



**Motor Dealer**

**Customer Compensation Fund**

**Claims Adjudication**

**Policy and Procedures Manual**

# MDCCF Claims Adjudication Policy and Procedures

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## **A. INTRODUCTION**

### **1. Background**

#### **1.1 History**

The Motor Dealer Customer Compensation Fund (Compensation Fund), established on June 1, 1995, provides compensation for consumer loss resulting from a motor dealer's bankruptcy or financial failure. It replaced the requirement for each dealer to maintain a \$15,000 bond, which was deemed ineffective due to a lack of clarity.

The Compensation Fund was introduced to remedy the shortcomings of the bond system, particularly by

- clarifying who is eligible for compensation and the types of loss that will be compensated.
- eliminating the requirement for consumers to go to court to be compensated and
- establishing a maximum amount of compensation to be awarded per claim rather than a maximum amount per dealer.

On April 1, 2004, the VSA (Vehicle Sales Authority of BC) took over the Motor Dealer Customer Compensation Fund (MDCCF) Regulation, and on January 1, 2018, it became responsible for managing all aspects of the Compensation Fund.

#### **1.2 Operation of the Compensation Fund**

The purpose of the Compensation Fund is to reimburse consumers for eligible financial losses related to

- the purchase or lease of a motor vehicle
- the purchase of an extended warranty or service plan, or
- the consignment of a motor vehicle

in a transaction with a licensed motor dealer, particularly when the dealer is no longer in business.

The Compensation Fund provides a maximum compensation of \$20,000 per loss, financed by registered motor dealers in B.C. The Motor Dealer Consumer Compensation Fund Board (Board) has the sole authority to decide claims against the Fund. VSA collects dealer contributions and administers the Compensation Fund.

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## 1.3 Compensation Fund Policies

In addition to this policy and procedures manual, there are three other policy documents that guide the operation of the Compensation Fund:

- The Motor Dealer Consumer Compensation Fund Board Appointment Policy – this is the VSA Board’s policy on how MDCCF Board members are to be appointed or reappointed; and
- The Motor Dealer Consumer Compensation Fund Administration Policy – this is the VSA’s policy on how the VSA supports the Board and the administration of the Compensation Fund.
- The [Motor Dealer Consumer Compensation Fund Claims Processing Policy and Procedures Manual](#) - this is the VSA’s policy on how the VSA facilitates the efficient processing of compensation claims applications. It ensures fair and consistent claims assessment and timely processing for the MDCCF Board's adjudication process.

## 2. Claims Adjudication Policy and Procedures

### 2.1 Purpose of this Manual

The Claims Adjudication Policy and Procedures Manual outlines the policies and procedures for fair adjudication of claims against the Compensation Fund. It helps the Board maintain an impartial and consistent process that meets regulatory requirements and principles of fairness.

### 2.2 Role of Policy in Decision Making

The Claims Adjudication Policy and Procedures guide the Board in enforcing compensation eligibility requirements in a fair and consistent manner. However, the Board retains discretion when exercising its authority under the Motor Dealer Act (MDA) and MDCCF Regulation. Statutory decision-makers must consider the unique facts and context of each application when determining compensation eligibility to uphold natural justice principles.

### 2.3 Application of Time Limits

The [Claims Processing Policy and Procedures Manual](#) sets time limits for activities. Some are by law; some are by policy. Time limits by policy ensure a timely and fair resolution. Appendix A has a table summarizing policy-established time limits. Moreover, the Board will exercise discretion when enforcing a time limit set by policy and will consider the reasons why a time limit was not met, the impact of the failure to meet the limit on the parties' positions, and the fairness of the application process.

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## **2.4 How this Manual is Organized**

This manual is divided into the following sections:

- Section A—Introduction. This section provides background information about the Compensation Fund's history and operation, the use of this manual, and the roles and responsibilities of those involved in its operation.
- Section B – Board Hearing and Reconsideration. This section provides the policies and procedures regarding Board hearings and reconsiderations.
- Section C – Eligible Losses and Compensation. This section provides the policies and procedures for determining whether a claimant has suffered a loss that is eligible for compensation under section 5 of the MDCCF Regulation and for determining the amount of compensation to be awarded.
- Section D - Repayment of Alternative Compensation. This section provides the policies and procedures for determining the amount that a claimant must repay to the Compensation Fund where a claimant receives alternative compensation from other sources for the same loss that led to payment from the Compensation Fund.
- Glossary. The glossary contains definitions for important terms and acronyms used in this manual.
- Appendix A: contains a table of time limits established by policy.

### 3. Roles and Responsibilities

#### 3.1 MDCCF Board

The Board is an independent administrative tribunal established under the MDA and carries out statutory duties under the Act and the MDCCF Regulation. These duties include:

- determining whether a claim is eligible for compensation
- determining the amount of compensation to be awarded for an eligible claim
- determining the amount of the investigation costs in respect of the claim
- informing the Registrar of the money paid out of the Compensation Fund to claimants and of the investigation costs
- providing direction to the Claims Manager on matters of claim processing delegated to the Claims Manager by the Board
- approving the [Claims Processing and Adjudication Policy and Procedures Manual](#)
- monitoring the balance of the Compensation Fund in consultation with the Registrar, and
- providing an annual report on the Compensation Fund Board activity to the VSA Board of Directors.

#### 3.2 VSA Board

The VSA Board of Directors oversees business conduct and supervises the VSA's management. The responsibilities of the VSA Board regarding the Compensation Fund include:

- appointing members of the MDCCF Board
- appointing a Chair and Vice-Chair of the MDCCF Board
- acting as the Trustee of the Compensation Fund
- setting per diem rates for the MDCCF Board, and
- reviewing the MDCCF Board's annual report on the Compensation Fund Board's activities.

#### 3.3 MDCCF Claims Manager

The Claims Manager is a VSA employee who is primarily responsible for the day-to-day operation of the Compensation Fund. This includes:

- maintaining the application for compensation form and application requirements

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- managing intake and review of application requirements
- managing an initial eligibility assessment for all applications
- conducting claim analysis, and participating in and monitoring VSA dispute resolution processes regarding applications
- conducting a review of eligible loss for deposit claims up to \$5000 and all other claims up to \$2000
- conducting a review of eligible losses for all lien claims with no limit on the amount claimed
- managing preparing claim files for Board meetings
- overseeing the VSA's assistance to the Board with drafting decisions for claims
- managing requesting compensation payments from the Compensation Fund
- managing informing the Registrar of payments from the Compensation Fund to claimants and investigation costs
- managing correspondence with claimants and other parties on behalf of the Board
- managing the development and publication of consumer education and communications materials regarding the Compensation Fund and ensuring that published information is consistent with the Claim Processing and Adjudication Policy and Procedures
- reporting to the Registrar regarding all matters related to the application process and the day-to-day operation of the Compensation Fund, and
- reporting to the Board regarding all matters related to claims processing and any determinations regarding an application made by the Claims Manager.

### **3.4 Claims Officer**

Acts as a case manager for assigned Compensation Fund claims and provides effective case management, including:

- Reviewing claim applications for completeness and jurisdiction.
- Conducting additional data gathering.
- Circulating claim documents to the parties and acting as a key point for contact for the parties for information about their claims.
- Collaborating with Licensing, Investigations and Finance departments and obtaining relevant claim documents.
- Preparing claim files for adjudicators.



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Supports the Manager of Consumer Services with:

- Reviewing claims processed by other Consumer Services Officers.
- Make determinations about incomplete applications and claims outside of the jurisdiction for compensation from the Compensation Fund and communicate these determinations to the parties to claims.
- Reviewing claims packages for the Compensation Fund Board.
- Reporting to the Compensation Fund Board about the claims management.
- Attending Compensation Fund Board meetings and documenting the Compensation Fund Board's decisions for claims.
- Claims processing training for the Consumer Services Team.

### **3.5 Paralegal**

The Paralegal is a VSA employee who assists the Claims Manager and is primarily responsible for providing administrative support to the Board. This includes:

- scheduling Board meetings
- acting as liaison in communications with the Board, providing administrative support and maintaining Board's records
- attending Board meetings to provide secretarial support and record minutes, and
- drafting, editing and proofreading the Board's documents including decisions and compensation payment cheque requisitions.

### **3.6 VSA Consumer Services**

The VSA Consumer Services staff assist the Claims Manager in administering the application process and provides dispute resolution services for claimants where the Claims Manager recommends. This includes:

- performing case management at all stages of claim processing, including application intake and correspondence with claimants and parties
- performing conciliation; and
- arranging for other forms of dispute resolution where available.

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### **3.7 VSA Investigations**

The VSA Investigations staff assist the Claims Manager in analyzing claims and provides investigative services where required. This includes:

- participating in claim analysis
- conducting investigations on behalf of the Board, and
- producing investigation reports.

### **3.8 VSA Finance**

VSA Finance staff is responsible for:

- processing payments to and from the Compensation Fund, and
- maintaining a record of contributions to and payments from the Compensation Fund and providing regular reports on the balance of the Compensation Fund to the Board.

### **3.9 Director of Consumer Services and Industry Standards**

The Director of Consumer Services leads two VSA departments and has delegated authority from the Registrar. Their role related to the Compensation Fund includes:

- Overseeing all aspects of the claims processing and ensuring that it meets the requirements of the applicable legislation, policy and procedures, and principles of procedural fairness and natural justice, and
- Overseeing all aspects of the VSA support to the Compensation Fund Board.

### **4.0 Director of Investigations, Licensing and Legal Services**

The Director of Investigations is responsible for three VSA departments and serves as the VSA's Privacy Officer. Their role in the Compensation Fund includes:

- Providing legal advice to the VSA staff on all aspects related to the Compensation Fund claims processing, and
- Overseeing legal drafting by the Paralegal.

## **B. Board Hearing and Reconsideration**

### **1. Board Hearing**

#### **1.1 Introduction**

This part provides the policies and procedures regarding preparing for and conducting a hearing by the Board.

#### **1.2 Status of Application**

The application's status before the Board hearing depends on the pre-hearing claim processing required. In case of a claim hearing, both parties receive copies of each other's submissions and can respond. In case of a VSA investigation cost review hearing, the VSA investigation is completed.

## **MDCCF Claims Adjudication Policy and Procedures**

### **1.3 Legislative Authority and Requirements**

#### **Authority and powers of the Board**

1.3.1 The Board has the authority and powers under sections 16(1), 16(2.1), 16.1(1)(a), 16.1(1)(b), 16.1(1)(c) and 18 of the MDA and sections 34(3), 34(4), 48(1), 48(2), 48(3), 49(1) and 49(2) of the *Administrative Tribunals Act*.

#### **Confidentiality**

1.3.2 The Board must maintain confidentiality pursuant to section 29 of the MDA.

#### **Board hearing procedures**

1.3.3 The Board must apply sections 10(2), 10(3), 10(4) of the MDCCF Regulation and sections 15(5) and 15(6) of the MDA.

#### **Consideration of a default judgment/judgment by consent**

1.3.4 The Board must apply sections 16(2.1)(b) and 17(3) and of the MDA.

#### **Reasons**

1.3.5 The Board must make its decisions available in writing and, at the person's request, must provide written reasons for its decisions. [MDCCF Reg – s. 10(6)]

### **1.4 Policy**

#### **Nature of Board Hearing**

1.4.1 The Board will hear a claim based on the parties' written submissions and other documentary evidence except as provided in paragraph 1.5.2.

1.4.2 The Board will conduct an oral hearing of a claim only where the Board determines that oral testimony is necessary to evaluate the evidence adequately. Without limiting the discretion of the Board, this may include circumstances where

- (a) the credibility of a party or witness is at issue, or
- (b) a party or witness is incapable of adequately providing evidence in writing.

#### **Rationale**

*In most cases, documentary evidence will be sufficient for the Board to decide. Given the increased time and expense of conducting an oral hearing, all Board hearings should be*

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*based on documentary evidence except where the Board specifically determines that oral evidence is required.*

### **Notice to the parties**

- 1.4.3 Where a hearing is for deciding a claim, parties will be notified of the Board’s hearing.
- 1.4.4 Where a hearing is only to review investigation costs incurred by the VSA to process a claim, parties will not be notified of the Board’s hearing, since the hearing outcome will not affect the claim.

### **Hearings to be conducted at a meeting of the Board**

- 1.4.5 A hearing of a claim will be conducted at a meeting of the Board members. Where an in-person meeting of the Board members is not practicable, the Board may conduct a hearing by way of a teleconference, video-conference or other conferencing technology.
- 1.4.6 The Board will generally meet every two months to ensure that claims are heard within a reasonable time.
- 1.4.7 The duration of a Board meeting will generally be no more than one day, but may be scheduled for two consecutive days where required to ensure that claims are heard within a reasonable time.
- 1.4.8 The dates and duration of future Board meetings will be decided at a Board meeting based on the number of claims for hearing and the availability of Board members.
- 1.4.9 The VSA will determine the location of Board meetings and book meeting rooms and accommodation if required. Board members will make their own travel arrangements.  
[MDCCF Reg – s. 10(2)]

### **Conflict of interest**

- 1.4.10 A Board member will not knowingly participate in hearing a claim in which the member’s private interests are or appear to be in conflict with the member’s duty to impartially hear the claim.
- 1.4.11 Circumstances that may give rise to an actual or apparent conflict of interest include, but are not limited to the following:
- (a) a direct personal financial interest
  - (b) a personal relationship with one of the parties
  - (c) a current or previous professional relationship with one of the parties
  - (d) knowledge of or involvement with the claim outside of the claim adjudication process, and

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- (e) statements or conduct prior to a hearing that suggests a pre-judgment of the claim.

### Conduct of Board hearings

- 1.4.12 A quorum for the purposes of hearing a claim is at least one-half of the number of the current members of the Board.
- 1.4.13 When making a decision on a claim, the Board will consider
  - (a) the claim file, and
  - (b) where applicable, investigation costs incurred by the VSA to investigate a claim.
- 1.4.14 The Board may adjourn the hearing of a claim pending an investigation or further investigation of a claim and may direct that specific matters be investigated.

### Where evidence is a court judgment

- 1.4.15 Where the claimant relies on a default judgment or a consent order that ends a matter with a judgment in favour of the claimant (consent to judgment), the Board will not rely on the judgment or consent order as proof that the claimant has met any of the requirements for eligibility. [MDA s. 17(3)]
- 1.4.16 Where the claimant relies on a court judgment in a contested matter, the Board will rely on a finding of fact in the judgment that indicates that one or more of the eligibility criteria have been met.

#### Rationale

*Under s. 17(3) of the MDA, the Board cannot award compensation if the claimant has applied in respect of a default judgment or judgment by consent against a dealer unless the claim would be payable without relying on the judgment. However, if a judgment has been issued based on a judicial assessment of the evidence and findings of fact, the Board must accept those facts relevant to determining eligibility. Failure to do so may amount to an abuse of process by re-litigating matters already decided.*

### Standard of proof

- 1.4.17 A decision of the Board as to whether an application is eligible for compensation will be based on a balance of probabilities; that is, whether it is more probable than not that the application meets the requirements for compensation.

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### **Decision and reasons**

- 1.4.18 A Board decision on a claim or for investigation cost recovery by the VSA from the Compensation Fund will be based on the opinion of the majority of members present at a hearing.
- 1.4.19 After making a decision, the Board will review and confirm the reasons for its decision.
- 1.4.20 A claim decision will be in writing [MDCCF – Reg s. 10(6)] and will include:
- (a) reasons for the decision
  - (b) information for both parties on how to request reconsideration; and
  - (c) Claimants must notify the Board promptly if they receive any compensation from another source in relation to the loss for which they received payment from the Compensation Fund.
- 1.4.21 Where the Board's decision concerns a claim, the written decision will be sent to the parties no more than 30 business days after the hearing date.
- 1.4.22 Where the Board's decision concerns only recovering from the Compensation Fund the investigation costs incurred by the VSA, the VSA Finance Department will be notified of the decision. The parties to a claim do not require notification since they will not be affected by the decision.

### **Paying compensation**

- 1.4.23 Where a claim is approved, compensation payment will be sent to the claimant no more than 60 days after the date of the Board hearing, unless a reconsideration is requested.

### **Dealer repayment to the Compensation Fund**

- 1.4.24 Where compensation is paid from the Compensation Fund, the VSA Licensing will be notified of
- (a) claim payment from the Compensation Fund, and
  - (b) where applicable, investigation costs recovered by the VSA from the Compensation Fund
- for the purpose of obtaining repayment to the Compensation Fund from the dealer who caused payment from the Compensation Fund. [MDA s. 16(2.1)]

### **Confidentiality**

- 1.4.25 Board members will maintain the confidentiality of all confidential information obtained when hearing a claim and will only reveal or make use of such information during the performance of their duties as a Board member, except where the information becomes a matter of general public knowledge. [MDA – s. 29]

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### **Solicitor-client privilege**

- 1.4.26 Solicitor-client privilege applies to any legal advice requested and received by the Board. The privilege belongs to the Board as a whole and may not be waived by any individual member.
- 1.4.27 The Board's solicitor-client privilege may only be waived by a majority decision of all Board members.
- 1.4.28 The Board's confidential disclosure of privileged legal advice to the VSA and its employees and contractors to further the administration of the Compensation Fund does not constitute a waiver of the Board's solicitor-client privilege.

### **1.5 Procedures**

#### **Notice to the parties**

- 1.5.1 Where a hearing is only to review investigation costs incurred by the VSA to investigate a claim, parties to a claim will not be notified of a hearing since they will not be affected.
- 1.5.2 Where a hearing is for a claim and will be conducted based on the parties' written submissions, the Claims Manager sends a Notice of Hearing letter to the parties to the claim no less than 10 business days prior to the date of the Board hearing.
- 1.5.3 Where a hearing is for a claim and will be an oral hearing, the Claims Manager sends a Notice of Hearing letter to the parties to the claim no less than 30 days before the hearing date.
- 1.5.4 If a party who has received notice indicates that they cannot attend on the scheduled date, the Claims Manager consults with the Chair to determine whether or not to reschedule the hearing.

#### **Claim File to Board Members**

- 1.5.5 The Claims Manager prepares a claim file for each claim to be heard by the Board. The Paralegal provides claim files to the Board members no less than 14 days prior to the date of the hearing.
- 1.5.6 Where claim hearing is for deciding a claim, a claim file will contain all of the documentary evidence to be considered by the Board, including
  - (a) a summary of the claim prepared by the Claims Manager
  - (b) the application for compensation, including supporting documentation submitted by the claimant
  - (c) any of the following where applicable:
    - (i) the dealer's response to the claim
    - (ii) the results of any information gathering completed by the Claims Manager



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- (iii) the investigation report
- (iv) the investigation cost recovery invoice
- (v) any further submissions of the parties
- (vi) the Investigations Officer's affidavit and a copy of the Registrar's hearing decision
- (vii) a determination made by the Claims Manager and the reasons for the determination
- (viii) a settlement agreement, and
- (ix) any legal opinions obtained on behalf of the Board.

1.5.7 Where claim hearing is only for review of the Investigation Cost Recovery Invoice, a claim file will contain

- (a) a summary of the claim prepared by the Claims Manager
- (b) a file note prepared by the Claims Manager on the completed claim processing steps
- (c) a claim closing letter, and
- (d) an investigation cost recovery invoice.

### **Claim File Review by Board Members**

1.5.8 Board members review the claim files prior to the hearing.

1.5.9 When reviewing a claim file, a Board member may request that the Claims Manager provide additional information regarding the claim.

1.5.10 Where the Claims Manager obtains additional information in paragraph 1.6.6, the Claims Manager sends a copy of it to each party to the claim along with a letter informing them that if they wish to respond to the information, they must send a written response prior to the hearing date.

1.5.11 If a party sends a written response to additional information, the Claims Manager sends the copy of the response to the Board members and to the other parties.

### **Board hearing procedures**

1.5.12 Where a Board Member becomes aware of an actual or apparent conflict of interest in the hearing of a claim, the Board Member will

- (i) declare the circumstances of the conflict to the Chair, and
- (ii) withdraw from participating in the hearing of the claim.

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- 1.5.13 Where a Board member declares a conflict of interest and withdraws from a hearing, the declaration and withdrawal will be noted in the minutes of the hearing.
- 1.5.14 The Claims Manager attends the Board hearing and answers the Board's questions about the claims processing.
- 1.5.15 The Paralegal attends the Board hearing and records the minutes.
- 1.5.16 When hearing a claim, the Board first decides whether the application meets the initial eligibility criteria, with reference to part B, section 3.5 of the [Claims Processing Policy](#) and Procedure Manual.
- 1.5.17 Where the Board decides that the application meets the initial eligibility criteria, it then decides whether the claim is for an eligible loss, regarding any applicable policy in parts C.2, C.3 and C.4.
- 1.5.18 Where the Board decides that the claim is for an eligible loss, the amount of compensation to be awarded is determined using the applicable policies and procedures in part C.5.
- 1.5.19 For all claims heard by the Board, if an investigation in respect of the claim was conducted prior to the hearing, the Board reviews the Investigation Cost Recovery Invoice using applicable policies and procedures in part C.6.

### **Procedures for an oral Board hearing**

- 1.5.20 Where there is an oral hearing, if a party who was notified of the hearing does not appear, the Board may proceed with the hearing in that party's absence.
- 1.5.21 The conduct of an oral hearing is informal and may vary at the discretion of the Board based on the nature of the evidence, the needs of the witnesses and the requirements of natural justice and procedural fairness. At a minimum, the procedures include the following:
  - (a) a description of the claim by the claimant
  - (a) a response to the claim by the dealer
  - (b) an opportunity for the claimant to respond to the dealer's submissions
  - (c) an opportunity for each party to ask questions of the other party, and
  - (d) an opportunity for Board members to ask questions of the parties.
- 1.5.22 In more complex matters, the Board may
  - (a) require witnesses to take an oath or affirmation
  - (b) issue a summons to require a witness to attend or to produce documents
  - (c) allow parties to be represented by counsel
  - (d) allow for cross-examination of witnesses, and
  - (e) hear legal arguments.
- 1.5.23 After the parties have been heard, they leave the hearing, and the Board considers the evidence and decides as described in paragraphs 1.6.16, 1.6.17, 1.6.18 and 1.6.19.

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### **Decision and reasons**

- 1.5.24 After making a decision, the Board reviews and confirms its reasons for making the decision, including
- (a) the Board's understanding of the parties' submissions
  - (b) the significant facts that were accepted or rejected and why they were accepted or rejected, and
  - (c) how the Board applied the facts to the law regarding eligibility for compensation and the amount of compensation.
- 1.5.25 The Paralegal records the decision and reasons of the Board in the meeting Minutes.
- 1.5.26 The Paralegal, in consultation with the Claims Manager, prepares the Minutes of the Board hearing and reasons.
- 1.5.27 Where the Board's decision concerns a claim, the Claims Officer assists the Board with documenting the Board's decision and preparing the first drafts of written claim decisions containing the Board's decision and reasons.
- 1.5.28 The Paralegal forwards the drafts of Minutes and claim Decisions to the Board for review and editing and provides the final drafts to the Chair for final approval. In the Chair's absence, the final drafts will be provided to the Vice-Chair for approval.

### **Communicating the decision and reasons**

- 1.5.29 The Claims Manager sends the final approved claim Decision to all parties to the claim no more than 30 business days from the hearing date.
- 1.5.30 The Claims Manager adds the claim Decision to the VSA website 7 days after the claim Decision is circulated to the parties to the claim.
- 1.5.31 Where a claim Decision involves approved investigation costs for recovery by the VSA from the Compensation Fund, the Claims Manager sends a Notice of Investigation Costs Approved for Recovery to the VSA Finance.

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### **Paying compensation**

- 1.5.32 Where a claim is approved, the Claims Officer, in consultation with the Claims Manager, prepares a Compensation Payment Cheque Requisition and forwards a copy to the Chair for approval along with the draft claim Decision.
- 1.5.33 After approval by the Chair, the Claims Manager sends a request for the compensation payment cheque to the VSA Finance when the Decision is sent to the parties.
- 1.5.34 If a reconsideration is not requested, the Claims Manager sends the claimant a Closing Letter with a compensation payment cheque not more than 60 days from the date of the hearing.

### **Dealer Repayment to the Compensation Fund**

- 1.5.35 Where payment was made from the Compensation Fund for an approved claim, the Claims Manager will send Notice of Payment from the Compensation Fund to the VSA Licensing.
- 1.5.36 Notice of Payment from the Compensation Fund will include
  - (a) the amount of compensation payment to a claimant, and
  - (b) where applicable, the amount of investigation costs recovered by the VSA Finance from the Compensation Fund.
- 1.5.37 VSA Licensing will follow applicable procedures in the Fund Administration Policy to obtain a repayment to the Compensation Fund from the dealer who caused payment from the Compensation Fund.

## **2. Reconsideration**

### **2.1 Introduction**

This part provides the policies and procedures regarding when a reconsideration of a decision will be conducted by the Board and the conduct of a reconsideration.

### **2.2 Status of Application**

The Board has heard and decided the claim, and the parties have been notified of the decision and reasons. One of the parties to the claim has requested that the Board reconsider its decision

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### **2.3 Legislative Authority and Requirements**

- 2.3.1 The Board has exclusive jurisdiction to hear and decide claims against the Compensation Fund. [MDA – s. 16(1)]
- 2.3.2 A decision, order or ruling of the Board made under this Act in respect of a matter that is within the Board’s jurisdiction is final and conclusive and is not open to question or review in court except on a question of law or excess of jurisdiction. [MDA – s. 16(2)]
- 2.3.3 Sections 17, 18.1, 18.2 and 24.2 of the MDA are also applied in reconsidering claims.

### **2.4 Policy**

#### **General**

- 2.4.1 A reconsideration may be
  - (a) for a Claims Manager’s determination regarding the application requirement, completeness of application, initial eligibility assessment, eligibility of loss;
  - (b) for a Registrar’s determination regarding the extension of the claim application filing term; and
  - (c) for the Board’s claim decision.
- 2.4.2 A reconsideration must be based on the merits of a determination or decision and entail a reassessment of the whole matter in light of new evidence. It may not be used to simply amend a previous determination or decision, or the reasons provided for the determination or decision.
- 2.4.3 The request for reconsideration must be in writing and must be made within 30 days of receiving original determination or decision. In special circumstances the Board may extend this timeline.
- 2.4.4 The Board will review the request for reconsideration and will determine if it contains new evidence that is substantial and material to the original determination or decision and:
  - (a) was not available at the time the original determination or decision was made, or
  - (b) was available at the time the original determination or decision was made, but could not be discovered using reasonable diligence to obtain that evidence.
- 2.4.5 If the Board decides not to reconsider the original determination or decision, it will notify the party having requested reconsideration and will provide written reasons.
- 2.4.6 If the Board decides to reconsider the original decision, it will notify the parties affected by the reconsideration and all parties will be given an opportunity to provide submissions on the new evidence contained in the request for reconsideration.
- 2.4.7 The Board may confirm, vary, or cancel the original determination or decision only if new evidence is submitted that would substantially alter it.

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- 2.4.8 The Board will give written reasons of the reconsideration decision to all parties affected by the reconsideration.
- 2.4.9 The Board's reconsideration decision may not be reconsidered.

### **Request for reconsideration**

- 2.4.10 Any party to a claim may request that the Board reconsider a determination or decision. The parties to a claim will be informed about their right to request a reconsideration when they are notified of the original determination or decision.
- 2.4.11 To request a reconsideration a party to a claim must make a written request for reconsideration within 30 days of receiving the original determination or decision.
- 2.4.12 The Board may extend the 30-day deadline for requesting reconsideration if special circumstances require it and if granting the extension would not result in injustice.
- 2.4.13 The request for reconsideration must identify the error that a party believes the Claims Manager, the Registrar or the Board have made in making the original determination or decision or the other grounds for which reconsideration is requested.

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- 2.4.14 A determination or decision will be reconsidered only where the party requesting the reconsideration provides evidence that
- (a) is substantial and material to the original determination or decision, and if considered by the Board, may alter the original determination or decision or remedy a breach of procedural fairness or natural justice, and
  - (b) did not exist or could not be reasonably discovered at the time of the original determination or decision.

### **Reconsideration on the Board's own motion**

- 2.4.15 Where the Board becomes aware of new evidence that was not considered when making a determination or decision, the Board may reconsider that decision on its own motion if new evidence
- (i) is substantial and material to the original determination or decision, and if considered by the Board, may alter the original determination or decision, or remedy a breach of procedural fairness or natural justice, and
  - (ii) did not exist or could not be reasonably discovered at the time of the original determination or decision.

### **Reconsideration where compensation has been paid**

- 2.4.16 If a claimant has been compensated by the time a request for reconsideration is made or the Board becomes aware of new evidence, the Board will not reconsider the decision unless
- (i) the failure to reconsider may unduly prejudice a party to the original decision, or
  - (ii) the evidence indicates the possibility of fraud in relation to the claim.

### **Deciding whether to reconsider**

- 2.4.17 Where a party requests a reconsideration or the Board becomes aware of new evidence that may support a reconsideration on the Board's own motion, the Board will meet as soon as possible to determine whether the determination or decision will be reconsidered.
- 2.4.18 In order to facilitate the earliest possible Board meeting to determine whether a determination or decision will be reconsidered, such a meeting may be conducted by teleconference.
- 2.4.19 A quorum for the purposes of determining whether a determination or decision will be reconsidered is at least half of the number of current members of the Board.
- 2.4.20 When deciding whether to reconsider a reconsideration or decision, the Board will consider



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- (a) the request or other new evidence that may support the determination or decision
  - (b) the applicable legislation, and
  - (c) the Board's policy on reconsiderations.
- 2.4.21 A decision of the Board as to whether a determination or decision will be reconsidered will be based on a simple majority of the Board members present at the meeting.
- 2.4.22 After making a decision, the Board's decision and reasons will be recorded in the minutes of the meeting.

### **Notification of parties – no reconsideration**

- 2.4.23 Where a party has requested reconsideration and the Board decides that it will not reconsider a determination or decision, the Board will notify a party that has requested reconsideration of the Board's decision and its reasons.
- 2.4.24 Where the Board decides not to reconsider a determination or decision on its own motion, the parties to a claim will not be notified.

### **Notification of parties – Board to reconsider**

- 2.4.25 Where the Board decides to reconsider a determination or decision, the Board will notify the parties of the reconsideration, the new evidence to be considered, and their right to respond to the new evidence
- 2.4.26 Where the reconsideration was requested, the party who did not request the reconsideration may submit a written response to the new evidence within 10 business days of the reconsideration notification.
- 2.4.27 Where the reconsideration is on the Board's own motion, any party may submit a written response to the new evidence within 10 business days of the reconsideration notification.

### **Investigation**

- 2.4.28 The Board may request an investigation into the new evidence supporting a reconsideration.
- 2.4.29 The Claims Manager, in consultation with the VSA Investigations Department, may also initiate an investigation into the new evidence supporting a reconsideration.
- 2.4.30 Where an investigation is required, a copy of the investigation report and investigation cost recovery invoice will be provided to the parties, and the Claims Manager will advise that they can submit a written response to the report within 10 business days of the date of the letter providing the report.
- 2.4.31 A copy of a written response to an investigation report will be provided to all other parties.

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### **Conducting a reconsideration**

- 2.4.32 When conducting a reconsideration, the Board will follow the same policies and procedures as a Board hearing in the first instance (part B.1).

### **Paying compensation**

- 2.4.33 Where compensation is awarded or upheld as a result of reconsideration, the compensation payment will be sent to the applicant together with the Board's decision and reasons. If the payment cheque is unavailable when the Decision is sent, it will be sent once received by the Claims Manager.

### **Dealer repayment to the Compensation Fund**

- 2.4.34 Where compensation is paid from the Compensation Fund, the VSA Licensing will be notified of
- (a) claim payment from the Compensation Fund, and
  - (b) where applicable, investigation costs recovered by the VSA from the Compensation Fund.

## **2.5 Procedures**

- 2.6.1 The Claims Manager notifies the parties about their right to request a reconsideration in the original claim determination or decision.
- 2.6.2 When a request for reconsideration is received, the Claims Manager sends an Acknowledgement of Receipt letter to the party who requested the reconsideration.
- 2.6.3 Where the next regular Board meeting is scheduled for more than 7 weeks from the date a request for reconsideration is received, the Claims Manager
- (a) forwards the request for reconsideration and the claim file to the Board members and
  - (b) schedules a teleconference Board meeting to review the request and decide whether the Board will reconsider a determination or decision.
- 2.6.4 Where the next regular Board meeting is scheduled for 7 weeks or less from the date a request for reconsideration is received,
- (a) the Claims Manager adds the request for reconsideration to the agenda for that meeting and forwards the request and the claim file to the Board along with the other materials for the meeting, and
  - (b) at the regular meeting, the Board reviews the request for reconsideration and decides whether it will reconsider a determination or decision.

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- 2.6.5 Where a Board member becomes aware of new evidence that may lead to a reconsideration on the Board's own motion, the Board member informs the Chair.
- 2.6.6 When the Chair receives new evidence that may lead to a reconsideration on the Board's own motion, the Chair directs the Claims Manager to arrange for the Board to consider the request.
- 2.6.7 Where the next regular Board meeting is scheduled for more than 7 weeks from the date the Chair receives the new evidence, the Claims Manager
- (a) forwards the new evidence and the claim file to the Board members, and
  - (b) schedules a teleconference Board meeting to review the new evidence and decide whether the Board will reconsider a determination or decision.
- 2.6.8 Where the next regular Board meeting is scheduled for 7 weeks or less from the date the Chair receives the new evidence,
- (a) the Claims Manager adds the request for reconsideration to the agenda for that meeting and forwards the new evidence and the claim file to the Board along with the other materials for the meeting, and
  - (b) at the regular meeting, the Board reviews the request for reconsideration and decides whether it will reconsider a determination or decision.
- 2.6.9 The Claims Manager prepares a claim file for a claim for which a request for reconsideration is received. A claim file will contain
- (a) where applicable, claim file that was considered by the Registrar or Claims Manager when the original determination was made,
  - (b) where applicable, claim file that was provided to the Board at the time when the original claim decision was made
  - (c) original claim determination or decision, and
  - (d) request for reconsideration.
- 2.6.10 A claim file will be provided to the Board members no less than 14 days prior to the date of the hearing.

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### Deciding whether to reconsider

- 2.6.11 When deciding whether to reconsider a determination or decision, the Board reviews the new evidence supporting a request for reconsideration or a reconsideration on the Board's own motion and considers whether
- (a) it was in evidence when the Registrar, or Claims Manager, or Board made the original determination or decision
  - (b) it did not exist or could not be reasonably discovered prior to the time when the original determination or decision was made
  - (c) it is substantial and material, and if consideration of the new evidence may alter the original determination or decision or remedy a breach of procedural fairness or natural justice, and
  - (d) if the claimant has already been compensated, whether
    - (i) the failure to reconsider may unduly prejudice a party to the original decision, or
    - (ii) the evidence indicates the possibility of fraud in relation to the claim.
- 2.6.12 After making a decision on whether to reconsider, the Board reviews and confirms its reasons for making the decision, including
- (a) the Board's understanding of the basis of the request for reconsideration or of the new evidence that has become known to the Board, and
  - (b) the determining factors supporting the Board's decision,
- and the Paralegal records the decision and reasons in the meeting minutes.
- 2.6.13 Following the meeting, the Paralegal sends the minutes to the Board members for review and approval.

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### **Where a request is not granted**

- 2.6.14 Where the Board decides that it will not grant a request for reconsideration, the Claims Officer documents the Board's decision, prepares a draft letter to the party who requested the reconsideration explaining the Board's reasons and forwards it to the Chair or Vice-Chair for review and edits in consultation with the members present at the meeting when the decision was made, provides final approval.
- 2.6.15 After approval by the Chair or Vice-Chair, the Claims Manager sends the letter to the party who made the request.

### **Where decision is to be reconsidered**

- 2.6.16 Where the Board decides that it will reconsider a Board's decision, the Claims Manager
- (a) sends a letter notifying the parties that the determination or decision will be reconsidered and cross discloses the new evidence to be considered, and
  - (b) informs
    - (i) the party who did not request the reconsideration, or
    - (ii) all of the parties where the reconsideration is on the Board's own motion
- that if they wish to respond to the new evidence, they must send a written response within 10 business days of the date of the letter.
- 2.6.17 Where the Board decides that it will reconsider a Registrar's or Claims Manager determination, the Claims Manager will notify the party having requested the reconsideration.
- 2.6.18 The Claims Manager schedules the reconsideration for the next available meeting of the Board.

### **Investigation**

- 2.6.19 The Claims Manager consults with the VSA Investigations manager to determine whether an investigation of the new evidence supporting a reconsideration is required. The Claims Manager forwards the new evidence to the VSA Investigations if an investigation is required.
- 2.6.20 Upon the completion of an investigation, the VSA Investigations manager sends a copy of the investigation report to the Claims Manager, who adds it to the claim file.
- 2.6.21 The Claims Manager sends a copy of the investigation report, and investigation cost recovery invoice to each party to the claim along with a letter informing the parties that if they wish to respond to the report, they must send a written response within 10 business days of the date of the letter.

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2.6.22 If a party sends a written response to an investigation report, the Claims Manager forwards a copy of the response to the other parties and adds the original to the claim file.

### **Conducting a reconsideration**

2.6.23 The Board may confirm, vary or cancel the original determination or decision.

2.6.24 The Board and the Claims Manager follow the Board hearing procedures in part B, section 1.6, to prepare for and conduct the reconsideration.

2.6.25 The parties to a claim affected by the reconsideration will be informed that the reconsideration decision may not be reconsidered by the Board .

### **Paying compensation**

2.6.26 Where compensation is upheld on reconsideration, and the payment cheque has been received, the Claims Manager sends the compensation payment to the applicant and the claim Decision regarding the reconsideration.

2.6.27 Where there is a new award of compensation on reconsideration or where a payment cheque otherwise has not been received by the time the Decision is sent to the parties, the compensation payment will be sent immediately after it is received by the Claims Manager.

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### **Dealer repayment to the Compensation Fund**

- 2.6.28 Where payment was made from the Compensation Fund for approved claims, the Claims Manager will send a Notice of Payment from the Compensation Fund to VSA Licensing to update dealer records and obtain a repayment to the Compensation Fund from the dealer who caused payment from the Compensation Fund.
- 2.6.29 Notice of Payment from the Compensation Fund will include
- (a) the amount of the compensation payment to a claimant, and
  - (b) where applicable, the amount of investigation costs recovered by VSA Finance from the Compensation Fund.

## **C. ELIGIBLE LOSSES AND COMPENSATION**

### **1. Overview**

This section outlines the policies and procedures for determining whether a loss is eligible for compensation. It is divided into the following parts:

- Part 1 – Overview. This part explains what is covered in section C and includes a review of the role of policy in decision making.
- Part 2 – Purchase of a Vehicle. This part provides the policies and procedures for determining the eligibility of a loss related to the purchase of a vehicle.
- Part 3 – Purchase of an Extended Warranty. This part provides the policies and procedures for determining the eligibility of a loss related to the purchase of an extended warranty or service plan.
- Part 4 – Consignment Agreement. This part provides the policies and procedures for determining the eligibility of a loss related to the delivery of a vehicle to a dealer on consignment.
- Part 5 – Determining the Amount of Compensation. This part provides the policies and procedures for determining the amount of compensation to be awarded for an eligible loss.



## 2. Purchase of a Vehicle

### 2.1 Legislative Authority and Requirements

- 2.1.1 In relation to a claim involving the purchase of a vehicle, the requirements in section 5(1)(a) of the MDCCF Regulation must be satisfied.
- 2.1.2 A claimant is not eligible for compensation for purchasing a motor vehicle if the claim is based on the cost, value or quality of the motor vehicle received. [MDCCF Reg – s. 7(a)]
- 2.1.3 The Board may, after considering an application, dismiss the application or pay compensation for a loss. [MDCCF Reg – s. 9 and s. 10(5)]
- 2.1.4 To determine eligibility for compensation, a “purchase” of a motor vehicle includes a lease or exchange of a motor vehicle. [MDCCF Reg – s. 1]

### Definition of “purchase” and “material fact”

- 2.1.5 A "material fact" is a fact that is essential to the contract and would be significant in a reasonable person's decision-making process. It does not need to be a fact that would change the decision, but it should be important in the deliberations of whether to enter the contract. If certain facts must be disclosed by legislation, for instance, Section 23 of the MDA Regulation, they can be considered material facts.

### 2.2 Policy

#### Loss must be liquidated

- 2.2.1 To be eligible under s. 5(1)(a) MDA Regulation, a loss must be a liquidated amount. A liquidated amount is a fixed amount that can be made certain by mathematical calculation.
- 2.2.2 Where the amount of the loss must be investigated beyond mere arithmetic and determined by opinion or an assessment of what is reasonable in the circumstances, it is not a liquidated amount.
- 2.2.3 Where the amount of a claimant’s loss has been assessed by a court or tribunal, the amount assessed by the court or tribunal is a liquidated amount.

#### Loss must not be based on the cost, value or quality of the vehicle

- 2.2.4 A loss that is based on the cost, value or quality of a vehicle that was purchased from a dealer, is not an eligible loss under s. 5(1)(a), even where the amount of the loss has been liquidated by a court or tribunal.

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### Eligible loss under s. 5(1)(a)(i) of the MDCCF Regulation

- 2.2.5 To be eligible under s. 5(1)(a)(i), a loss must
- (a) be the loss of consideration provided to the dealer
  - (b) be caused by the refusal of the dealer to
    - (i) deliver the vehicle contracted for, or
    - (ii) return the consideration, and
  - (c) have occurred in circumstances where the dealer has no lawful justification for the refusal.
- 2.2.6 Where the dealer delivered a vehicle to the claimant, in order for a loss to be eligible under s. 5(1)(a)(i), the following criteria must be met:
- (a) the vehicle actually delivered must be different from the vehicle that was the subject of the contract, and not that its quality is not as expected or hoped,
  - (b) in applying 2.2.7 and 2.2.9, the difference between the vehicles must be the result of a misrepresentation of an objective fact about the vehicle made by the dealer, which
    - (i) the claimant relied on when deciding to purchase the vehicle, and
    - (ii) formed part of the contract, and
  - (c) except as provided in paragraph 2.2.10, at the time the claimant became aware of the difference, the claimant must have either
    - (i) refused to accept delivery of the vehicle, or
    - (ii) returned or attempted to return the vehicle to the dealer in substantially the same condition as when the claimant accepted delivery as soon as practicable after the claimant discovered the misrepresentation.
- 2.2.7 A qualifying misrepresentation under paragraph 2.2.6(b) must meet any of the following criteria:
- (a) an intentional or reckless misrepresentation about the vehicle
  - (b) an unintentional misrepresentation regarding the substance of the vehicle delivered, or
  - (c) an unintentional misrepresentation about a key term of the agreement that, at the time of the transaction, the claimant declared to the dealer to be essential to the contract at the time of the transaction.

#### Rationale

*(a) An intentional or reckless misrepresentation regarding a material fact rendering the contract of no use or value is grounds to ask a contract be rescinded and to have the full*

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*amount refunded (a liquidated amount). It is contrary to public policy to allow someone to benefit from their fraud: Kuczerpa v. Jim Pattison Industries 2000 BCSC 1327; Casillan v. 565204 B.C. Ltd dba Daewoo Richmond 2009 BCSC 1335, and see Tercon v. British Columbia 2010 SCC 4.*

*(b) For example, a vehicle sold and declared as meeting the requirements of the Motor Vehicle Act (legally safe), but not meeting those requirements (legally unsafe) is grounds to rescind the contract. The vehicle cannot be legally driven as delivered by the dealer, affecting the core or substance of the contract: Balderson v. Cheng 2006 BCPC 64. However, a claim that the odometer reading is incorrect and the vehicle has more mileage than claimed, will generally affect the quality of the vehicle, allowing only a claim for damages (unliquidated): Sale of Goods Act and Balderson v. Cheng 2006 BCPC 64. Similarly, a misrepresentation about whether or not a vehicle is from out of province goes to its quality and is a claim for damages (unliquidated): Kuczerpa v. Jim Pattison Industries 2000 BCSC 1327.*

*(c) Misrepresenting a key term of a contract can result in rescission if it goes to the agreement's substance. For instance, if a truck is sold with a claim that it can tow a certain weight and is later discovered that it cannot, this may be grounds for rescission (Vavra v. Victoria Ford Alliance 2003 BCSC 1297). However, if the vehicle can tow the weight as promised but its engine performance is inferior, this is likely a quality issue.*

2.2.8 When determining whether a misrepresentation formed a part of the contract under paragraph 2.2.6(b)(ii), the Board will consider the whole of the contract and the intention of the parties. Where the misrepresentation is not documented in the contract, there must be clear evidence that

- (a) the dealer made an oral misrepresentation that the claimant reasonably relied on when deciding to purchase the vehicle,
- (b) the dealer failed to declare a “material fact” which, if known to the claimant, reasonably would have stopped the applicant from purchasing the vehicle, or
- (c) the claimant clearly made the dealer aware of a term essential to the applicant’s decision to purchase the vehicle at the time of the transaction.

2.2.9 Where a dealer refuses or cannot accept the vehicle's return as required in paragraph 2.2.6(c)(ii), to be eligible for compensation, a claimant must meet the requirements in 2.2.6 and sell the vehicle for fair market value. The claimant’s loss will be calculated as the difference between

- (a) the amount of consideration paid to the dealer for the vehicle, and
- (b) the fair market value of the vehicle as determined by the Board.

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### Rationale

*If a claimant can't return a vehicle in the same condition as received because the dealer refuses or is no longer in business, they're entitled to a refund. However, they can't keep the vehicle and receive compensation from the Compensation Fund. To rescind the contract, the claimant has to dispose of the vehicle for fair market value and will receive compensation for the difference between the consideration paid and the fair market value received.*

- 2.2.10 Where a claimant was not able to return or attempt to return the vehicle to the dealer in substantially the same condition as required in paragraph 2.2.6(c)(ii), the claimant's loss may be eligible if a court has
- (a) ruled that the claimant was entitled by law to rescind the sale contract, and
  - (b) has quantified the amount of the claimant's loss.

### Rationale

*This provision allows a purchaser to rescind a sale contract if the vehicle received is different from the one contracted for and cannot be returned in substantially the same condition. The purchaser may be entitled to a refund of the consideration paid to the dealer, minus the value of any benefit received from the vehicle. However, a court decision is necessary to determine the compensation amount, which the Board may award based on the judicial decision. Without a judicial decision, in this circumstance, the loss will be ineligible for compensation because it is not a liquidated amount.*

### **Eligible loss under s. 5(1)(a)(ii) of the MDCCF Regulation**

- 2.2.11 To be eligible under s. 5(1)(a)(ii), a loss must
- (a) be the loss of consideration provided to the dealer
  - (b) be caused by the inability of the dealer to
    - (i) deliver the vehicle contracted for, or
    - (ii) return the consideration
- because of the bankruptcy, insolvency, receivership or other failure of the dealer.

### **“Other failure” in s. 5(1)(a)(ii) of the MDCCF Regulation**

- 2.2.12 “Other failure” in s. 5(1)(a)(ii) means a type of economic or other business-related failure that renders the dealer unable to perform its obligations under the contract or at law.

### **Eligible loss under s. 5(1)(a)(iii) of the MDCCF Regulation**

- 2.2.13 To be eligible under s. 5(1)(a)(iii), a loss must be

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- (a) a loss of consideration or a loss in the value of consideration given to a dealer, and
- (b) caused by the dealer's
  - (i) dishonest conduct, or
  - (ii) misappropriation or wrongful conversion of the consideration.

### Rationale

*Sections 5(1)(a)(i) and (ii) cover a complete loss of consideration where the dealer unlawfully refuses or is unable to deliver the vehicle or return the consideration paid by the purchaser. Section 5(1)(a)(iii) provides for compensation where there is a failure to return consideration or there is a loss in value of consideration that has been returned, and the loss is due to the wrongful conduct of the dealer.*

### **Eligible loss under s. 5(1)(a)(iv) of the MDCCF Regulation**

2.2.14 To be eligible under s. 5(1)(a)(iv), a loss must be

- (a) an amount paid by the claimant to clear the title of the vehicle purchased by the claimant of any charge or encumbrance in favour of a third party, or
- (b) the amount paid to purchase a vehicle that was subsequently seized from the claimant by a third party and not returned

which resulted from a charge or encumbrance on the vehicle that the dealer did not declare to the claimant, and the claimant was not aware of at the time the vehicle was purchased.

### **Eligible loss where claimant traded in vehicle**

2.2.15 A claimant may have a liquidated loss if they traded-in their vehicle on the condition that the dealer discharges the lien on the claimant's behalf. They may be eligible based on the following:

- (a) The loss to the claimant is "crystallized" as soon as the dealer fails to pay, because the claimant remains contractually liable to the creditor for the debt and the specified dollar amount (has "suffered a loss");
- (b) There is an agreement that the dealer will payout the lien on behalf of the claimant;
- (c) The amount of the lien payout is noted on the purchase agreement and becomes a contractual term of the agreement and is a specific dollar amount ("other liquidated amount" as required by s. 5(1)(a)); and
- (d) The dealer failed to pay out the lien, and a reasonable inference is that the dealer wrongfully converted the money entrusted to it in contravention of s. 5(1)(a)(iii).

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### Rationale

*Section s. 5(1)(a), the MDCCF Regulation identifies five types of losses eligible for compensation when purchasing a motor vehicle, including loss of a trade-in, full payment, deposit, down payment, or other liquidated amount. If a claimant's vehicle is seized and disposed of by the lien holder, their loss is the full payment made for the vehicle, which includes any deposit, down payment, or trade-in value. If a dealer fails to provide a clear title, the claimant's loss crystallizes when the vehicle is seized or when the lien holder is paid to clear the title. Section 16(c) of the Sale of Goods Act provides an implied warranty that the vehicle is free from any charge or encumbrance not declared or known to the buyer at the time of purchase.*

### **2.1 Procedures**

- 2.3.1 The Board reviews the claim file and determines whether the claimant's loss
- (a) is a liquidated amount
  - (b) is not based on cost, value or quality of the vehicle received by the claimant, and
  - (c) is an eligible loss under s. 5(1)(a)(i), (ii), (iii) or (iv) of the MDCCF Regulation.
- 2.3.2 Where the Board finds that the loss does not meet all of the requirements in paragraph 2.3.1, the Board dismisses the application
- 2.3.3 Where the Board finds that the loss meets the requirements in paragraph 2.3.1, the Board approves the application and determines the amount of compensation (see part C.5).

### **3. Purchase of Extended Warranty/Service Plan**

#### **3.1 Legislative Authority and Requirements**

- 3.1.1 In relation to a claim involving the purchase of an extended warranty or service plan, the requirements in section 5(1)(b) of the MDCCF Regulation must be satisfied.
- 3.1.2 A claimant is not eligible for compensation for the purchase of an extended warranty or service plan if the applicant can recover the cost of the unexpired portion of the warranty or plan from an insurer of the warranty or plan. [MDCCF Reg – s. 7(b)]
- 3.1.3 The Board may, after considering an application, dismiss the application or pay compensation for a loss. [MDCCF Reg – s. 9]

#### **3.2 Policy**

##### **Eligible loss under s. 5(1)(b) of the MDCCF Regulation**

- 3.2.1 To be eligible under s. 5(1)(b), a loss must be
- (a) the loss of an unexpired portion of a warranty or service plan, and
  - (b) be the result of the bankruptcy, insolvency, receivership or other failure of the motor dealer.

##### **“Other failure” in s. 5(1)(b) of the MDCCF Regulation**

- 3.2.2 “Other failure” in s. 5(1)(b) means
- (a) a type of economic or other business-related failure that renders the dealer unable to perform its obligations under the contract or at law, or
  - (b) the intentional or unintentional failure of a dealer to remit a payment collected from the applicant to the insurer of the warranty or plan.

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### Rationale

*The term "other failure" in s. 5(1)(b) has a broader meaning than in s. 5(1)(a)(iii) and s. 5(1)(c)(iii). This is necessary because s. 5(1)(b) does not explicitly address a loss caused by the dealer's misappropriation of money paid for an extended warranty or service plan. Limiting the meaning of "other failure" to economic or business-related failure would be unfair and inconsistent with the purpose of the Compensation Fund.*

### **Not eligible where loss is recoverable from insurer**

- 3.2.3 A loss under s. 5(1)(b) is not eligible for compensation if the claimant is able to recover the loss from the insurer of the extended warranty or service plan.
- 3.2.4 Where there is evidence that the extended warranty or service plan was insured, a claimant will not be eligible for compensation unless the claimant has exhausted all reasonable legal remedies, including enforcement remedies against the insurer and has not been able to recover the cost of the unexpired portion of the warranty or service plan.

### Rationale

*If a warranty or service plan is underwritten by an insurer, the claimant cannot recover its cost. In such cases, the dealer acts as the insurer's agent, and the insurer must provide the warranty or plan even if the dealer fails to pay. The Board plays a pivotal role in hearing claims under s. 5(b) by determining if an insurer is involved and ensuring the claimant has exhausted all legal remedies against the insurer before being eligible for loss recovery.*

### **3.3 Procedures**

- 3.3.1 The Board reviews the claim file and determines whether
- (a) the claimant's loss is the unexpired portion of an extended warranty or service plan
  - (b) the claimant's loss was the result of the bankruptcy, insolvency, receivership or other failure of the motor dealer, and
  - (c) the claimant is unable to recover the loss from an insurer of the warranty or plan.
- 3.3.2 Where the Board finds that the loss does not meet all the requirements in paragraph 3.3.1, the Board dismisses the application.
- 3.3.3 Where the Board finds that the loss meets the requirements in paragraph 3.3.1., the Board approves the application and determines the amount of compensation (see part C.5).



## **4. Eligible Loss – Consignment Agreement**

### **4.1 Legislative Authority and Requirements**

In relation to a claim involving a consigned vehicle, the requirements in section 5(1)(c) of the MDCCF Regulation must be satisfied.

### **4.2 Policy**

#### **General**

4.2.1 An eligible loss under s. 5(1)(c) must be the loss of a vehicle or the value of a vehicle delivered to a dealer for sale on consignment.

#### **Eligible loss under s. 5(1)(c)(i) of the MDCCF Regulation**

4.2.2 To be eligible under s. 5(1)(c)(i), a loss must be the loss of a vehicle or the value of a vehicle delivered to a dealer for sale on consignment

- (a) be caused by the refusal of a dealer to
  - (i) deliver the unsold vehicle at the end of the agreed consignment period, or
  - (ii) remit the agreed amount of proceeds from the sale within the agreed period after the sale
- (b) have occurred in circumstances where the dealer has no lawful justification for the refusal.

#### **Eligible loss under s. 5(1)(c)(ii) of the MDCCF Regulation**

4.2.3 To be eligible under s. 5(1)(c)(ii), a loss must

- (a) be caused by the inability of a dealer to
  - (i) deliver the unsold vehicle at the end of the agreed consignment period, or
  - (ii) remit the agreed amount of proceeds from the sale within the agreed period after the sale

because of the bankruptcy, insolvency, receivership or other failure of the dealer.

#### **“Other failure” in s. 5(1)(c)(ii) of the MDCCF Regulation**

## **MDCCF Claim Processing and Adjudication Policy and Procedures**

4.2.4 “Other failure” in s. 5(1)(c)(ii) means a type of economic or other business-related failure that renders the dealer unable to perform its obligations under the contract or at law.

### **Eligible loss under s. 5(1)(c)(iii) of the MDCCF Regulation**

4.2.5 An eligible loss under s. 5(1)(c)(iii) must be a loss of the vehicle or the value of the vehicle consigned to a dealer and must be caused by the dealer’s

- (a) dishonest conduct, or
- (b) misappropriation or wrongful conversion of
  - (i) the vehicle or property attached to the vehicle, or
  - (ii) money or other property that was the proceeds of a sale of a consigned vehicle held in trust by the dealer.

#### Rationale

Under s. 5(1)(c) of the MDCCF Regulation, an eligible loss is limited to the loss of the vehicle or its value. A loss resulting from a dealer's negligence or failure to act is not eligible unless it amounts to dishonest conduct, misappropriation, or wrongful conversion.

### **Loss due to claimant’s failure to maintain insurance not eligible**

4.2.6 If a claimant suffers a loss under s. 5(1)(c)(iii) because of the claimant’s failure to obtain or maintain insurance and insuring the vehicle was the responsibility of the claimant under the consignment agreement, the loss is not eligible.

## **4.3 Procedures**

4.3.1 The Board reviews the claim file and determines whether the loss is

- (a) the loss of a vehicle or the value of a vehicle delivered to the dealer for sale on consignment, and
- (b) is an eligible loss under s. 5(1)(c)(i), (ii) or (iii) of the MDCCF Regulation.

4.3.2 Where the Board finds that the claim does not meet the requirements in paragraph 4.3.1, the Board dismisses the application.

4.3.3 Where the Board finds that the claim meets the requirements in paragraph 4.3.1, the Board approves the application and determines the amount of compensation (see part C.5).

## **5. Determining the Amount of Compensation**

### **5.1 Legislative Authority and Requirements**

- 5.1.1 The Board may, after considering an application, dismiss the application or pay compensation for a loss up to \$20,000. [MDCCF Reg – s. 9 and s. 10(5)]
- 5.1.2 The Board may prorate payments between claimants if the Compensation Fund is insufficient to pay all claims. [MDA – s. 23]
- 5.1.3 A claimant is not entitled to claim any interest with respect to an eligible loss. [MDCCF Reg – s. 5(2)]
- 5.1.4 A claimant is not eligible for compensation from the Compensation Fund in respect of that portion of the operation of a motor vehicle that is claimed as business expense for income tax purposes. [MDCCF Reg – s. 7(c)]

### **5.2 Policy**

#### **General**

- 5.2.1 The Board may award a specific amount of compensation when the claim is accepted or may instruct the Claims Manager on how to calculate the amount.

#### **Where applicant may have other forms of compensation**

- 5.2.2 Where the claimant has obtained a judgment against the dealer in respect of the loss, the Board will not award compensation unless the Board is satisfied that the claimant has made reasonable efforts to collect on the judgment.
- 5.2.3 Where a claimant may be eligible for some other compensation for the loss but has not actually received any other compensation and has not commenced any proceedings to receive any other compensation, the Board
  - (a) will determine the amount of compensation without taking into account any potential future compensation, and
  - (b) will not delay the award of compensation or make the award contingent on the claimant pursuing another form of compensation.

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### **Where the claimant received other forms of compensation before money is paid from the Compensation Fund**

5.2.4 Where a claimant has received some other compensation for an eligible loss, the Board will subtract any other compensation received from the amount of the eligible loss when determining the amount of compensation to be awarded.

### **Proportion of business use**

5.2.5 If a portion of the vehicle's operation is claimed as a business expense for income tax purposes, the Board will subtract that percentage from the total compensation amount. For example, if the compensation is \$1,000 and 25% of the vehicle's operation is claimed as a business expense, the actual compensation will be \$750.

### **Taxes**

5.2.6 When determining the amount of compensation, the Board will compensate for all taxes paid.

### **Compensation for purchase of a vehicle**

5.2.7 The compensation awarded for a loss related to the purchase of a vehicle will be

- (a) the amount of consideration lost by the claimant as determined by the Board based on the information provided in the claim file, or
- (b) the amount required to clear the title to the vehicle or remove any charge or encumbrance in favour of a third party that was not declared or known to the claimant at the time of the purchase.

### **Compensation for purchase of an extended warranty or service plan**

5.2.8 The compensation awarded for a loss related to the purchase of an extended warranty or service plan is the cost of the unexpired portion of the warranty or plan that was lost.

5.2.9 The cost of the unexpired portion of an extended warranty or service plan will be calculated by

- (a) determining the cost of the warranty or plan paid by the claimant and the length of the warranty or number of service intervals covered under the plan
- (b) determining the length of the warranty or plan in months, kilometres travelled or number of service intervals covered under the warranty or plan, and
- (c) prorating the cost based on the unexpired number of months, kilometres, or service intervals.

## MDCCF Claim Processing and Adjudication Policy and Procedures

5.2.10 The Board will not consider actual or estimated repair or service costs that may have been covered under a lost warranty or plan when determining the amount of compensation.

### Compensation for consignment agreement – loss of vehicle or proceeds

5.2.11 Where the consigned vehicle was sold by the dealer

- (a) in a legitimate and arm's length transaction, and
- (b) the selling price of the vehicle was sufficient to provide the claimant with the agreed amount of proceeds,

the compensation awarded for a failure to remit the proceeds of the sale of a consigned vehicle will be the agreed amount of proceeds, up to a maximum of \$20,000.

5.2.12 Where

- (a) the selling price of the consigned vehicle was not sufficient to provide the agreed amount of proceeds
- (b) the sale contract for the consigned vehicle included a trade-in allowance that was significantly in excess of the fair market value of the trade-in
- (c) the selling price of the consigned vehicle or the agreed amount of proceeds that the applicant was to receive from the sale of the consigned vehicle is unknown, or
- (d) the vehicle was not sold, or was not sold in a legitimate and arm's length transaction,

the compensation awarded for a failure to remit the proceeds of the sale or to return the consigned vehicle will be the fair market value of the consigned vehicle, less the agreed amount of the dealer's commission, up to a maximum of \$20,000. If the agreed amount of the dealer's commission is unknown, then the Board will determine a reasonable amount of commission in the circumstances.

#### Rationale

*If a dealer is unable or unwilling to return an unsold consignment vehicle or remit the agreed proceeds from its sale, the compensation should reflect the vehicle's market value. In the ordinary course of business, compensation will be the agreed-upon amount of proceeds. However, the Board may question the value of proceeds in some cases, and compensation will then be the fair market value of the consigned vehicle, less the dealer's commission.*

*In Paragraph 5.2.11, the Board sets the compensation amount as the agreed proceeds, which is considered a fair representation of the vehicle's market value.*

*Paragraph 5.2.12 outlines situations where the Board determines the fair market value of a vehicle for compensation purposes. Subsections 5.2.12(a) and (b) state when the agreed*

## **MDCCF Claim Processing and Adjudication Policy and Procedures**

*proceeds may not match the market value. Subsections 5.2.12(c) and (d) describe when there is inadequate information to determine if the proceeds reflect the market value.*

### **Compensation for consignment agreement – vehicle returned**

- 5.2.13 Where the consigned vehicle was returned to the claimant, the compensation awarded for a loss in the value of the vehicle will be the difference between
- (a) the fair market value of the consigned vehicle immediately prior to the loss, and
  - (b) the fair market value of the vehicle at the time the vehicle was returned to the claimant, excluding any depreciation in the value of the vehicle attributable solely to the time elapsed during the agreed consignment period.

### **Fair market value**

- 5.2.14 Fair market value is an estimate of the highest price that a willing seller may obtain for the vehicle in an open and unrestricted market from a willing and knowledgeable purchaser in an arm's length transaction.
- 5.2.15 Where the Board must determine the fair market value of a vehicle to calculate the amount of compensation, the Board will determine the fair market value of the vehicle at the time of the claimant's loss by considering
- (a) the value as indicated in recognized industry pricing guides for the region in which the vehicle was consigned
  - (b) where available,
    - (i) the estimated value or agreed amount of proceeds identified in the consignment agreement
    - (ii) the selling price of the vehicle
    - (iii) information on the vehicle's condition, trim level or other features that would affect its value, and
- the expert opinion of Board members.

### **5.3 Procedures**

- 5.3.1 The Board determines the amount of compensation to be awarded based on the type of loss and all of the circumstances of the claim.

## **6. Determining the Amount of Investigation Costs for Recovery from the Compensation Fund**

### **6.1 Introduction**

This part provides the policies and procedures regarding the Board's approval of costs incurred for investigation of claims by the VSA Investigations team for recovery by the VSA from the Compensation Fund.

### **6.2 Status of Application**

The status of the application varies. The claim is being reviewed to determine whether the VSA Investigations Department has investigated it at any stage of the claim processing.

## **MDCCF Claims Adjudication Policy and Procedures**

### **6.3 Legislative Authority and Requirements**

- 6.3.1 If the Board decides to pay money out of the Compensation Fund to a person who makes a claim under section 17 of the MDA, the Board must follow the procedures in section 16(2.1) of the MDA.
- 6.3.2 The costs of administering the Compensation Fund must be paid from the Compensation Fund, including costs incurred in investigating and processing claims against the Compensation Fund. [MDA – s. 22(b)]

### **6.4 Policy**

- 6.4.1 Where a claim was investigated by the VSA Investigations Department and investigation was completed, an Investigation Cost Recovery Invoice will be prepared pursuant to the Fund Administration policy (sections 3.2.15 to 3.2.24) for review and approval by the Board.
- 6.4.2 At a claim hearing, the Board will review the Investigation Cost Recovery Invoice and the supporting documents.
- 6.4.3 The Board may approve, vary or not approve the amount of investigation costs for recovery by the VSA from the Compensation Fund.
- 6.4.4 The VSA will recover from the Compensation Fund the investigation costs approved by the Board.
- 6.4.5 Where investigation costs recovered by the VSA are with respect to approved claims, the dealer who caused payment from the compensation Fund is responsible for reimbursing the Compensation Fund.

### **6.5 Procedures**

- 6.5.1 Where a claim was investigated by the VSA Investigations team, the Claims Manager will obtain a copy of the Investigation Cost Recovery Invoice from the VSA Finance.
- 6.5.2 The Claims Manager will obtain approval of the Investigation Cost Recovery Invoice from the Manager of Investigations.

#### **Where investigation is for a claim that requires adjudication by the Board**

- 6.5.3 The Investigation Cost Recovery Invoice will be added to the Investigation Report and will be disclosed to the parties of the claim at a pre-hearing stage.
- 6.5.4 At the claim hearing the Board will follow the policy and procedures for the Board hearing described in part B.1.



## **MDCCF Claim Processing and Adjudication Policy and Procedures**

- 6.5.5 The Board will decide on the amount of investigation costs for recovery by the VSA from the Compensation Fund.
- 6.5.6 The Claims Manager will notify the VSA Finance of the Board's decision on investigation cost recovery.
- 6.5.7 The VSA Finance will recover approved investigation costs from the Compensation Fund.
- 6.5.8 Where investigation costs are for approved claims, the Claims Manager will send a Notice of Payment from the Compensation Fund to VSA Licensing for action to obtain repayment to the Compensation Fund from the dealer who caused payment from the Compensation Fund.

### **Where investigation is for a claim that does not require adjudication by the Board**

- 6.5.9 Where a claim is abandoned, deemed not eligible by the Claims Manager, resolved or otherwise closed without adjudication by the Board, the Claims Manager will prepare an Investigation Cost Recovery File Note on the completed claim processing steps that will contain:
  - (a) a summary of the claim,
  - (b) a claim closing letter, and
  - (c) an investigation cost recovery invoice.
- 6.5.10 The Investigation Cost Recovery File Note will be provided to the Board for review prior to the hearing.
- 6.5.11 At the hearing the Board will follow the policy and procedures for the Board hearing described in part B.1.
- 6.5.12 The Board will decide on the amount of investigation costs for recovery by the VSA from the Compensation Fund.
- 6.5.13 The Claims Manager will notify the VSA Finance of the Board's decision on investigation cost recovery.
- 6.5.14 The VSA Finance will recover approved investigation costs from the Compensation Fund.

## **D. REPAYMENT OF VALUE RECEIVED FROM ANOTHER SOURCE TO THE COMPENSATION FUND**

### **1. Overview**

This section outlines the policies and procedures related to recovery of money paid to a claimant from the Compensation Fund. At times, claimants may obtain compensation from multiple sources and they are not eligible to recover compensation greater than their loss.

#### **1.1 Status of Application**

Claim has been heard by the Board and approved for payment or paid.

## **MDCCF Claims Adjudication Policy and Procedures**

### **1.2 Legislative Authority and Requirements**

- 1.2.1 If a claimant receives something in value from some other source in payment of the loss that led to payment from the Compensation Fund, the claimant must give written notice to the Registrar and repay the Compensation Fund [MDA s. 20(1)(a) and 20(1)(b)].
- 1.2.2 If a claimant fails to repay the Compensation Fund, the trustee can start an action against the claimant. [MDA s. 20(2)].
- 1.2.3 The money recovered belongs to the Compensation Fund and deductions must be made. [MDA s. 20(2)].

### **1.3 Policy**

- 1.3.1 Where a claimant is paid from the Compensation Fund, the claimant will be referred to the previously signed Assignment and Undertaking Agreement, requiring the claimant to inform the Registrar if they received value from any other source in payment for the loss that led to payment from the Compensation Fund.

#### **Repayment to the Compensation Fund**

- 1.3.2 Where a claimant receives value from any other source for the same loss for which money has been paid to the claimant from the Compensation Fund, the claimant must without delay notify the Claims Manager in writing and provide a description of the thing received and its value.
- 1.3.3 Where the Claims Manager receives a notice of value received from another source, the Claims Manager will notify the Registrar and the Board.
- 1.3.4 The claimant must send a cheque to the trustee in the amount received from the Compensation Fund.

#### **Repayment from the Compensation Fund**

- 1.3.5 Where the value received from another source does not cover the claimant's losses that are the subject matter of the claim, the claimant may request that all or part of the amount repaid to the Compensation Fund under 1.3.1 be repaid to the claimant.
- 1.3.6 To request repayment from the Compensation Fund under 1.3.1, the claimant must
  - (a) within 30 days from repayment to the trustee under 1.3.1. send to the Claims Manager a claim for repayment from the Compensation Fund, and
  - (b) provide supporting documentation to prove that the value received from any other source was not 'extra recovery' but reimbursement for the remaining amount of

## **MDCCF Claim Processing and Adjudication Policy and Procedures**

loss that was not paid from the Compensation Fund due to the claim payout limit of \$20,000.

- 1.3.7 If the Board decides to return any amount repaid by the claimant under 1.3.1, the Board must first deduct:
- (a) the amount paid out of the Compensation Fund in respect of the claim,
  - (b) the interest on the amount deducted under paragraph (a) at the prescribed annual rate, and
  - (c) any costs including actual legal costs to recover the repayment.

### **1.4 Procedures**

#### **Repayment to the Compensation Fund**

- 1.4.1 When a written notice of value received from another source is received from the claimant, the Claims Manager
- (a) notifies the Board and the Registrar; and
  - (b) sends an Acknowledgement of Receipt letter to the claimant notifying the claimant that they
    - (i) must repay to the Compensation Fund the amount received from the Compensation Fund; and
    - (ii) may within 30 days from repayment submit a written claim repayment from the Compensation Fund

## **MDCCF Claims Adjudication Policy and Procedures**

### **Repayment from the Compensation Fund**

- 1.4.2 When a written claim for repayment from the Compensation Fund is received from the claimant, Claims Manager sends Acknowledgement of Receipt to the claimant.
- 1.4.3 Where the next regular Board meeting is scheduled in seven weeks or less from the date a written claim for repayment from the Compensation Fund is received, the Claims Manager
- (a) prepares a claim file for the claim for repayment to be reviewed by the Board and adds it to the agenda for that meeting, and
  - (b) sends the claim file to the Board members no less than 14 days prior to the date of the hearing.
- 1.4.4 Where the next regular Board meeting is scheduled more than 7 weeks from the date a written claim for repayment from the Compensation Fund is received, the Claims Manager
- (a) prepares a claim file for the claim for repayment to be heard by the Board,
  - (b) forwards the claim file to the Board members, and
  - (c) schedules a teleconference Board meeting to review claimant's written notice.
- 1.4.5 The Claims Manager sends a Notice of Hearing letter to the claimant with a copy to the motor dealer no less than 10 business days prior to the date of the Board hearing.
- 1.4.6 The Board members follow the procedures set out in Part B, section 1.6.

### **Deciding if money is returned to claimant**

- 1.4.7 The Board and the Claims Manager follow the Board hearing procedures in part 1.6 to prepare and conduct the repayment claim hearing.
- 1.4.8 The Board reviews the claim file along with the claimant's written claim for repayment from the Compensation Fund and the documentation supporting the claim for repayment.
- 1.4.9 The Board will determine if there is evidence to determine whether the money can be returned to the claimant
- 1.4.10 Where the Board decides to return to the claimant all or part of the money repaid to the Compensation Fund, the Board must deduct
- (a) the amount paid out of the Compensation Fund in respect of the claim,
  - (b) interest on the amount in paragraph (a) at the prescribed annual rate from the date of payment, and
  - (c) the costs of recovery including actual legal costs.
- 1.4.11 The Board and the Claims Manager will follow the procedures for documenting the Board's decision in the Minutes, review and approval of the Minutes, and drafting and approval of the decision (see part B.1).

## **MDCCF Claim Processing and Adjudication Policy and Procedures**

### **Where claim for repayment from the Compensation Fund is denied**

- 1.4.12 Where the Board denies the claimant's written claim for repayment from the Compensation Fund, the Claims Manager sends the Board's decision to the claimant with a copy to the dealer.
- 1.4.13 Where the claimant decides to reconsider the Board's decision the procedures in part B.9 must be followed.

### **Where claim for repayment from the Compensation Fund is approved**

- 1.4.14 Where the Board approves the claimant's claim for repayment from the Compensation Fund, the Claims Manager sends the Board's decision to the claimant with a copy to the dealer.
- 1.4.15 The Claims Manager follows procedures in part B.1 to request payment from Compensation Fund.
- 1.4.16 The Claims Manager sends the cheque to the claimant within 60 days of the date of the meeting.

## **MDCCF Claims Adjudication Policy and Procedures**

### **Failure to repay**

- 1.4.17 Where the Board becomes aware that a claimant received value from any other source for the same loss that led to payment from the Compensation Fund and fails to repay to the Compensation Fund payment received from the Compensation Fund, the Claims Manager notifies the trustee of the Compensation Fund.
- 1.4.18 The trustee of the Compensation Fund has a cause of action against the claimant for the amount unrepaid.

## GLOSSARY

Board	means the Motor Dealer Customer Compensation Fund Board.
Compensation Fund	means the Motor Dealer Customer Compensation Fund.
Fair Market Value	means an estimate of the highest price that a willing seller may obtain for a vehicle in an open and unrestricted market from a willing and knowledgeable purchaser in an arm's length transaction.
MDA	means the <i>Motor Dealer Act</i> , R.S.B.C. 1996, c. 316.
MDCCF Reg or MDCCF Regulation	means the Motor Dealer Customer Compensation Fund Regulation, B.C. Reg 102/95.
Motor vehicle	means a self propelled vehicle designed or used primarily for travel on a highway, as defined in the <i>Highway Act</i> , and includes a trailer, as defined in the <i>Motor Vehicle Act</i> , designed or used primarily for accommodation during travel or recreation, but does not include <ul style="list-style-type: none"><li>• an all terrain vehicle, as defined in section 1 of the Motor Vehicle Act Regulations</li><li>• a farm tractor or motor assisted cycle, as those terms are defined in the <i>Motor Vehicle Act</i>, or</li><li>• machinery primarily intended for construction, mining or logging purposes. [MDA – s. 1]</li></ul>
Purchase	means, in relation to eligibility for compensation, the purchase, lease or other exchange of a motor vehicle. [MDCCF Reg – s.1]
Licensed	means registered as a motor dealer under the <i>Motor Dealer Act</i> . [MDA – s.1]
Registrar	means the Registrar of Motor Dealers.
Trailer	means a vehicle that is at any time drawn on a highway by a motor vehicle except, <ul style="list-style-type: none"><li>• an implement of husbandry</li><li>• a side car attached to a motorcycle, and</li><li>• a disabled motor vehicle that is towed by a tow car.</li></ul>
VSA	means the Vehicle Sales Authority of British Columbia



**APPENDIX A**

**TABLE OF TIME LIMITS**

The following time limits have been established by policy.

<b>Action</b>	<b>Time limit</b>	<b>From/Prior to</b>
Claimant to provide information or documentation missing from application	30 days	From date of Incomplete Application Letter
Applicant to request Board hearing where CM determines that initial eligibility criteria are not met	30 days	From date of Determination Letter
Dealer to provide response to a claim	10 business days	From date of Claim Acknowledgment Letter
Party to respond to investigation report	10 business days	From date of letter providing the report
Applicant to request Board hearing where CM determines that claim is not eligible	30 days	From date of Determination Letter
CM to send Notice of Board hearing to parties	10 business days	Prior to date of Board hearing
CM to send Notice of Board hearing to parties – oral hearing	30 days	Prior to date of Board hearing
CM to send claims file to Board members	14 days	Prior to date of Board hearing
CM to send decision of the Board and reasons to parties	30 business days	From date of Board hearing or reconsideration
Party to request reconsideration	30 days	From the date of receiving the original Decision
Party to respond to new evidence for reconsideration	10 business days	From date of letter notifying the parties of reconsideration
CM to send compensation payment to applicant if no reconsideration	60 days	From date of Board hearing