

Regulatory Statement



REGULATORY STATEMENT NUMBER: 21-010

TITLE: Motor Vehicle Dealership Loyalty Products

LEGISLATION: *Insurance Act (Section 1)*
Financial Institutions Act (Section 1)

DATE: June 18, 2021

DISTRIBUTION: B.C. Authorized Insurers
B.C. Motor Vehicle Dealerships
B.C. Licensed Insurance Agents

PURPOSE

This Regulatory Statement sets out BC Financial Services Authority's ("BCFSA") position on the application of section 1 of the *Insurance Act* ("IA") and section 1 of the *Financial Institutions Act* ("FIA") as they relate to motor vehicle dealership loyalty products offered in British Columbia.

BACKGROUND INFORMATION

BCFSA conducted a review of motor vehicle dealership loyalty products offered to British Columbians. Typically, these products provide a discount to consumers on a future replacement vehicle at the originating dealership should an event occur that results in damage or total loss of the original vehicle. Discount values can vary and are based on a number of factors including, but not limited to, the type of loss, the sale price of the original vehicle, and vehicle age at the time of purchase. These types of loyalty products are sold at motor vehicle dealerships accompanying the purchase, lease or finance of a new or used vehicle.

DEFINITIONS

Section 1 of the IA states:

“insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value on the happening of a certain event.

Section 1 of the FIA states:

“insurance business” means

(a) undertaking or offering to undertake to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed,

REGULATORY REQUIREMENTS

Entities offering dealership loyalty products undertake to indemnify the consumer by providing a benefit or thing of value (i.e., a predetermined discount on the purchase price of a replacement vehicle) on the happening of a certain risk or peril (i.e., theft, total loss, partial loss) in exchange for a specified fee should the consumer return to that dealership to purchase a replacement vehicle.

BCFSA has determined products of this nature, regardless of how the products may be marketed (i.e., as a loyalty program or under similar name), meet the definition of insurance under the IA and FIA.

Insurance products must be structured, marketed and sold in accordance with regulatory requirements. Specifically, those requirements are that products must be underwritten by a British Columbia authorized insurance company, marketed as an insurance product and sold only by agents licensed by the Insurance Council of British Columbia.

BCFSA encourages any entities currently offering or wishing to offer products of this nature to seek independent legal advice to ensure its activities are structured in compliance with British Columbia legislation.

Failure to comply with these requirements may result in enforcement action under the FIA.

Comments or questions related to this Regulatory Statement can be directed to insurance@bcfsa.ca.

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the *Financial Institutions Act* and *Credit Union Incorporation Act*, Regulations, and other pertinent legislation. While the comments in a particular part of a Regulatory Statement may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, instructions, definitions, and positions contained in a Regulatory Statement generally apply as of the date on which it was published, unless otherwise specified.