



Claims Processing Policy and Procedures Manual (Motor Dealer Consumer Compensation Fund)

MDCCF Claims Processing Policy and Procedures

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A. INTRODUCTION

1. Background

1.1 History

The Motor Dealer Customer 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 took over the 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 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 MDCCF Board Appointment Policy – this is the VSA Board’s policy on how MDCCF Board members are to be appointed or reappointed; and
- The MDCCF Fund Administration Policy – this is the VSA’s policy on how the VSA supports the Board and the administration of the Compensation Fund.
- The [MDCCF Claims Adjudication Policy](#) – this is another VSA Board’s policy that documents the policy and procedures that support maintaining a fair and consistent process for adjudicating claims against the Compensation Fund.

2. Claims Processing Policy and Procedures

2.1 Purpose of this Manual

The Claims Processing Policy and Procedures Manual serves as a valuable resource for collecting, analyzing, and processing compensation claim applications. It provides clear guidelines to ensure that the VSA maintains a fair and consistent process for assessing compensation claims applications and efficiently processes claims for the MDCCF Board's adjudication process. By following the policies and procedures outlined in the Manual, the VSA ensures better service to claimants and provides timely processing of their claims.

2.2 Role of Policy in Decision Making

The Claim Processing Policy and Procedures help the VSA ensure that compensation eligibility is applied fairly and consistently. However, the VSA has discretion when exercising its dedicated authority under the MDA and the MDCCF Regulation. Statutory decision-makers must consider unique facts and context when determining compensation eligibility according to the principles of natural justice.

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.

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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—Processing Applications for Compensation. This section is designed to provide clear and comprehensive policies and procedures regarding application requirements, initial eligibility criteria, and claim analysis and processing, ensuring a confident understanding and application of these processes.
- 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 Registrar of Motor Dealers

The Registrar of Motor Dealers (Registrar) is responsible for registering dealers, licensing salespeople, and enforcing the MDA and regulations. The responsibilities of the Registrar regarding the Compensation Fund include:

- requiring dealer contributions and repayments to the Compensation Fund
- overseeing the requirements for an application for compensation and the process for receiving and reviewing applications, and
- overseeing the balance of the Compensation Fund in consultation with the Board.

3.2 MDCCF Claims Manager

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

- maintaining the application for compensation form and application requirements
- managing intake and review of application requirements
- conducting 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
- preparing claim files for Board meetings
- assisting the Board with drafting decisions for claims
- requesting compensation payments from the Compensation Fund
- informing the Registrar of payments from the Compensation Fund to claimants and investigation costs
- corresponding 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

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- 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.

3.3 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.
- Conduct additional data gathering.
- Circulating claim documents to the parties and acting as a key point of 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.

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.

3.4 VSA Consumer Services

The VSA Consumer Services staff assists 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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3.5 VSA Investigations

The VSA Investigations staff assists 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.

3.6 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.

3.7 Director of Consumer Services and Industry Standards

The Director of Consumer Services and Industry Standards provides strategic and operational leadership for two VSA departments with the Registrar's delegated authority. The responsibilities of the Director of Consumer Services regarding the Compensation Fund include:

- 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.

3.8 Director of Investigations, Licensing and Legal Services

The Director of Investigations, Licensing and Legal Services ("Director of Investigations") is responsible for the strategic and operational leadership of three VSA departments and serves as the VSA's Privacy Officer. The responsibilities of the Director of Investigations regarding the Compensation Fund include:

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

Please refer to the [Claims Adjudication Policy and Procedures Manual](#) to review the roles and responsibilities of the MDCCF Board and the VSA Board regarding Compensation Fund Management.

B. PROCESSING APPLICATIONS FOR COMPENSATION

1. Overview and Service of Notices and Documents

This section outlines the policies and procedures related to processing applications for compensation from receipt of the application to a Board hearing and reconsideration. It is divided into the following parts:

- Part 1 – Overview and Service of Notices and Documents. This part explains what is covered in section B and includes a flowchart showing the major steps in processing applications for compensation. It also outlines how notices and documents related to claims processing are served.
- Part 2—Intake and Application Requirements. This part discusses reviewing the application for completeness and compliance with application requirements at intake. The Claims Manager ensures all application requirements have been met before processing further.
- Part 3—Initial Eligibility Assessment. This part discusses how applications are reviewed for eligibility based on the legislation's requirements. At this stage, the VSA determines whether the application is within the Board's jurisdiction.
- Part 4 – Claim Acknowledgement. This part discusses the required notifications and disclosures to the dealer and the claimant to ensure a fair process.
- Part 5 – Claim Analysis and Dispute Resolution. This part discusses the process for gathering further information required to hear the claim or resolve the early dispute where appropriate.
- Part 6—Review of Eligible Loss by the Claims Manager. This part discusses how the Claims Manager reviews a claim against the legislation to determine whether it is or is not eligible for compensation.
- Part 7 – Review of Liquidated/Unliquidated Loss with Respect to Claims Involving Liens by the Claims Manager. This part discusses the Claims Manager's review of a specific eligibility requirement - whether a loss is liquidated or unliquidated.

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1.1 Service of Notices and Documents

1.1.1 This section provides the requirements for serving Notices and Documents in this policy.

1.1.2 A notice or document in this policy must be either

- (a) personally delivered,
- (b) sent by ordinary or registered mail,
- (c) sent by electronic mail,
- (d) left in the mailbox or taped to the door where a person resides or a company's business address, or
- (e) sent by facsimile. [MDA s. 30]

1.1.3 A notice or document in this policy is considered to have been received

- (a) if sent by ordinary or registered mail, the delivery or service is considered to be complete on the 5th day after the day it was mailed,
- (b) if sent by electronic mail, the delivery of service is to be complete on the 3rd day after it was sent,
- (c) if sent by leaving a copy in the mailbox or slot, the delivery of service is considered to be complete on the 3rd day after it was left,
- (d) if sent by attaching a copy to the door or other place, the delivery of service is considered to be complete on the 3rd day after it was attached, and
- (e) If sent by facsimile, the service delivery will be completed on the 3rd day after transmission. [MDA s. 30.1]

2. Intake of Application and Review for Completeness

2.1 Introduction

The MDA and the MDCCF Regulation establish the policies and procedures related to the intake and review of applications for compliance with the application requirements. The Registrar establishes the application form, and the Claims Manager is responsible for ensuring that all application requirements are **met before further processing**.

2.2 Status of Application

The application has been received by the VSA.

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2.3 Legislative Authority and Requirements

- 2.3.1 Section 6(1) and (2) of the MDCCF Regulation provide requirements for requesting the dealer return the vehicle or money that is the subject of the compensation claim.
- 2.3.2 Section 17(1) of the MDA and sections 8, and 8.1 of the MDCCF Regulation provide the requirements for applying for compensation from the Compensation Fund.
- 2.3.3 Money must not be paid from the Compensation Fund unless the claimant has assigned all rights under the claim that gave rise to the application to the Trustee. [MDA – s. 19]
- 2.3.4 The Board must not compensate a person who has applied for compensation in respect of a default judgment or judgment by consent against a dealer unless the Board is satisfied that the claim would otherwise be payable. [MDA – s. 17(3)]

2.4 Policy

Demand is required

- 2.4.1 To claim compensation from the Compensation Fund, a claimant must first demand in writing that the dealer returns the vehicle or money subject to the claim. [MDCCF Reg – s. 6(1)]

Timeline for making the demand

- 2.4.2 The demand must be made within 4 years of the date of the transaction to which the demand relates. [MDCCF Reg – s. 6(2)]

Where a demand is made more than 4 years from the transaction to which the demand relates

- 2.4.3 Where a demand is made more than 4 years from the transaction to which the demand relates, the application does not meet the required criteria and will not be processed further. [MDCCF Reg – s. 6(2)]
- 2.4.4 The claimant will be notified of this determination and the right to request a Board hearing if the claimant disagrees with the determination [MDA – s. 16.1].

Application requirements

- 2.4.5 An application for compensation from the Compensation Fund must comply with the MDCCF Regulation. [MDA – s. 17(1)]
- 2.4.6 A claimant must provide a completed Motor Dealer Customer Compensation Fund Claim form provided by the Registrar. [MDA – s. 17(1); MDCCF Reg – s. 8(a)]

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- 2.4.7 A claimant must provide a copy of all available documentation related to the transaction that is the subject of the claim, including any receipts and any purchase, conditional sale, lease or consignment agreement. [MDCCF Reg – s. 8(b)]

Timeline for making the application

- 2.4.8 The application must be filed with the Registrar within 120 days of the claimant’s demand. [MDCCF Reg – s. 8.1(a)]
- 2.4.9 Despite 2.5.8, the Registrar may extend the time to apply if satisfied on evidence provided by a claimant that extenuating circumstances prevented the claimant from applying for compensation within the required 120 days. [MDCCF Reg – s. 8.1(b)]

Where an application is made less than 30 days from the date of the demand

- 2.4.10 The dealer has 30 days to honour the demand [MDCCF Reg – s. 6(1)].

Where an application is made more than 120 days from the demand

- 2.4.11 Subject to 2.5.8, where an application is made more than 120 days from the demand, the application will not be processed further.
- 2.4.12 A Claimant will be notified of the right to apply to the Registrar for an extension of the filing term. [MDCCF Reg – s. 8.1(b)]
- 2.4.13 Where the extension is not granted, the claimant will be notified of the right to request a reconsideration by the Board [MDA – s. 18.1]

Where the application meets timeline criteria but is incomplete

- 2.4.14 Where the demand and application meet timeline requirements but the application is incomplete under the MDCCF Regulation section 8(1), the claimant will be notified of the deficiencies and requested to provide the required documentation.
- 2.4.15 Where the required documentation is received, the application will proceed—see Pat B.3—Initial Eligibility Assessment.
- 2.4.16 The claim will not be processed further if the required documentation is not received and cannot be obtained by the VSA. The claimant will be notified of this determination and the right to request a Board hearing if the claimant disagrees with this determination. [MDA– s. 16.1]

Application may be re-opened

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- 2.4.17 If a claim file has been closed because the claimant refused or was unable to provide the required information or documentation, it may be re-opened if the claimant later provides the required information or documentation within a reasonable time, taking into consideration the facts provided by the applicant for their delay.

2.5 Procedures

Where a demand is made within 4 years from the transaction to which the demand relates

- 2.5.1 Where a demand is made within 4 years from the transaction to which the demand relates, the claim will be processed further.

Where a demand is made more than 4 years from the transaction to which the demand relates

- 2.5.2 Where a demand is made more than 4 years from the transaction to which the demand relates, the claim will not be processed further.
- 2.5.3 The Claims Manager will send a Determination Letter to the claimant advising the claimant
- a. of the reasons why the demand did not meet the criteria,
 - b. of the claimant's right to request a Board hearing if the claimant disagrees with the determination, and
 - c. The request for a Board hearing must be made in writing within 30 days of the Determination Letter.
- 2.5.4 Where the claimant requests a Board hearing within 30 days of the date of the Determination Letter, the Claims Manager proceeds with scheduling the Board hearing (reference the [Claims Adjudication Policy and Procedures Manual](#)).
- 2.5.5 The Claims Manager closes the file if the claimant does not request a Board hearing within 30 days.

Where a claim application is made after 30 days from the date of the demand

- 2.5.6 Where a claim application is made after 30 days from the date of the demand, the claim application will be processed further.

Where a claim application is made less than 30 days from the date of the demand

- 2.5.7 Where a claim application is made less than 30 days from the date of the demand and the application does not contain a dealer response to the demand, the Claims Manager will send an Acknowledgment of Receipt Letter to the claimant informing the claimant
- a. of the requirement to wait 30 days after making a demand before a claim can be made, and

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- b. that the claim will be processed further after 30 days from the date of the demand elapse.

2.5.8 Where a claim application is made less than 30 days from the date of the demand and contains dealer response to the demand, the claim application will be processed further.

Where an application is made more than 120 days from the demand

2.5.9 Where an application is made more than 120 days from the demand, the claim will not be processed further.

2.5.10 The Claims Manager sends a Determination Letter to the claimant advising the claimant

- a. of the reasons why the application did not meet the criteria,
- b. of the claimant's right to make a request to the Registrar for an extension allowing to make a claim after 120 days from the date of the demand, and
- c. that such request must be made in writing within 30 days from the Determination Letter.

2.5.11 Where the claimant does not request the extension within 30 days, the Claims Manager closes the file.

2.5.12 Where a written request for an extension is received, the Registrar will review the request.

2.5.13 Where the Registrar is satisfied that due to the extenuating circumstances, the claimant was not reasonably able to make the claim application within 120 days from the date of the Demand, the filing extension will be granted by the Registrar.

2.5.14 The claimant will be advised about the Registrar's determination, and the claim will be processed further.

2.5.15 Where the Registrar is not satisfied with the reasons why the extension is requested, the extension will not be granted, and a Determination Letter will be sent to the claimant advising the claimant

- a. of the reasons why the extension is not granted,
- b. of the claimant's right to request for reconsideration by the Board, and
- c. that such request must be made in writing within 30 days from the Determination Letter.

2.5.16 Where the claimant requests a reconsideration by the Board within 30 days of the date of the Determination Letter, the Claims Manager proceeds with scheduling the reconsideration by the Board (see [The Claims Adjudication Policy and Procedure Manual's Reconsideration Section for more](#)).

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2.5.17 Where the claimant does not request a reconsideration within 30 days, the Claims Manager closes the file.

Review of application for completeness, where demand and application timeline requirements have been met

2.6.18 The Claims Manager reviews the application for completeness to determine if the claimant has submitted all of the following items:

- (a) a completed Motor Dealer Customer Compensation Fund Claim Application form
- (b) a copy of all available documentation related to the transaction that is the subject of the claim, including any receipts and any purchase, conditional sale, lease or consignment agreement

Rationale

This documentation is needed to verify the nature of the transaction that is the subject of the claim and to determine eligibility for compensation.

- (c) where a copy of the purchase, conditional sale, lease or consignment agreement is not available to the claimant and the VSA cannot obtain a copy from dealer records, a completed and sworn agreement affidavit
- (d) where the claim concerns the purchase of a vehicle or an extended warranty
 - i. a copy of both sides of the cheque written to the dealer that was used for payment
 - ii. a copy of the credit card voucher or statement indicating the payment, or
 - iii. if paid by cash in an amount of \$1,000 or more, a completed and sworn Cash Payment Affidavit form

Rationale

This documentation is needed to verify that the claimant provided consideration for the transaction that is the subject of the claim.

- (e) a copy of the claimant's Demand to Motor Dealer form and, where the dealer is still in business, proof that the demand was sent to the dealer

Rationale

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When the dealer is not in business, it may be difficult for the claimant to determine where to address the demand, and it is more practicable for the VSA to send the demand to the dealer.

- (f) where applicable, a copy of the dealer's response to the claimant's demand
- (g) where applicable, a copy of the claimant's current vehicle registration form and owner's certificate of insurance for the vehicle that is the subject of the claim

Rationale

This documentation is needed to verify that the claimant is the individual who purchased or owns the vehicle that is the subject of the claim. The certificate of insurance provides evidence regarding the claimant's use of the vehicle.

- (h) where the vehicle that is the subject of the claim was used for business purposes, a copy of that part of the claimant's income tax return used for claiming vehicle-related costs as a business expense for the tax year in which the transaction that is the subject of the claim took place, and two subsequent tax years

Rationale

This documentation provides evidence on which to determine whether the vehicle was used primarily for personal or family purposes. Where a claim is approved, this documentation is necessary for the Board to apply the limitation in s. 7(c) of the MDCCF Regulation when determining the amount of compensation.

- (i) where the claimant is relying on a court judgment as the basis of the claim, a copy of the judgment and the pleadings, and
- (j) a completed Assignment and Undertaking form.

Rationale

Requiring this form is intended to ensure that the requirement in s. 19 of the MDA will be met. It also ensures that the claimant is informed of the requirement to reimburse the Compensation Fund under the circumstances described in s. 20 of the MDA.

Where application is complete

- 2.6.19 Where all the required items have been provided, the Claims Manager proceeds with an initial eligibility assessment of the claim application (see part A.3).
- 2.6.20 Where it is anticipated that it will be more than 7 business days before the Claims Manager can complete an initial eligibility assessment, the Claims Manager sends an Acknowledgement of Receipt Letter to the claimant.

Where application is incomplete

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2.6.21 Where an application is incomplete, the Claims Manager sends the claimant an Incomplete Application Letter with a request that the claimant provide within 30 days

- (a) the required documentation or information,
- (b) a reasonable substitute, including sworn evidence, or
- (c) an explanation why it cannot be provided.

Rationale

The required documentation or a reasonable substitute provides the minimum amount of documentary evidence necessary to support an application for compensation.

2.6.22 If the requested documentation or information is not provided within 30 days, the Claims Manager determines whether the VSA can obtain the required documentation, information or a reasonable substitute from another source.

2.6.23 Where the required documentation or information that is not provided by the claimant can be reasonably obtained by the VSA from another source, the Claims Manager proceeds with an initial eligibility assessment of the claim application (see part B.3).

2.6.24 Where the required documentation or information that is not provided by the claimant cannot be reasonably obtained by the VSA from another source, the claim will not be considered further. The Claims Manager will send a Determination Letter to the claimant informing the claimant

- (a) of the determination not to consider the claim further because the application is incomplete,
- (b) of the claimant's right to request a Board hearing if the claimant disagrees with the determination, and
- (c) that such request for a Board hearing must be made in writing within 30 days from the date of the Determination Letter.

2.6.25 Where the claimant requests a Board hearing within 30 days of the date of the Determination Letter, the Claims Manager proceeds with scheduling the Board hearing (see [The Claims Adjudication Policy and Procedure Manual's Board Hearing section](#)).

2.6.26 Where the claimant does not request a Board hearing within 30 days, the Claims Manager closes the file.

Where application may be re-opened

2.6.27 Where a claim file has been closed because the claimant refused or was unable to provide the required documentation or information and later provides it within a reasonable time, the Claims Manager re-opens the claim file after consulting with the Board where necessary.

3. Initial Eligibility Assessment

3.1 Introduction

This section outlines the policies and procedures for assessing eligibility for compensation. The initial eligibility criteria are based on establishing the Board's jurisdiction to hear the claim. The Claims Manager reviews all applications and determines if they meet the initial eligibility criteria. If the criteria are not met, the claimant can request a hearing. If the application meets the initial eligibility criteria, it goes to a Board hearing, and the Board will assess the criteria before considering if the claimant has suffered an eligible loss.

3.2 Status of Application

The application meets the requirements and has been reviewed for completeness

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3.3 Legislative Authority and Requirements

- 3.3.1 Section 4 of the MDCCF Regulation establishes who may apply for compensation from the Compensation Fund.
- 3.3.2 The Board must not compensate a person who has applied for compensation in respect of a default judgment or judgment by consent against a motor dealer unless the Board is satisfied that the claim would otherwise be payable under the MDA and the MDCCF Regulation. [MDA – s. 17(3)]

Definitions

- 3.3.3 The following definitions apply to the initial eligibility criteria:
- (a) **“motor vehicle”** means a self-propelled vehicle designed or used primarily for travel on a highway, as defined in the *Highway Act*, and **includes a trailer**, as defined in the *Motor Vehicle Act*, **designed or used primarily for accommodation during travel or recreation**, but does not include (emphasis added)
 - i. an all-terrain vehicle, as defined in section 1 of the Motor Vehicle Act Regulations
 - ii. a farm tractor or motor assisted cycle, as those terms are defined in the Motor Vehicle Act,
 - iii. machinery primarily intended for construction, mining or logging purposes. [MDA – s. 1], or
 - iv. a vehicle exempted by the MDA Regulations.
 - (c) **“purchase”** includes a lease or exchange of a motor vehicle. [MDCCF Reg – s.1]
 - (d) **“registered”** means registered as a motor dealer under the *Motor Dealer Act*. [MDA – s. 1]
 - (e) **“trailer”** means a vehicle that is designed or used primarily for accommodation during travel or recreation, and at any time is drawn on a highway by a motor vehicle, except
 - i. an implement of husbandry,
 - ii. a side car attached to a motorcycle,
 - iii. a disabled motor vehicle that is towed by a tow car. [*Motor Vehicle Act* – s. 1], or
 - iv. a trailer exempted by the MDA Regulations.

Definition of a motor vehicle prior to December 1, 2006

- 3.3.4 Prior to December 1, 2006, the definition of motor vehicle in the Motor Dealer Act was the following:

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“**motor vehicle**” means a motor vehicle as defined in the *Motor Vehicle Act* and includes a trailer, motor home and manufactured home [as defined in the *Manufactured Home Act*] but does not include a motorized snow vehicle, an electric trolley bus, farm tractor or other self-propelled machinery primarily intended for farming, construction, mining or logging purposes, or a motor vehicle exempted by the regulations.

3.4 Policy

Initial eligibility criteria

- 3.4.1 Prior to determining whether a loss is eligible for compensation, an application must meet the following initial eligibility criteria:
- (a) the claimant must be an individual [MDCCF Reg – s. 4]
 - (b) the claimant must have
 - (i) purchased a motor vehicle or an extended warranty or service plan for a motor vehicle, or [MDCCF Reg – s. 4(a)]
 - (ii) delivered a motor vehicle for sale on consignment in a transaction with a licensed motor dealer [MDCCF Reg – s. 4(b)]
 - (c) in a purchase under paragraph 3.5.1(e)(i), the claimant must have intended to use the vehicle primarily for personal or family purposes [MDCCF Reg – s. 4(a)(i)(ii)]
 - (d) in a delivery for consignment under paragraph 3.5.1(e)(ii), the type of motor vehicle consigned to the motor dealer must be such that it does not preclude a sale to an individual primarily for the individual’s personal or family use, and [MDCCF Reg – s. 4(b)]
 - (e) the loss for which the claimant is seeking compensation must have already occurred.

Rationale

Section 4 of the MDCCF Regulation outlines the requirements for purchasing a motor vehicle or an extended warranty/service plan. The purchase must be for personal or family use, and the consignment of a vehicle must also be primarily for personal or family use. As stated in section 5, to be eligible for compensation, a claimant must have already suffered a loss.

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Meaning of “individual”

3.4.2 “Individual” means a natural person as per *Fireman’s Fund Insurance Co. of Canada v. Shoreline Auto Sales Ltd.* [1986] B.C.J. No. 1745 (B.C. Supreme Court).¹

Rationale

Section 4 of the MDCCF Regulation uses the word “individual” rather than “person,” limiting eligibility to natural persons. This interpretation is consistent with the Compensation Fund’s consumer protection purpose.

3.4.3 Except as provided in paragraph 3.5.4, the claimant must be the individual who suffered the loss that is the subject of the claim.

3.4.4 A person who is legally entitled to act in place of the individual who suffered the loss, such as an executor or committee, may apply in that individual’s name.

Meaning of “registered dealer”

3.4.5 To be eligible for compensation, the dealer who is the subject of the claim must have been licensed at the time that the claimant’s purchase or consignment agreement was made.

Determining primary use of vehicle

3.4.6 To determine whether a vehicle was used or intended to be used primarily for personal or family purposes, “primarily” means that more than 50% of the vehicle’s use was or was intended for personal or family purposes.

3.4.7 When determining the primary use of a vehicle, the Board will consider, where available, any evidence of

- (a) the intended use at the time of the purchase,
- (b) any actual use of the vehicle by the claimant, and
- (c) where the vehicle was purchased to replace a vehicle previously used by the claimant, the primary purpose of the claimant’s use of the vehicle to be replaced.

3.4.8 If 50% or more of the intended use was for business purposes, the claim is not eligible for compensation.

3.4.9 Business use includes

¹ Although the current policy is that a claimant must be a natural person, there may be circumstances in which the Board would consider whether a legal entity, such as a family trust, may be eligible where that entity has no commercial purpose, was acting in the place of a natural person, and suffered a loss that was, in fact, borne by that natural person. Likewise, there may be circumstances where an insurer may be eligible based on the subrogated claim of a natural person if that person’s claim is eligible.

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- (a) the use of the vehicle to conduct sales calls, to meet with clients, carry or store equipment or inventory, or
 - (b) generally to conduct business whether the individual is self-employed or employed by a third party, and
 - (c) the purchase of a vehicle primarily for the purpose of reselling the vehicle.
- 3.4.10 Business use does not include a claimant's use of the vehicle to commute to a place of employment if the vehicle is not otherwise used to conduct business.

When a trailer is a vehicle

- 3.4.11 Except as provided in paragraph 3.5.16, when assessing whether a trailer is a motor vehicle, the determining factor will be whether the trailer was designed or used primarily for accommodation during travel or recreation rather than its designation or certification.
- 3.4.12 A trailer that was designed primarily for accommodation during travel or recreation but was not used primarily for these purposes is a motor vehicle.
- 3.4.13 A trailer designed primarily for permanent accommodation is a motor vehicle only if it is used primarily for accommodation during travel or recreation.
- 3.4.14 When determining whether a trailer was designed for permanent accommodation, the Board will consider whether it was designed with permanent connections for electricity, sewer, and water and any other relevant information.
- 3.4.15 For the purpose of determining whether a trailer was designed primarily for accommodation during travel or recreation, the Board will consider the design of the trailer at the time of purchase or consignment.

Rationale

The definition of a motor vehicle in the MDA excludes manufactured homes, but a trailer used primarily for travel or recreation is considered a motor vehicle. If a trailer was modified for accommodation before purchase or consignment, it is eligible for the Compensation Fund, but if modifications were done after purchase or consignment, it is not eligible. When assessing whether a trailer is a motor vehicle where the transaction that is the subject of a claim occurred prior to December 1, 2006, the definition of motor vehicle in the MDA as it was then will be used.

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Review of initial eligibility by Claims Manager

3.4.16 The Claims Manager will review the application to determine if it meets the initial eligibility criteria in paragraph 3.5.1.

Where evidence is a court judgment

3.4.17 The Claims Manager will not accept default judgments or consent orders as proof of initial eligibility criteria.

3.4.18 Where the claimant relies on a court judgment in a contested matter, the Claims Manager will rely on a finding of fact in the judgment that indicates that one or more of the initial eligibility criteria have been met.

Rationale

Under s. 17(3) of the MDA, compensation for default or consent judgments is prohibited unless the Board verifies that the claim would be payable without them. If a judgment is based on evidence and findings of fact, the Board must accept the relevant facts to determine eligibility. Not accepting judicial findings of fact may be an abuse of process.

Where application meets criteria

3.4.19 Where the Claims Manager determines that an application meets the initial eligibility criteria, the Claims Manager will proceed to Claim Acknowledgement (see part B.4).

Where application does not meet criteria

3.4.20 Where the Claims Manager determines that an application does not meet the initial eligibility criteria, the claim application will not be processed further. The claimant will be notified of this determination and the right to request a Board hearing if the claimant disagrees with the determination. [MDA – s. 16.1]

3.5 Procedures

3.5.1 The Claims Manager reviews the application and determines whether the following initial eligibility criteria are met:

- (a) the claimant is an individual,
- (b) the claimant
 - (i) purchased a vehicle or an extended warranty or service plan for a vehicle, or
 - (ii) delivered a vehicle for sale on consignment,
- (c) the vehicle was purchased from or delivered to a licensed motor dealer, and

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- (d) if the claimant purchased a vehicle or an extended warranty for a vehicle, the vehicle was used or was intended to be used primarily for personal or family purposes.

Where application meets criteria

- 3.5.2 Where the application may meet the initial eligibility criteria in paragraph 3.6.1, the Claims Manager proceeds with Claim Acknowledgement (see part 4).

Where application does not meet criteria

- 3.5.3 Where the Claims Manager determines that the application does not meet the initial eligibility criteria in paragraph 3.6.1, the Claims Manager will send a Determination Letter to the claimant informing the claimant
 - (a) of the reasons for the eligibility determination,
 - (b) of the claimant's right to request a Board hearing if the claimant disagrees with the determination, and
 - (c) that such request for a Board hearing must be made in writing within 30 days from the date of the Determination Letter.
- 3.5.4 The Claims Manager sends a copy of the Determination Letter to the dealer who is the subject of the claim.
- 3.5.5 Where the claimant requests a Board hearing within 30 days of the date of the Determination Letter, the Claims Manager proceeds with scheduling the Board hearing (see [The Claims Adjudication Policy and Procedure Manual's Board Hearing section](#)).
- 3.5.6 Where the claimant does not request a Board hearing within 30 days, the Claims Manager closes the file.

4. Claim Acknowledgement

4.1 Introduction

This part provides the policies and procedures notifying the claimant and the dealer who is the subject of the claim that the application is being considered. At this stage, the dealer receives a copy of the claimant's submission and is asked to submit a written response, which is then provided to the claimant.

4.2 Status of Application

The application

- meets the application requirements and has been reviewed for completeness, and
- meets the initial eligibility criteria.

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4.3 Legislative Authority and Requirements

- 4.3.1 The Board may examine records and make inquiries that it considers necessary. [MDA – s. 18(c)]
- 4.3.2 If a motor dealer is affected by an application for compensation, the Board must send a copy of the application by regular mail to the most recent home address of the motor dealer’s principal, senior officer or director provided by the motor dealer to the Registrar. [MDCCF Reg – s. 10(1)]

4.4 Policy

Notification to claimant and dealer

- 4.4.1 Where an application may meet the initial eligibility criteria, the claimant and the motor dealer will be notified that the claim is being considered.

Where motor dealer is currently licensed and in business

- 4.4.2 Where the motor dealer who is the subject of a claim is currently licensed, and in business, the motor dealer will be notified of the claim and provided with a copy of the claimant’s submission.
- 4.4.3 The motor dealer will be asked to submit a written response to the claimant’s submission within 10 business days of the date of the letter. Once received, a copy of the dealer’s response will be sent to the claimant.
- 4.4.4 Where the motor dealer who is the subject of the claim is no longer in business, and a successor dealer operates at that dealer’s former place of business, the Claims Manager will determine whether the successor dealer is liable for the claim.
- 4.4.5 Where the motor dealer who is the subject of a claim is no longer in business, and there is no successor dealer who is liable for the claim, notification of the claim and a copy of the claimant’s submission will be sent to
 - (a) the dealer’s current address if it can be verified through VSA records, or
 - (b) the address of the dealer’s registered office as recorded in the Corporate Registry.

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When delivery is unsuccessful

- 4.4.6 Where notification of a claim cannot be delivered to a dealer's last verifiable address, no further delivery of claim documentation will be attempted.

4.5 Procedures

Claim Acknowledgement to claimant and motor dealer

- 4.5.1 After finding that the claimant meets the initial eligibility criteria, the Claims Manager sends a Claim Acknowledgement Letter to the claimant and the motor dealer.
- 4.5.2 The Claim Acknowledgement Letter to the motor dealer includes
- (a) a copy of the claimant's claim application submission, and
 - (b) a request to provide a written response to the claim within 10 business days of the date of the letter.
- 4.5.3 When the motor dealer's written response to the claimant's submission is received, the Claims Manager forwards a copy of the response and any supporting documentation to the claimant.

Where motor dealer is currently licensed

- 4.5.4 Where the motor dealer who is the subject of the claim is currently licensed by the VSA, the Claims Manager emails the Claim Acknowledgement Letter to the dealer principal or general manager at the business address indicated in the VSA records.

Where motor dealer is no longer in business – successor motor dealer

- 4.5.5 If the dealer that is the subject of the claim is no longer in business, then the Claims Manager determines
- (a) whether there is a successor motor dealer operating at that dealer's place of business, and
 - (b) if there is a successor motor dealer, whether VSA records indicate that the successor dealer has undertaken responsibility for outstanding consumer claims.
- 4.5.6 Where there is no record of the successor motor dealer undertaking responsibility for outstanding consumer claims, the Claims Manager sends a Letter to Establish Liability to the dealer principal or general manager requesting confirmation as to whether the successor dealer has liability for outstanding consumer claims.
- 4.5.7 If there is a successor dealer who has assumed liability for outstanding consumer claims, then the Claims Manager sends the Claim Acknowledgement Letter by email to the dealer principal or general manager at the business address indicated in the VSA records.

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Where motor dealer is no longer in business – no successor motor dealer

- 4.5.8 If there is no successor motor dealer with liability for the claim and the motor dealer's current address can be verified through VSA records, then the Claims Manager sends the Claim Acknowledgement Letter and the claimant's submission by registered mail to the dealer principal or general manager at the business address indicated in the VSA records.
- 4.5.9 If there is no successor motor dealer with liability for the claim and the dealer's current address cannot be verified through VSA records, then the Claims Manager sends the Claim Acknowledgement Letter and the claimant's submission by registered mail to the dealer's registered address as recorded in the Corporate Registry.
- 4.5.10 If a letter in paragraph 4.6.8 and 4.6.9 cannot be delivered, the Claims Manager sends a notification of the claim by registered mail to the dealer's principal, senior officer or director at their most recent home address indicated in the VSA records. For privacy reasons, a claimant's submission is not included with such notification until the mailing address of the dealer's principal, senior officer or director is verified.
- 4.5.11 Upon receipt of the verified address in paragraph 4.6.10, the Claims Manager sends the Claim Acknowledgement Letter and the Claimant's submission by registered mail to the verified address.
- 4.5.12 If no response is received to the request for address verification in paragraph 4.6.10, no further claim communication to the dealer will be conducted.

Where motor dealer response is received or 10 business days for a response elapse

- 4.5.13 Where the motor dealer's written response to the claim is received, the Claims Manager forwards a copy of the response and any supporting documentation to the claimant and proceeds to claim analysis and dispute resolution (see Part B.5)
- 4.5.14 Where 10 days from the date of the Claim Acknowledgement Letter to the motor dealer elapse and the written response to the claim is not received, the Claims Manager proceeds to claim analysis and dispute resolution (see Part B.5)

5. Claim Analysis and Dispute Resolution

5.1 Introduction

This section outlines the policies and procedures for gathering information and attempting dispute resolution before a Board hearing. The Claims Manager, with the Manager of VSA Investigations, oversees the claim analysis and dispute resolution processes.

5.2 Status of Application

The application

- meets the application requirements and is complete, and
- meets initial eligibility criteria; and

The claimant and the dealer who is the subject of the claim

- have been notified that the application is being considered, and have received a copy of the other party's submissions.

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5.3 Legislative Authority and Requirements

- 5.3.1 The Board may consider various evidence. [MDA – s. 18]
- 5.3.2 The Board may apply to the court for an order named in sections 16.1(a) of the MDA and sections 34(3) and 34(4) of the *Administrative Tribunals Act*.

5.4 Policy

Claim analysis

- 5.4.1 The Claims Manager will gather the information required to determine the next steps in resolving the claim.
- 5.4.2 Where a legal opinion is required to determine claim eligibility for compensation, the Claims Manager will arrange to obtain it.

Review of eligible loss by Claims Manager

- 5.4.3 Where warranted, the Claims Manager will review eligible loss. Where the Claims Manager has determined there is no need for an investigation and the claim is
- (a) a deposit claim for \$5,000 or less (see part B.6),
 - (b) any other type of claim for \$2,000 or less (see part B.6), or
 - (c) a claim involving a lien (see part B.7).

Dispute resolution and investigation

- 5.4.4 A claim will be addressed through any suitable avenues of VSA dispute resolution, which will be conducted according to the applicable VSA policies and procedures.

Rationale

In many circumstances, alternative dispute resolution can resolve a claim more quickly and effectively. If a motor dealer is in business, an investigation may resolve the dispute that is the subject matter of the claim. Where warranted, an investigation may result in a hearing before the Registrar.

- 5.4.5 Where a claim is resolved through a VSA dispute resolution process, the Claims Manager
- (a) will request that the claimant provide a written release of the claim,
 - (b) send a closing letter to the parties involved, and
 - (c) assess the claim processing for the need of investigation cost recovery in accordance with part C.6 of this policy.

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- 5.4.6 For those claims that
- (a) cannot be resolved after all suitable avenues of VSA dispute resolution have been exhausted, or
 - (b) where the claimant's compensation as a result of the VSA dispute resolution is less than claimed,

The claim processing will continue as needed.

Investigation

- 5.4.7 If a claim is unresolved through VSA dispute resolution, the Claims Manager, in consultation with the VSA Manager of Investigations, will determine whether it requires investigation.
- 5.4.8 Where an investigation is completed, the Claims Manager will initiate the investigation cost recovery in accordance with the procedure outlined in the Claims Adjudication Policy and Procedures Manual.
- 5.4.9 Where an investigation is completed and results in dispute resolution, the Claims Manager will send a closing letter to the parties involved.
- 5.4.10 Where an investigation is completed, and dispute resolution is not achieved, a copy of the Investigation Report and Investigation Cost Recovery Invoice will be provided to the parties, who may submit a written response to the report.
- 5.4.11 Where a written response to an Investigation Report is received, it will be provided to all other parties and the Investigations Officer who conducted the investigation.

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- 5.4.12 The Investigations Officer will review the response and determine if any additional investigation is required based on the information in the response. If an additional investigation is required, paragraphs 5.5.7 to 5.5.11 will apply to the additional investigation.

5.5 Procedures

Claim Analysis

- 5.5.1 The Claims Manager analyzes the claim and gathers further information required to establish or confirm facts essential to its eligibility.
- 5.5.2 If the Claims Manager gathers information for the claim file relevant to eligibility consideration, the Claims Manager sends a copy to each party to the claim.
- 5.5.3 If the Claims Manager identifies an issue that may require a legal opinion, the Manager consults with the Board Chair to determine whether one is necessary. Where a necessity for a legal opinion is confirmed, the Manager requests a legal opinion for the claim file from the Board's legal counsel.

Review of eligible loss by Claims Manager

- 5.5.4 The Claims Manager will conduct a review of eligible loss where the Claims Manager has determined there is no need for an investigation and the claim is
- (a) a deposit claim for \$5,000 or less (see part B.6),
 - (b) any other type of claim for \$2,000 or less (see part B.6), or
 - (c) a claim involving a lien (see part B.7).

Dispute resolution and investigation

- 5.5.5 The Claims Manager determines whether any of the VSA dispute resolution strategies can be applied for the dispute that is the subject matter of a claim, including:
- (a) conciliation or other forms of dispute resolution,
 - (b) an investigation, and
 - (c) a hearing.
- 5.5.6 VSA dispute resolution is conducted according to the applicable VSA policies.
- 5.5.7 Where possible, the VSA Consumer Services will attempt to facilitate dispute resolution.

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- 5.5.8 Where disputes are unresolved through the facilitation by the VSA Consumer Services, the Claims Manager consults with VSA Manager of Investigations to determine whether an investigation is required.
- 5.5.9 If an investigation is required, the Claims Manager forwards a copy of the claim file to VSA Investigations.
- 5.5.10 Where investigation is completed and dispute resolution is not achieved, VSA Investigations sends a copy of the Investigation Report to the Claims Manager and the report is added to the claim file.
- 5.5.11 The Claims Manager initiates investigation cost recovery pursuant to part C.6 of this policy and obtains an Investigation Cost Recovery Invoice from VSA Finance.
- 5.5.12 The Claims Manager sends a Disclosure Letter to each party to the claim
- (a) providing a copy of the Investigation Report and Investigation Cost Recovery Invoice,
 - (b) requesting the parties to review the Investigation Report to confirm that the information contained in it is accurate and complete, and
 - (c) informing the parties that if they identify errors of fact, or if significant relevant information is not included in the report, they must send a written response within 10 business days of the date of the letter.
- 5.5.13 If a party's written response to an Investigation Report is received at the VSA, the Claims Manager
- (a) acknowledges receipt,
 - (b) discloses the response to the other parties,
 - (c) forwards a copy of the response to the VSA Investigations Officer who conducted the investigation for determination if additional investigation is required, and
 - (d) adds the response to the claim file.
- 5.5.14 The VSA Investigations Officer who conducted the investigation reviews the response and determines if any additional investigation is required based in the information in the response. If an additional investigation is required, paragraphs 5.6.9 to 5.6.13 apply to the additional investigation.
- 5.5.15 After pre-hearing disclosure of investigation documents is completed, the Claims Manager directs the claim to a Board hearing (part B.8).

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Resolution of the claim

- 5.5.16 If the dispute giving rise to the claim is resolved through conciliation, dispute resolution, or a hearing, the Claims Manager
- (a) sends a Closing Letter to the parties acknowledging the resolution of the dispute and indicating that the claim file will be closed, and
 - (b) initiates investigation cost recovery pursuant to part C.6 of this Policy.

6. Review of Eligible Loss by Claims Manager

6.1 Introduction

This part provides the policies and procedures regarding a determination by the Claims Manager as to whether a loss is not eligible for compensation. The Claims Manager conducts a review of eligible loss on deposit claims for \$5,000 or less and on any other claim for \$2,000 or less.

6.2 Status of Application

This section is to be applied to an application only if it:

- meets the application requirements and is complete,
- meets the initial eligibility criteria, and

The claimant and the dealer who is the subject of the claim:

- have been notified that the application is being considered, and
- have received a copy of the other party's submissions.

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6.3 Legislative Authority and Requirements

- 6.3.1 The Board has exclusive jurisdiction to hear and decide claims against the Compensation Fund. [MDA – s. 16(1)]

6.4 Policy

- 6.4.1 For deposit claims up to \$5,000 or for any other claim up to \$2,000, the Claims Manager may determine if a loss is not eligible for compensation.

Rationale

Generally, these claims are not complex and a determination that a loss is not eligible may be more efficiently and cost-effectively addressed by the Claims Manager at this stage.

The scope of the Claims Manager's authority is limited to determining that a loss is not eligible.

- 6.4.2 In making a determination under paragraph 6.5.1, the Claims Manager will follow any applicable policies and procedures that the Board uses in determining eligibility of a loss.
- 6.4.3 Where the Claims Manager determines that a loss is not eligible, the claimant will be notified of this determination and the right to request a Board hearing if the claimant disagrees with the determination. [MDA – s. 16.1]
- 6.4.4 Where the Claims Manager determines that a loss may be eligible for compensation, the claim will be processed further.

6.5 Procedures

- 6.5.1 Where the claim is for deposit up to \$5,000 or any other claim up to \$2,000, the Claims Manager reviews the claim following the applicable policies and procedures in parts C.2, C.3 and C.4 to determine if the loss is eligible for compensation.

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Where loss may be eligible

- 6.5.2 Where the Claims Manager determines that a loss may be eligible for compensation, the Claims Manager determines whether any of the following options should be taken prior to directing the claim to the Board for hearing:
- (a) conciliation or other forms of dispute resolution where available in accordance with policy and procedures in part B.5, and
 - (b) an investigation by the VSA Investigations Officer in accordance with part B.5.
- 6.5.3 Where the dispute giving rise to the claim is not resolved through conciliation, dispute resolution, or investigation, the Claims Manager directs the claim to the Board for hearing (see [The Claims Adjudication Policy and Procedure Manual's Board Hearing section](#)).

Where loss is not eligible

- 6.5.4 Where the Claims Manager determines that the loss is not eligible for compensation, the Claims Manager sends a Determination Letter to the claimant with a copy to the motor dealer informing
- (a) of the reasons for the determination,
 - (b) of the claimant's right to request a Board hearing if the claimant disagrees with the determination, and
 - (c) that such request for a Board hearing must be made in writing within 30 days from the date of the Determination Letter.
- 6.5.5 Where the claimant requests a Board hearing within 30 days of the date of the Determination Letter, the Claims Manager proceeds with scheduling the Board hearing (see [The Claims Adjudication Policy and Procedure Manual's Board Hearing section](#)).
- 6.5.6 Where the claimant does not request a Board hearing within 30 days, the Claims Manager proceeds to investigation costs recovery review (Part C.6).
- 6.5.7 Where no investigation costs have been incurred, the Claims Manager closes the file.

7. Review of Lien Claims for Liquidated/Unliquidated Loss by Claims Manager

7.1 Introduction

This part provides the policies and procedures regarding the Claims Manager's review of the loss for lien claims and a determination of whether a loss involving a lien is liquidated.

7.2 Status of Application

This section is to be applied to an application only if it

- meets the application requirements and is complete,
- meets the initial eligibility criteria, and

The claimant and the dealer who is the subject of the claim

- have been notified that the application is being considered, and
- have received a copy of the other party's submissions.

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7.3 Legislative Authority and Requirements

- 7.3.1 Failure to provide clear title is generally a breach of warranty remedied by an award of damages (unliquidated amount): *Sale of Goods Act* R.S.B.C. 1996 c. 410, sections 16(c) and 56. The Board cannot assess damages in this circumstance. [MDCCF Reg – s. 5(1)(a)(iv)]
- 7.3.2 Compensation is available to “individuals”; the consumer who suffers harm by a dealer during a transaction. It is not available to motor dealers or companies (including finance companies) who have an interest in the transaction [MDCCF Reg – s. 4 and *Fireman’s Fund Insurance Co. of Canada v. Shoreline Auto Sales Ltd.* [1986] B.C.J. No. 1745 (Supreme Court)].
- 7.3.3 By agreeing to pay a lien holder the amount they claim, the Board may be awarding compensation to the lien holder for its loss, instead of any loss suffered by the purchasing consumer. The Board may also inadvertently pay a lien holder whose lien is actually defective or unenforceable against the purchasing consumer [*Personal Property Security Act* R.S.B.C. 1996 c. 359 and *Sale of Goods Act* ss. 16 and 28].
- 7.3.4 Negotiating with the lien holder to reduce their claim is attempting to liquidate a loss through negotiations, which the Board cannot do either directly or through Claims Manager [MDCCF Reg – s. 5(1)(a)(iv)].

7.4 Policy

- 7.4.1 The Claims Manager has delegated authority from the Board to review lien claims for eligible losses with no limit on the amount claimed.

Rationale

Generally, these claims are not complex, and the claims manager may more efficiently and cost-effectively address a determination that a loss is not eligible at this stage.

The scope of the Claims Manager’s authority is limited to determining that a loss is not eligible.

- 7.4.2 In deciding under paragraph 7.5.1, the Claims Manager will follow any applicable policies and procedures that the Board uses to determine a loss's eligibility.
- 7.4.3 Where the Claims Manager determines that a loss is not liquidated, the claimant will be notified of this determination and the right to request a Board hearing if the claimant disagrees with the determination. [MDA – s. 16.1]
- 7.4.4 Where the Claims Manager determines that a loss that is the subject matter of a claim may be liquidated, the claim will be processed further.

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7.5 Procedures

7.5.1 The Claims Manager reviews the lien claim following the applicable policies and procedures in parts C.2 and C.4 to determine if the loss is liquidated or unliquidated.

Where loss may be liquidated

7.5.2 Where the Claims Manager determines that a loss that is the subject matter of a claim may be liquidated, the claim

- a. will be addressed first through any suitable avenues of dispute resolution through the VSA Consumer Services and VSA Investigations, and
- b. If all suitable avenues of VSA dispute resolution are exhausted without resolution of the claim, the claim will be assessed for the need for investigation and directed to the Board for a hearing (see [The Claims Adjudication Policy and Procedure Manual's Board Hearing](#) section).

Where loss is not liquidated

7.5.3 Where the Claims Manager determines that the loss is not liquidated and, therefore, not eligible for compensation, the Claims Manager sends a Determination Letter to the claimant with a copy to the motor dealer informing

- (a) of the reasons for the determination, and
- (b) of the claimant's right to request a Board hearing if the claimant disagrees with the determination, and
- (c) that such request for a Board hearing must be made in writing within 30 days from the date of the Determination Letter.

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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">• an all terrain vehicle, as defined in section 1 of the Motor Vehicle Act Regulations• a farm tractor or motor assisted cycle, as those terms are defined in the <i>Motor Vehicle Act</i>, or• machinery primarily intended for construction, mining or logging purposes. [MDA – s. 1]
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">• an implement of husbandry• a side car attached to a motorcycle, and• a disabled motor vehicle that is towed by a tow car.
VSA	means the Vehicle Sales Authority of British Columbia

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APPENDIX A

TABLE OF TIME LIMITS

The following time limits have been established by policy.

Action	Time limit	From/Prior to
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