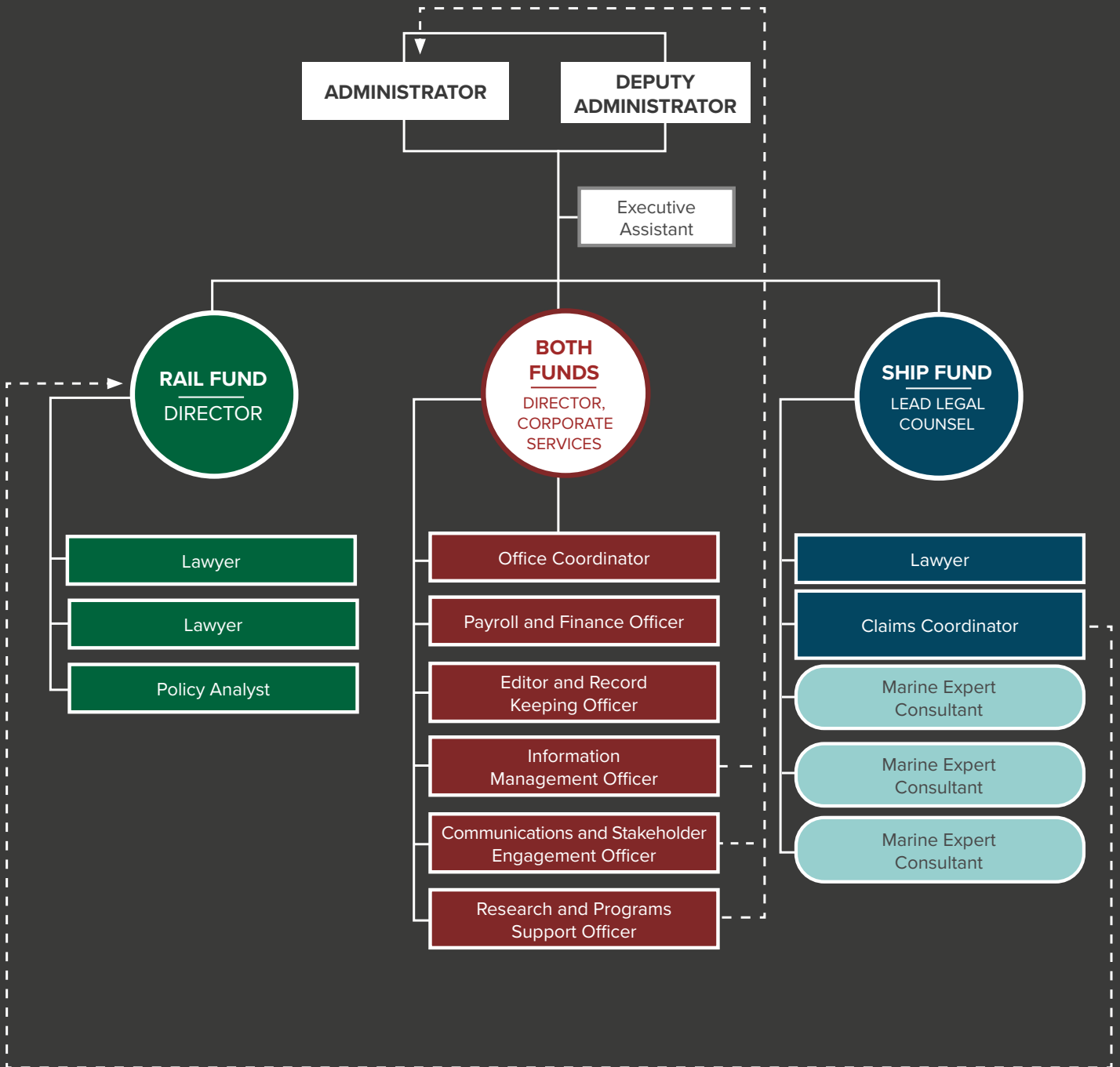
These findings and recommendations are also broadly relevant to the Rail Fund: the two home statutes are similar to a large extent and the corporate services covered by the examination are common to the two Funds. These findings and recommendations have been incorporated in the special insert "2016-2021: Strategic Orientations and Results" found below (pp. 18-21).

Implementation of the follow-up initiatives to the Ship Fund's Special Examination will therefore also be of benefit to the Rail Fund, at shared costs.

► **Information management and Information technology (IM/IT) assessment.** During the last quarter of the fiscal year, the Administrator's office sought proposals from external consulting firms for a global assessment of IM/IT requirements (with recommendations), as a first step in following up on the Ship Fund's Special Examination recommendations. By March 31, a firm had been selected and a contract was in place, covering both Funds' IM/IT.



# ORGANIZATIONAL CHART OF THE FUNDS



### 1.3. ANNUAL REPORT TO THE MINISTER OF TRANSPORT FOR TABLING IN PARLIAMENT AND OUTREACH ACTIVITIES

The Act provides that the Administrator shall submit an annual report for the activities in that year to the Minister, including financial matters set out at paragraph 155.93(2) of the Act. The financial report is submitted under part 2 of this annual report.

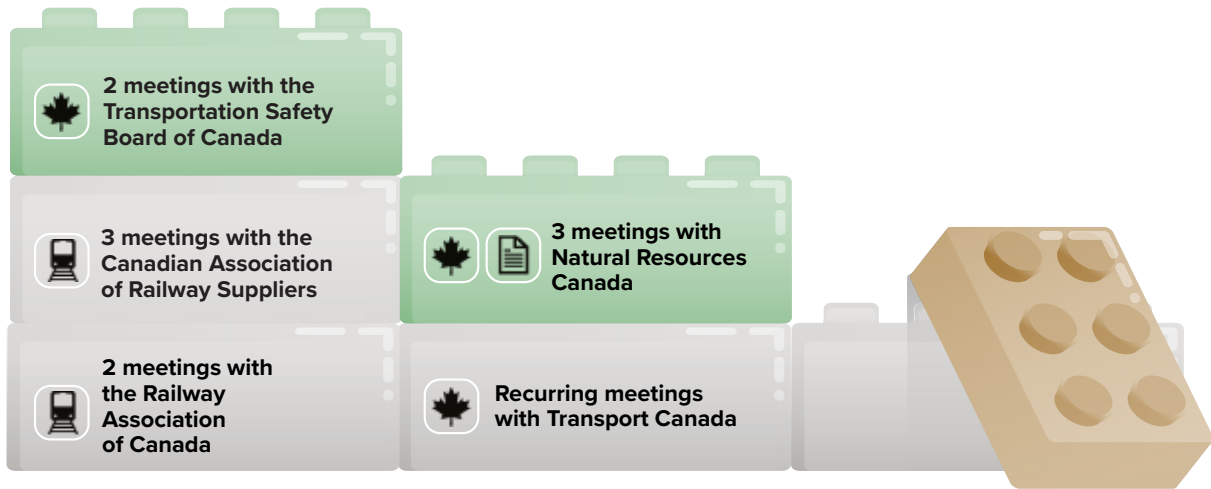
As mentioned in previous reports, the Administrator considers stakeholder engagement in the development of the claims management process as the best way to ensure that this process will be efficient and that the Fund will be relevant, i.e. that it will be able to meet its access to justice purpose. The activities reported in section 1.1 above (Readiness for the assessment and payment of claims) reflect this approach.



The 2020-2021 outreach activities are otherwise captured on page 15. The reader will notice an obvious slowdown compared with the previous years due to the COVID situation and to the rebuilding of the Fund team.



## FUND OUTREACH ACTIVITIES IN 2020-2021



### Legend for the type of stakeholders



Federal government



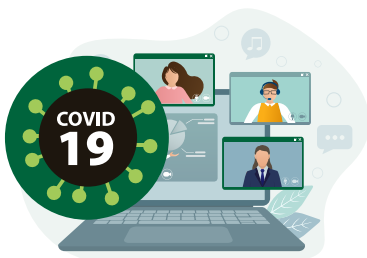
Railway companies and related associations



Claims and insurance specialists



**Leveraging the 5<sup>th</sup> anniversary year.** The Fund turns 5 on June 18, 2021. We intend to leverage this anniversary to enhance and accelerate engagement with our stakeholders through a number of initiatives and events which will take place during the upcoming year.



Due to restrictions imposed during the COVID-19 pandemic, all meetings were held virtually.

**Quarterly newsletter.** Our stakeholder network has continued to be enhanced through our quarterly newsletter. Launched in the Summer of 2018, this newsletter counts 369 subscribers as of March 31, 2021 (355 in March 2020).

**Joint outreach.** The Fund continues to do joint outreach with the Ship Fund when appropriate.



# FIVE YEARS OF PREPAREDNESS

## 2013

### Lac-Mégantic rail disaster:

- Six million litres of crude oil released
- 47 deaths
- 2,000 people evacuated
- Downtown core destroyed
- Generated over 4,300 claims



Source: TSB

## 2015

- *Safe and Accountable Rail Act* becomes law
- Adoption of a new class of tank car, the TC-117 / DOT 117, a much more robust jacketed tank car

## 2016

### Fund starts its operations

- Appointment of an Administrator
- Levy enforced at \$1.69 per tonne

Prohibited use of the DOT-111 class of tank cars like those involved in the Lac-Mégantic accident to transport crude oil in Canada

## 2018

Appointment of a Deputy Administrator

Second table-top simulation exercise held by the Fund

## 2020

First annual Crude-by-rail Update Forms sent to 26 federally regulated railway companies.

## 2017

First version of the Claims manual distributed to key stakeholders

First workshops, including the first table-top simulation exercise, and webinars held by the Fund

## 2019

Administrator's objective to engage with all provinces and territories with railways reached



# 2016-2021 HIGHLIGHTS



Over 50 billion litres of crude oil transported by railway companies since the creation of the Fund



Over 40 engagements with institutions and organizations



No accidents required the involvement of the Fund



4 presentations at national or international conferences

6 accidents monitored by the Administrator



Successful engagement of all provinces and territories



6 webinars hosted



Over \$84M accumulated to compensate victims



6 exhibition booths at provincial and national trade shows



Based on the polluter-pays principle, the Fund collects a per-tonne fee from federal railway companies transporting crude oil

- 2016-2017: \$1.69 per tonne
- 2020-2021: \$1.79 per tonne



2 table-top simulation exercises held



37 employees, consultants and interns

# 2016-2021: STRATEGIC ORIENTATIONS AND RESULTS

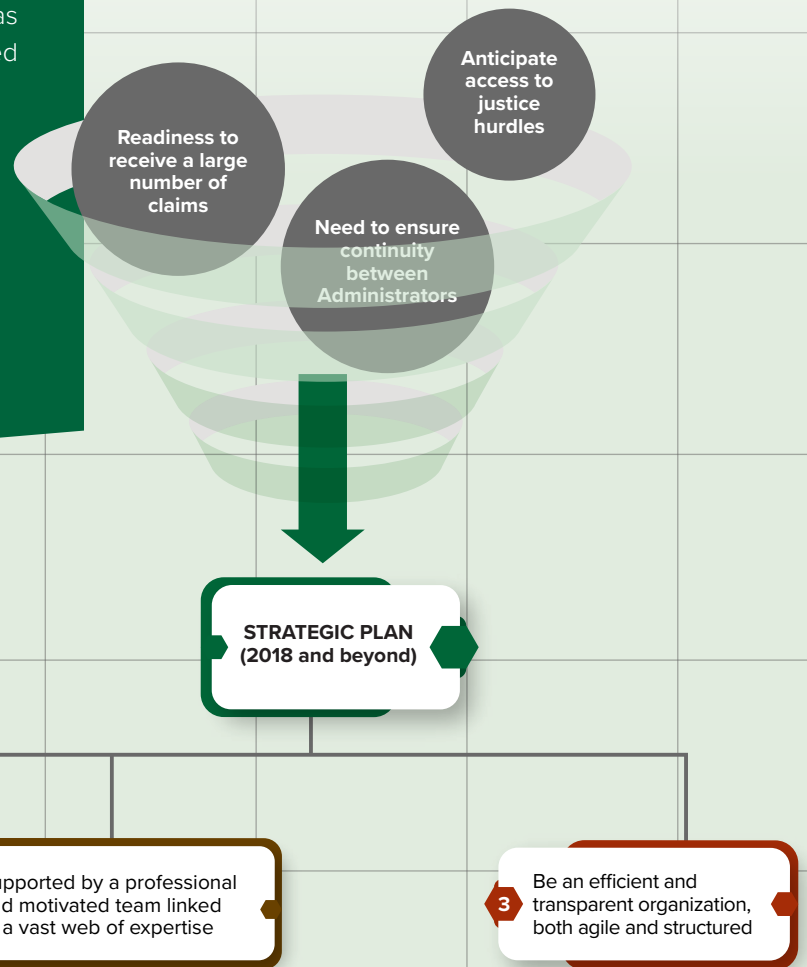


Anne Legars, who has served as Administrator since 2016, was reappointed Administrator for a five-year term in 2018. Also in 2018, Mark Gauthier was appointed as Deputy Administrator. This allowed for the deployment of a strategic plan (as reported in the 2018-2019 Annual Report) to address the strategic risks identified. This section will assess the results of the strategic plan (see graphic below) and identify the next steps.

## IMPORTANT ISSUES IDENTIFIED

The main challenge identified was making the Fund as relevant to the public as possible. It was determined that this goal could best be achieved by:

- ▶ Improving access to justice;
- ▶ Ensuring that many claims could be processed quickly in the case of a major accident;
- ▶ Ensuring continuity from one Administrator to the next with respect to all the core functions of the Fund.



# ACCESS TO JUSTICE FOR VICTIMS



## Description of the orientation

The **end goal** is to ensure that the compensation processes are clear and swift and support claimants in their need to access justice, while remaining fair and reasonable for the payers. These processes are documented, public, and open for stakeholder comments.

A **readiness plan**, based on stakeholder engagement between all the key players before an accident happens, is key to the efficiency and relevancy of the regime.

Measure of success: (1) key stakeholders engagement and (2) the level of preparedness, i.e. Level of progression in the Action Plan.



## What has been done

- ▶ See engagement metrics on page 17.
- ▶ See Action Plan progress report on page 10.



## Assessment

Initial engagement carried out across Canada with:

- ▶ **All key payers** (railway companies, shippers, insurance industry, provinces, municipalities and local governments, Canadian Red Cross, Indigenous Services Canada, etc.);
- ▶ **Key claimants** (insurance industry, provinces, municipalities and local governments, Indigenous groups, Canadian Red Cross, emergency response organizations, ports, etc.)

Initial engagement carried out with **organizations who have to manage similar legal issues** or have adjacent mandates.



## What's next (2021-2022 strategic plan adjustments)

Use the 5<sup>th</sup> anniversary year events to share and discuss with stakeholders the various elements of the Action Plan developed at this stage, and readjust as needed.



# PROFESSIONAL TEAM, LINKED TO A WEB OF EXPERTISE



## Description of the orientation

Recruiting, developing and retaining:

- ▶ Key in-house expertise;
- ▶ A robust network of external resources via the procurement of professional services and engagement with the stakeholders who have relevant expertise.

Measure of success: the ability to fill available positions (vacant positions) and retain staff (retention rate).



## What has been done

Use of existing human resources of the Ship Fund to fill the Fund's needs for corporate services, on a cost-sharing basis (the share of the Fund being 17% on average).

Development of new positions (director, lawyers, policy analyst) for the Fund's program (job descriptions and classification, and benchmark of salaries against the Ottawa job market), and hiring through competitions.

The Ship Fund's claims coordinator also monitors and documents the crude-by-rail accidents files.

37 people have worked for the Fund since its inception:

- ▶ 29 as employees (7 dedicated to the development of the program, 19 as shared services, 3 students);
- ▶ 8 as consultants (3 in the development of the program and 5 in corporate services).

Professional services have been procured, particularly for the development of the program:

- ▶ 47% of the operating expenses of the Fund were incurred for staff and office related expenses, while 42% were incurred for external services providers.

Implementation of a new "3-pillar" structure (see organizational chart p. 13).

Networking with "communities of practice" (legal, compensation, justice administration, small agencies, etc.)



## Assessment

All positions have been filled (no vacant position); 24 staff hired, onboarded and trained, managed, coached and assessed over the period.

Retention rate: from 2018, the retention rate of permanent employees has been high, save for a voluntary departure and a passed colleague.

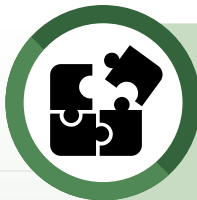
The Special Examination report of the Ship Fund found that the Office of the Administrator met the examination criteria for human resources systems and practices.



## What's next (2021-2022 strategic plan adjustments)

- ▶ A formal human resources plan, linked to the strategic plan, will be developed.
- ▶ Formal training plans are being developed for the various profiles.

# EFFICIENT AND TRANSPARENT ORGANIZATION, AGILE AND STRUCTURED



## Description of the orientation

Engaging in a continuous improvement process and being open to challenges coming from inside or outside the organization.

Documenting the Administrator's decisions, which are based on reasonability, while developing policies when needed.

Measure of success: ability to adjust to changing circumstances.



## Assessment

Delays in adjusting to changing circumstances have been relatively short, including adjusting to COVID-19, retirements, long-term leaves, new positions, changes in the organizational chart, etc.

The Special Examination report for the Ship Fund found that:

- ▶ the governance structure and responsibilities are clearly defined, documented and communicated;
- ▶ the internal management is effective;
- ▶ the Administrator identifies, assesses, monitors and reports risks related to achieving strategic objectives.



## What has been done

- ▶ Implementation of a "3-pillar" structure.
- ▶ Use of a simplified procurement process.
- ▶ Information technology assessment, development and implementation of a 3-year IT plan (2017-2020).
- ▶ Implementation of new management software applications.

- ▶ Use of social media and publishing a quarterly newsletter.
- ▶ Notification to the public in advance when traveling or attending events.
- ▶ Online advertisement of employment opportunities.

- ▶ Flexibility and synergy between the Funds for efficient staffing resources sharing.
- ▶ Shared student programs and pools of resources to enhance capacity and adjust to work fluctuation.

- ▶ Delegation framework involving the Deputy Administrator and directors.
- ▶ Documentation and development of policies and processes.

Efficiency

Transparency

Agility

Structure



## What's next (2021-2022 strategic plan adjustments)

Conduct a privacy impact assessment, carry out an information management and information technology assessment, and develop an information technology plan (as per the recommendation of the Ship Fund's Special Examination).

Develop a post-COVID workplace policy to manage remote work.

Try to gain access to the federal government's pools of prequalified suppliers.

## 2. FINANCIAL REPORT

---

During the fiscal year, the Fund collected \$9,555,289 in levies (compared to \$31,154,877 in 2019-2020).

The Fund also earned \$261,854 in interest in 2020-2021 (compared to \$637,687 in 2019-2020). Operating expenses amounted to \$942,752 for the fiscal year (compared to \$538,462 the previous year), including fees of \$77,719 paid to the Administrator and Deputy Administrator (compared to \$57,631 in 2019-2020).



Revenues decreased by \$21.6M in 2020-2021 compared to the previous year due to decreased volumes of crude oil shipped by rail, which was offset slightly by a 1.7% increase in the 2020 rail levy (\$0.03 per tonne). Interest revenues declined by \$375,000 as a result of lower average interest rates, which were 0.47% in 2020-2021 compared to 1.36% in 2019-2020.

Expenses increased by \$404,290 largely due to:

- ▶ An increase in consulting fees of \$205,000 to assist the Fund in the development of a procurement process to produce a list of prequalified claims processing service providers;
- ▶ An increase of approximately \$155,000 for administrative services, salaries, and office costs, including salary costs for additional staff equivalent to approximately one full-time equivalent position;
- ▶ A net increase of \$45,000 for other mostly allocated shared corporate costs, including \$33,000 in rent and \$20,000 in Administrator and Deputy Administrator fees, which was offset by a reduction of travel expenses due to COVID-19. Overall, the percentage of shared expenses allocated to the Fund increased from 26% at the end of 2019-2020 to 46% at the end of 2020-2021 due to the Fund's increased overall cost base.

At the end of the fiscal year, the Fund had an accumulated surplus of \$84,253,199 (compared to \$75,378,808 on March 31, 2020).

The Auditor's Report is included in the attached Financial Statements.



### Note on financial impact of COVID-19 for fiscal year 2020-2021:

Effective March 17, 2020, the Administrator requested that staff begin working remotely as much as possible, except where operational tasks required attendance in the office – for example, access to secure on-site information systems and materials, processing payroll and accounting transactions, and certain on-site administrative duties. Staff who were required to come to the office during specific "lockdown" periods were

reimbursed for parking expenses and provided with a bonus (as additional vacation time) for their time spent in the office. All employees were also offered a one-time reimbursable allowance of up to \$500 to offset incremental home office and equipment expenses. The total cost of these COVID-related initiatives for the Fund was approximately \$11,000, which was largely offset by a \$9,000 reduction of travel costs due to COVID-19. No additional costs were incurred in transitioning to remote work.



In five years, the Fund has collected **\$86,759,051** (which represents an average of \$17,352,000 per year).

- ▶ **98%** of this amount consists of levies (\$85,148,425)
- ▶ **2%** of this amount consists of interest (\$1,610,626)

During the corresponding period, the Fund spent **\$2,505,852** (or \$501,000 per year on average)

- ▶ **47%** of this amount was allocated to administrative services costs, salaries and office expenses (\$1,181,246), or \$236,250 per year on average
- ▶ **42%** of this amount was allocated to consulting fees (\$1,045,544), or \$209,109 per year on average
- ▶ **10%** was allocated to governance fees (Administrators and audit) (\$253,850), or \$50,770 per year on average
- ▶ **1%** was allocated to travel expenses (\$25,212), or \$5,042 per year on average



**FUND FOR RAILWAY ACCIDENTS  
INVOLVING DESIGNATED GOODS**

FINANCIAL STATEMENTS

MARCH 31, 2021

**FUND FOR RAILWAY ACCIDENTS  
INVOLVING DESIGNATED GOODS**

TABLE OF CONTENTS

	PAGE
Independent Auditor's Report	1
Financial Statements	
Statement of Financial Position	3
Statement of Operations	4
Statement of Change in Net Financial Assets	5
Statement of Cash Flows	6
Notes to the Financial Statements	7

## INDEPENDENT AUDITOR'S REPORT

To the Administrator of  
The Fund for Railway Accidents involving Designated Goods

### *Opinion*

We have audited the financial statements of the Fund for Railway Accidents involving Designated Goods (“the Fund”), which comprise the statement of financial position as at March 31, 2021, and the statements of operations, change in net financial assets and cash flow for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Fund as at March 31, 2021, and the results of its operations and its cashflows for the year then ended, in accordance with Public Sector Accounting Standards.

### *Basis for Opinion*

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the “Auditor's Responsibilities for the Audit of the Financial Statements” section of our report. We are independent of the Fund in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### *Emphasis of Matter – Budget figures*

As explained in Note 7 to the financial statements, budget figures are not disclosed in the financial statements, although it is required according to Public Sector Accounting Standards. Our opinion is not modified in respect of this matter.

### *Responsibilities of Management and Those Charged with Governance for the Financial Statements*

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Fund or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

### *Auditor's Responsibilities for the Audit of the Financial Statements*

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

**Marcil Lavallée**

**OTTAWA**  
400-1420 place Blair Towers Place  
Ottawa ON K1J 9L8  
**T** 613 745-8387  
**F** 613 745-9584

**Marcil-Lavallee.ca**  
Comptables professionnels agréés  
Chartered Professional Accountants

Cabinet indépendant affilié à  
Independent firm affiliated to



As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Chartered Professional Accountants, Licensed Public Accountants

Ottawa, Ontario  
May 12, 2021



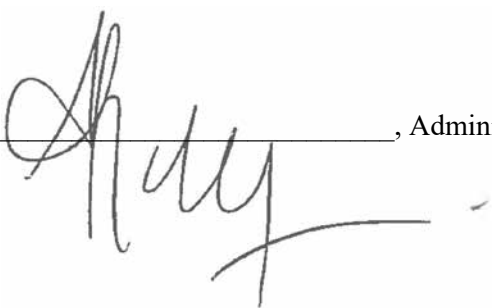
# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF FINANCIAL POSITION

MARCH 31, 2021

3

	2021	2020
<b>FINANCIAL ASSETS</b>		
Balance of the account with Receiver General for Canada (Note 3)	\$ 81,004,030	\$ 66,609,195
Accounts receivable	3,310,765	8,809,101
Accrued interest receivable	57,949	36,031
<b>TOTAL FINANCIAL ASSETS</b>	<b>84,372,744</b>	<b>75,454,327</b>
<b>LIABILITIES</b>		
Accounts payable and accrued liabilities	30,182	129,665
Due to Ship-Source Oil Pollution Fund	164,285	45,151
	<b>194,467</b>	<b>174,816</b>
<b>NET FINANCIAL ASSETS</b>	<b>84,178,277</b>	<b>75,279,511</b>
<b>NON-FINANCIAL ASSETS</b>		
Capital assets (Note 4)	74,922	99,297
<b>ACCUMULATED SURPLUS</b>	<b>\$ 84,253,199</b>	<b>\$ 75,378,808</b>

 \_\_\_\_\_, Administrator

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2021

4

	2021	2020
<b>REVENUE</b>		
Levy	\$ 9,555,289	\$ 31,154,877
Interest	261,854	637,687
	<b>9,817,143</b>	<b>31,792,564</b>
<b>OPERATING EXPENSES</b>		
Consulting fees	404,274	198,937
Administrative services, salaries and office expenses	365,029	209,906
Administrator and deputy administrator's fees	77,719	57,631
Rent	61,904	28,997
Travel	128	9,463
Audit fees	9,323	9,153
Amortization of capital assets	24,375	24,375
	<b>942,752</b>	<b>538,462</b>
<b>EXCESS OF REVENUE OVER EXPENSES</b>	<b>8,874,391</b>	<b>31,254,102</b>
<b>ACCUMULATED SURPLUS, BEGINNING OF YEAR</b>	<b>75,378,808</b>	<b>44,124,706</b>
<b>ACCUMULATED SURPLUS, END OF YEAR</b>	<b>\$ 84,253,199</b>	<b>\$ 75,378,808</b>

# **FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS**

## **STATEMENT OF CHANGE IN NET FINANCIAL ASSETS**

**FOR THE YEAR ENDED MARCH 31, 2021**

**5**

	2021	2020
<b>EXCESS OF REVENUE OVER EXPENSES</b>	<b>\$ 8,874,391</b>	<b>\$ 31,254,102</b>
Acquisition of capital assets	-	(123,672)
Amortization of capital assets	24,375	24,375
	<b>24,375</b>	<b>(99,297)</b>
<b>INCREASE IN NET FINANCIAL ASSETS</b>	<b>8,898,766</b>	<b>31,154,805</b>
<b>NET FINANCIAL ASSETS, BEGINNING OF YEAR</b>	<b>75,279,511</b>	<b>44,124,706</b>
<b>NET FINANCIAL ASSETS, END OF YEAR</b>	<b>\$ 84,178,277</b>	<b>\$ 75,279,511</b>

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2021

6

	2021	2020
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenses	\$ 8,874,391	\$ 31,254,102
<b>Adjustment for:</b>		
Amortization of capital assets	24,375	24,375
	<b>8,898,766</b>	<b>31,278,477</b>
<b>Net change in non-cash working capital items:</b>		
Accounts receivable	5,498,336	(4,291,573)
Accrued interest receivable	(21,918)	6,719
Accounts payable and accrued liabilities	(99,483)	125,969
Due to Ship-Source Oil Pollution Fund	119,134	45,151
	<b>5,496,069</b>	<b>(4,113,734)</b>
<b>INVESTING ACTIVITY</b>		
Acquisition of capital assets	-	(123,672)
<b>INCREASE IN THE BALANCE OF ACCOUNT WITH RECEIVER GENERAL FOR CANADA</b>		
	<b>14,394,835</b>	<b>27,041,071</b>
<b>BALANCE, BEGINNING OF YEAR</b>		
	<b>66,609,195</b>	<b>39,568,124</b>
<b>BALANCE, END OF YEAR</b>		
	<b>\$ 81,004,030</b>	<b>\$ 66,609,195</b>



# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

7

### 1. GOVERNING STATUTES AND PURPOSE OF THE ORGANIZATION

The Fund for Railway Accidents involving Designated Goods (the Fund) was created on June 18, 2016 under the *Safe and Accountable Rail Act* (the Act). The Act amends the *Canada Transportation Act*.

### 2. SIGNIFICANT ACCOUNTING POLICIES

#### Basis of accounting

The financial statements are prepared in accordance with Treasury Board accounting policies which are consistent with Public Sector Accounting Standards.

#### Accounting estimates

The preparation of financial statements in accordance with Treasury Board Secretariat accounting policies, which are consistent with Public Sector Accounting Standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses for the periods covered. The primary estimate relates to the valuation of provision for claims under review when such claims are received. Actual amounts could differ from the estimates.

#### Revenue recognition

The levy income is recognized when earned as per the volume of crude oil carried in Canada declared by railway companies.

#### Capital assets

Capital assets are recorded at cost. Capital assets are amortized over their estimated useful lives according to the straight-line method over the following periods:

Computer equipment	3 years
Furniture and equipment	10 years
Leasehold improvements	Remaining term of lease

### 3. BALANCE OF THE ACCOUNT WITH RECEIVER GENERAL FOR CANADA

The cash balance of the Fund is held within the Consolidated Specified Purpose Accounts of the Government of Canada. Public Works and Government Services Canada acts as the custodian of this cash balance and Transport Canada records the various transactions on behalf of the Fund. Interest is credited to the account in accordance with the provisions of the agreement signed on April 20, 2018 between Transport Canada and the Department of Finance at a rate based on a 5-year Government of Canada bond interest rate, calculated monthly. The interest rates varied between 0.32% and 0.99% during the year (2020: 0.78% and 1.64%). The average interest rate for the year ended March 31, 2021 was 0.47% (2020: 1.36%).

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

8

### 4. CAPITAL ASSETS

	Cost	Accumulated amortization	2021	2020
Computer equipment	\$ 5,141	\$ 3,427	\$ 1,714	\$ 3,428
Furniture and equipment	10,448	2,090	8,358	9,403
Leasehold improvements	108,083	43,233	64,850	86,466
	\$ 123,672	\$ 48,750	\$ 74,922	\$ 99,297

### 5. RELATED PARTY TRANSACTIONS

The Fund is related, as a component of the accounting framework of the Government of Canada, to all Government of Canada departments, agencies and Crown Corporations.

During the year, the Fund paid to the Ship-Source Oil Pollution Fund an amount of \$420,075 (2020: \$207,637) for its share of the following operating expenses:

	2021	2020
Administrative services, salaries and office expenses	\$ 358,171	\$ 178,640
Rent	61,904	28,997
	\$ 420,075	\$ 207,637

### 6. CONTINGENCIES

In the normal course of its operations, the Fund may receive information about incidents that have occurred but for which no claims have been received. It is not possible for the Fund to determine the likelihood of a claim for any of these reported incidents, if any. The Fund is also not able to assess the financial value of any such claims should they materialize. No provision related to such incidents is recognized in the financial statements. A provision is recognized when a claim is effectively received.

As of April 1, 2021, the Minister of Transport has the statutory power to impose a levy of \$1.80 (2020: \$1.79) per metric tonne of crude oil carried by a federally regulated railway in Canada. The levy is indexed annually based on the Inflation and Consumer Price Index.

### 7. BUDGET

The Fund for Railway Accidents involving Designated Goods does not prepare an annual budget due to the nature of its operations.