



Vehicle Sales Authority of BC
Motor Dealer Customer
Compensation Fund

Motor Dealer Customer Compensation Fund Administration Policy

Table of Contents

Record of Updates	5
1. Introduction.....	6
1.1. History of the Compensation Fund.....	6
1.2. Operation of the Compensation Fund	6
1.3. Compensation Fund Policies	7
1.4. Purpose of this Policy.....	7
1.5. How this Policy is Organized.....	7
1.6. Roles and Responsibilities	8
MDCCF Board.....	8
VSA Board	9
Registrar of Motor Dealers	9
MDCCF Claims Manager	9
VSA Director of Learning and Communications	10
VSA Legal Administrative Assistant.....	10
VSA Consumer Services Department	11
VSA Compliance Department.....	11
VSA Manager of Compliance.....	11
VSA Compliance Officer	12
VSA Licensing Department.....	12
VSA Manager of Licensing	12
VSA Finance Department	12
VSA Director of Finance and Operations.....	12
2. Contributions and Repayments to the Compensation Fund	13
2.1. Legislative Authority and Requirements.....	13
Dealer contributions	13
Failure to make a required contribution	14
Dealer repayment of compensation	14
Claimant repayments	14
2.2. Policy	15
Annual dealer contributions	15
Decision to waive – significant risk	16
Additional dealer contributions.....	16
Failure to make a required contribution	16
Dealer repayment of compensation	17
Claimant repayment of compensation	18
3. Administrative and Operational Support.....	20
3.1. Legislative Authority and Requirements.....	20
Administering the Compensation Fund.....	20
Applications for compensation	20
3.2. Policy	20

MDCCF Administration Policy

Day-to-day operations.....	20
Education and communications	21
Policy analysis and legal advice	22
Dispute resolution	22
Investigation of claims.....	23
4. Compensation Fund Management and Accounting	24
4.1. Legislative authority and requirements.....	24
General	24
Compensation payments	24
Collecting contributions and repayments.....	25
Board member remuneration and expenses	25
Administrative and operating expenses.....	26
Maintaining records and reporting on the Compensation Fund.....	26
4.2. Policy	27
Ensuring the sufficiency of the Compensation Fund balance.....	27
Compensation payments	28
Collecting contributions and repayments.....	28
Board member remuneration and reimbursement of expenses	28
Salary costs to be recovered	29
Expenses to be recovered	30
Recovery of salary, benefits and other remuneration.....	30
Remitting contributions and recovery of expenses	31
Reporting.....	31

Record of Updates

Date	Summary of Update
1 Nov 2011	Original
November 2013	<ul style="list-style-type: none">• Page numbering in footer to represent version date reference• LAA's involvement in the claim handling processes• Remuneration change from per diem to hourly rates• Removal of the Deputy Registrar references
September 2015	<ul style="list-style-type: none">• Adding VSA Board's role of establishing per diem rates• Removing the role of VSA President
April 2018	<ul style="list-style-type: none">• Transferring the Compensation Fund from the Ministry to the VSA• MDCCFB to approve investigation costs• Claimants to repay Compensation Fund if additional compensation received

1. Introduction

1.1. History of the Compensation Fund

The Motor Dealer Customer Compensation Fund (Compensation Fund) was established by the BC government on June 1, 1995, with the introduction of the *Motor Dealer Customer Compensation Fund Regulation* (MDCCF Regulation) and related amendments to the *Motor Dealer Act* (MDA).

The Compensation Fund replaced a requirement for individual dealers to maintain a \$15,000 bond. The intended purpose of the bond was to provide compensation for a consumer loss resulting from the bankruptcy or other financial failure of a motor dealer. However, in practice there was a lack of clear agreement and understanding among dealers, consumers, the bond-issuer and the courts as to when a consumer could collect on the bond. In the end, this lack of clarity made it very difficult for consumers to be compensated.

The Compensation Fund was introduced to remedy the shortcomings of the bond system, in particular 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 in order 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, 2018, the VSA became responsible for all aspects of the Compensation Fund, including managing the monies in trust.

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 for sale by a motor dealer

MDCCF Administration Policy

in a transaction with a registered motor dealer, particularly in circumstances where the dealer is no longer in business.

The maximum amount of compensation that may be awarded is \$20,000 per loss. The Compensation Fund is financed through mandatory contributions by all registered motor dealers in BC as required by the Registrar.

The Motor Dealer Customer Compensation Fund Board (MDCCF Board) has the sole authority to hear and decide claims against the Compensation Fund. MDCCF Board members including the Chair and Vice-chair of the Board are appointed by the VSA under the MDA, but act as an independent administrative tribunal when exercising their statutory duties.

1.3. Compensation Fund Policies

In addition to this policy, there are two other policy documents that guide the operation of the Compensation Fund:

- The Claims Processing and Adjudication Policy and Procedures Manual - This manual contains MDCCF Board Policy on how claims against the Compensation Fund are to be processed and adjudicated.
- The MDCCF Board Appointment Policy - This is the VSA Board's policy on how MDCCF Board members are to be appointed or reappointed.

1.4. Purpose of this Policy

The purpose of the MDCCF Administration Policy is to document the policies that support the administration of the Compensation Fund by the VSA. It is intended to assist the VSA in ensuring the administration of the Compensation Fund meets the requirements of the MDA, the MDCCF Regulation and the terms of its delegated authority.

1.5. How this Policy is Organized

This policy is divided into the following parts:

- Part 1 – Introduction. This part provides background information about the history and operation of the Compensation Fund, the use of this policy, and the roles and responsibilities of those

MDCCF Administration Policy

- involved in the administration and operation of the Compensation Fund.
- Part 2 – Contributions and Repayments to the Compensation Fund. This part provides the policies for requiring and collecting dealer contributions and repayments to the Compensation Fund and claimant repayments to the Compensation Fund.
 - Part 3 – Administrative and Operational Support. This part provides the policies for the VSA's role in supporting the processing and adjudication of claims against the Compensation Fund.
 - Part 4 – Compensation Fund Management and Accounting. This part provides the policies for the management of the Compensation Fund, including processing of compensation payments, recovery of expenses, and ensuring the sufficiency of the Compensation Fund.

1.6. Roles and Responsibilities

MDCCF Board

The MDCCF Board is an independent administrative tribunal established under the MDA and carries out statutory duties under the MDA 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
- providing direction to the Claims Manager on matters of claim processing
- approving the Claims Processing and Adjudication Policy and Procedures Manual, and
- overseeing the balance of the Compensation Fund in consultation with the Registrar.

MDCCF Administration Policy

VSA Board

The VSA Board of Directors (VSA Board) oversees the conduct of business and supervises the management of the VSA. The responsibilities of the VSA Board in regard to the Compensation Fund include

- appointing the members of the MDCCF Board
- naming a Chair and Vice-chair of the MDCCF Board, and
- reviewing the MDCCF Board's annual report on the administration of the Compensation Fund, and
- establishing per diem and other remuneration rates for the MDCCF Board.

Registrar of Motor Dealers

The Registrar of Motor Dealers (Registrar) has overall responsibility for the registration of dealers and licensing of salespeople, and enforcement of the MDA and regulations. The responsibilities of the Registrar in regard to 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,
- overseeing the balance of the Compensation Fund in consultation with the MDCCF Board,
- enforcing MDCCF Board decisions where appropriate
- providing policy analysis and legal advice to the MDCCF Board and the Claims Manager, and
- acting as liaison between the MDCCF Board and the VSA regarding VSA policies and activities that may have an impact on claims against the Compensation Fund.

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

MDCCF Administration Policy

- 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 \$5,000 and all other claims up to \$2,000
- corresponding with applicants and other parties on behalf of the Board
- liaising with the VSA Finance Department to facilitate compensation payments from the Compensation Fund
- 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
- maintaining a record of the Compensation Fund balance, compensation payments, and providing quarterly reports on the balance of the Compensation Fund
- 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 MDCCF Board regarding all matters related to claims processing and any determinations regarding an application made by the Claims Manager.

VSA Director of Learning and Communications

The VSA Director of Learning and Communications is a VSA employee who assists the Claims Manager and is primarily responsible for assisting with publication materials.

VSA Legal Administrative Assistant

The VSA Legal Administrative Assistant 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 a VSA's liaison in communications with the Board

MDCCF Administration Policy

- maintaining Board's records
- attending Board meetings to provide secretarial support and record minutes
- drafting, editing and proofreading the Board's documents including decisions and compensation payment cheque requisitions

VSA Consumer Services Department

VSA Consumer Services Department assists the Claims Manager in administering the application process, providing case management services, including dispute resolution services for applicants where recommended by the Claims Manager. This includes

- performing case management at all stages of claim processing including application intake and correspondence with applicants and parties
- performing conciliation
- arranging for other forms of dispute resolution where available, and
- preparing claim packages for the MDCCF Board meetings.

VSA Compliance Department

The VSA Compliance Department 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 MDCCF Board, and
- preparing investigation reports.

VSA Manager of Compliance

The VSA Manager of Compliance is a VSA employee who assists the Claims Manager. This includes

- determining whether an investigation is required to support the adjudication of a claim or a reconsideration of a decision by the MDCCF Board, and
- ensuring that investigation reports can be completed in time to allow disclosure to the parties prior to the hearing date

MDCCF Administration Policy

VSA Compliance Officer

A VSA Compliance Officer is a VSA employee who conducts the investigations, prepares an investigation report and reviews any responses to the investigation report from the parties to determine whether additional investigation is required based on the information in the response.

VSA Licensing Department

The VSA Licensing Department is responsible for collecting and recording dealer contributions and repayments to the Compensation Fund.

VSA Manager of Licensing

The VSA Manager of Licensing is a VSA employee who reviews and determines whether a dealer represents a significant risk to the Compensation Fund and receives MDCCF Board decisions where claims have been approved.

VSA Finance Department

The VSA Finance Department is responsible for remitting dealer contributions and repayments for deposit to the Compensation Fund, for recovering Compensation Fund administration and support costs from the Compensation Fund, processing payments to and from the Compensation Fund and providing Compensation Fund balance information. The VSA is the trustee of the Compensation Fund.

VSA Director of Finance and Operations

The VSA Director of Finance and Operations is a VSA employee who assists the Claims Manager by receiving the list of claims adjudicated at MDCCF Board meetings and their corresponding investigation numbers for the VSA Finance Department to process.

2. Contributions and Repayments to the Compensation Fund

2.1. Legislative Authority and Requirements

Dealer contributions

- 2.1.1. In amounts, at times and in the manner prescribed by the Lieutenant Governor in Council, a motor dealer carrying on business in British Columbia must make payments to the Compensation Fund through the registrar. [MDA s. 14(2)]
- 2.1.2. Every motor dealer carrying on business in British Columbia must pay to the Compensation Fund, at the time that the motor dealer applies for registration or renewal of registration under the MDA, an annual contribution of \$300. [MDCCF Reg s. 2(1)]
- 2.1.3. The Registrar may, with respect to a motor dealer, waive the requirement to pay an annual contribution to the Compensation Fund under paragraph 2.1.2 if
 - (a) the motor dealer has
 - (i) made a full annual contribution of \$300 to the Compensation Fund in respect of 3 consecutive years, and
 - (ii) complied with every requirement to make additional contributions to the Compensation Fund in accordance with paragraph 2.1.4
 - (b) the waiver of the annual contribution will not put into doubt the sufficiency of the Compensation Fund, and
 - (c) the Registrar is of the opinion that the motor dealer does not represent a significant risk to the Compensation Fund. [MDCCF Reg s. 2(3)]
- 2.1.4. Subject to paragraph 2.1.6, the Registrar may, by notice in writing, require every motor dealer carrying on business in British Columbia to make an additional contribution to the Compensation Fund necessary to ensure the sufficiency of the Compensation Fund. [MDCCF Reg s. 3(1)]

MDCCF Administration Policy

- 2.1.5. A notice or order required or permitted under the MDA to be given or served on a person must be given or served as set out in the MDA. [MDA s. 30]
- 2.1.6. The Registrar may not, in any one year, require additional contributions from a motor dealer that exceed twice the amount of the annual contribution required under paragraph 2.1.2. [MDCCF Reg s. 3(2)]
- 2.1.7. Every motor dealer who receives a notice of additional contribution must pay to the Compensation Fund, within 21 days of receiving the notice, the additional contribution required by the notice. [MDCCF Reg. s. 3(3)]
- 2.1.8. If a notice of additional contribution is made by registered mail, the notice is deemed to be made on the fifth day after the day of mailing or served in accordance with the MDA. [MDA s. 30.1]

Failure to make a required contribution

- 2.1.9. A person who fails to make a payment required under paragraph 2.1.2 or 2.1.7 by the time required must pay into the Compensation Fund, in addition to the payment required under paragraph 2.1.2 or 2.1.7, \$100 for each month or part of a month the payment is owing, to a maximum of \$200. [MDCCF Reg s. 3.1]

Dealer repayment of compensation

- 2.1.10. If a claim is paid out of the Compensation Fund, the Registrar may cancel the registration of the motor dealer who caused the claim. [MDA s. 24(3)]
- 2.1.11. If the registration of a motor dealer is cancelled under paragraph 2.1.10, the motor dealer may not be registered again until the motor dealer has paid to the Compensation Fund the amount paid out for the claim and is approved by the Registrar. [MDA s. 24(1)]

Claimant repayments

- 2.1.12. If money is paid from the Compensation Fund to a person who has made a claim from the Compensation Fund and the person receives something of value from some other source

MDCCF Administration Policy

in payment of the loss that led to the payment from the Compensation Fund, the person must,

- (a) without delay, give written notice to the registrar including a description of the thing received from the other source and its value, and
- (b) must repay to the Compensation Fund the money received from the Compensation Fund or money equal to the value of the thing received from the other source up to the amount paid from the Compensation Fund to the person. [MDA s. 20(1)]

2.1.13. If the person fails to repay the Compensation Fund under paragraph 2.1.12, the VSA has a cause of action against the person for the amount unpaid. [MDA s. 20(2)]

2.2. Policy

Annual dealer contributions

- 2.2.1. Every dealer must make an annual contribution of \$300 to the Compensation Fund at the time of registration or renewal of registration, unless the requirement to make the payment has been waived by the Registrar.
- 2.2.2. The Registrar will waive the requirement for a dealer to make an annual contribution if
 - (a) the dealer has
 - (i) made the required annual contribution for a minimum of three consecutive years, and
 - (ii) complied with any requirement to make additional contributions to the Compensation Fund.
 - (b) the waiver of the annual contribution will not put into doubt the sufficiency of the Compensation Fund, and
 - (c) the Registrar is of the opinion that the dealer does not represent a significant risk to the Compensation Fund.
- 2.2.3. A dealer who has caused a claim to be paid from the Compensation Fund, will not be granted a waiver unless the dealer has made the required annual contribution for a minimum of three consecutive years after the claim was paid and all other requirements for a waiver are met.

MDCCF Administration Policy

- 2.2.4. Where the Registrar has waived the requirement for a dealer to make an annual contribution, the Registrar may reinstate the requirement on any subsequent renewal of registration.

Decision to waive – significant risk

- 2.2.5. Where a dealer's application for renewal raises no registration or compliance issues, the dealer will be deemed not to represent a significant risk to the Compensation Fund.
- 2.2.6. Where a dealer's application for renewal raises registration or compliance issues, the VSA Manager of Licensing will review and determine whether the dealer represents a significant risk to the Compensation Fund.

Additional dealer contributions

- 2.2.7. Where the Registrar determines that additional contributions are required to ensure the sufficiency of the Compensation Fund, the Registrar will send written notice by registered mail to all dealers in the province indicating
- (a) that an additional contribution is required and the amount of the required contribution,
 - (b) that the additional contribution must be paid within 21 days of receipt of the notice, and
 - (c) the consequences for failing to pay the additional contribution as required (see paragraphs 2.2.9 and 2.2.10).
- 2.2.8. The Registrar must apply a requirement for an additional contribution equally to all registered dealers and may not waive the requirement or alter the amount required for a particular dealer or class of dealers.

Failure to make a required contribution

- 2.2.9. If a dealer fails to make
- (a) a required annual contribution before the expiry of the dealer's annual registration, or
 - (b) an additional contribution within 21 days of receiving notice that the additional contribution is required

MDCCF Administration Policy

the dealer must pay to the Compensation Fund \$100 for each month or part of a month the payment is owing, to a maximum of \$200.

- 2.2.10. If, prior to the expiry of a dealer's annual registration, a dealer
- (a) fails to make a required annual contribution, or
 - (b) has failed to make an additional contribution that is due and payable

the VSA will not renew the registration until the dealer makes all of the required contributions and any other payments due to the Compensation Fund.

Dealer repayment of compensation

- 2.2.11. Where compensation is paid from the Compensation Fund, the dealer who caused the claim to be paid must repay within 30 days
- (a) the amount of compensation, and
 - (b) the amount of approved investigation costs for the claim to the Compensation Fund as a condition of registration.
- 2.2.12. At the time that a compensation payment is requisitioned from the Compensation Fund, the Claims Manager will send a copy of the of the MDCCF Board's decision letter to the VSA Manager of Licensing.
- 2.2.13. The VSA Licensing Department will invoice the amount of compensation and approved investigation costs to the dealer who caused the claim in the VSA database.
- 2.2.14. Where a dealer who caused a claim is currently in business the VSA Licensing Department will
- (a) inform the dealer that the dealer must repay the amount invoiced under paragraph 2.2.13 within 30 days, and
 - (b) if the dealer does not repay the amount within 30 days, the VSA Licensing Department will direct the matter to a hearing before the Registrar.
- 2.2.15. Where a dealer who caused a claim is no longer in business and there is a letter of credit on file, the VSA Licensing Department will

MDCCF Administration Policy

- (a) send a demand letter to the dealer by registered mail indicating that the letter of credit will be used to pay the amount invoiced under paragraph 2.2.13 unless the amount is repaid by the dealer within 30 days, and
 - (b) if the dealer does not repay the amount within 30 days, the VSA Licensing Department will use the letter of credit to pay the amount invoiced.
- 2.2.16. Where the letter of credit is insufficient to pay the full amount under paragraph 2.2.15 (b), the VSA Licensing Department will send a letter to the dealer indicating that the outstanding amount must be paid before the dealer will be considered for re-registration.
- 2.2.17. Where a dealer who caused a claim is no longer in business and there is no letter of credit on file, the VSA Licensing Department will send a letter to the dealer indicating that the amount invoiced under paragraph 2.2.13 must be paid before the dealer will be considered for re-registration.

Claimant repayment of compensation

- 2.2.18. If a person who received compensation from the Compensation Fund provides the VSA with a repayment as required under section 20(1) of the MDA, the VSA will hold the repayment in trust and remit it to the Compensation Fund.
- 2.2.19. When repayment compensation is received from a claimant the VSA Finance Department will deposit it into the Compensation Fund.
- 2.2.20. If the MDCCF Board determines that the claimant's repayment to the Compensation Fund is to be returned, the VSA Legal Administrative Assistant will complete a cheque requisition form and send the completed cheque requisition form along with the draft decision to the MDCCF Board Chair for review and approval.
- 2.2.21. After approval by the MDCCF Board Chair, the Claims Manager will provide the cheque requisition to the VSA Finance Department for processing at the time that the Board's decision is sent to the claimant.

MDCCF Administration Policy

- 2.2.22. After receiving the claim payment cheque from the VSA Finance Department, the Claims Manager will send the cheque to the claimant.
- 2.2.23. If a claimant fails to repay the Compensation Fund, the VSA has a cause of action against the claimant for the amount unrepaid under section 20(2) of the MDA.

3. Administrative and Operational Support

3.1. Legislative Authority and Requirements

Administering the Compensation Fund

- 3.1.1. The VSA's delegated business functions include the administration of the Compensation Fund pursuant to the MDA. [DAA Agreement s. 7(a)vi]

Applications for compensation

- 3.1.2. An applicant applying for compensation must
- (a) complete and file with the Registrar an application form provided by the Registrar, and
 - (b) provide the Registrar with any other information that the Registrar may reasonably require. [MDCCF Reg – s. 8]

3.2. Policy

Day-to-day operations

- 3.2.1. The VSA will designate a staff member as the MDCCF Claims Manager, who will be primarily responsible for the day-to-day operations of the Compensation Fund and administrative support of the MDCCF Board.
- 3.2.2. The VSA will provide additional resources as required to assist the Claims Manager in the day-to-day operations of the Compensation Fund.
- 3.2.3. The Claims Manager's responsibilities will include
- (a) maintaining the application for compensation form and application requirements
 - (b) managing the intake and review of applications
 - (c) conducting an initial eligibility assessment for applications for compensation pursuant to the Claims Processing and Adjudication Policy and Procedures
 - (d) conducting claim analysis, and participating in and monitoring VSA dispute resolution processes regarding applications
 - (e) conducting a review of eligible loss for deposit claims up to \$5000 and all other claims up to \$2000 pursuant to

MDCCF Administration Policy

the Claims Processing and Adjudication Policy and Procedures

- (f) liaising with the VSA Finance Department to facilitate compensation payments from the Compensation Fund
- (g) corresponding with applicants and other parties on behalf of the Registrar in regard to applications and on behalf of the MDCCF Board in regard to the adjudication of claims
- (h) 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
- (i) maintaining a record of compensation payments from the Compensation Fund and providing quarterly reports on the balance of the Compensation Fund to the MDCCF Board and the VSA.

3.2.4. The Claims Manager will report to the Registrar in matters regarding the application process and day-to-day operation of the Compensation Fund.

3.2.5. The Claims Manager will report to the MDCCF Board regarding matters related to

- (a) claims processing
- (b) determinations regarding an application made by the Claims Manager, and
- (c) adjudication of claims by the Board.

Education and communications

3.2.6. The Claims Manager will develop and maintain consumer education and communications materials for consumers and dealers to

- (a) enhance awareness and understanding of the Compensation Fund, and
- (b) assist them in making or responding to a claim.

3.2.7. The VSA Director of Learning and Communications will assist the Claims Manager in the development and publication of materials.

MDCCF Administration Policy

- 3.2.8. The primary focus of Compensation Fund education and communications will be on consumer education via the VSA website.

Policy analysis and legal advice

- 3.2.9. The Registrar will provide policy analysis and legal advice to the Claims Manager and the MDCCF Board as required for the adjudication and processing of claims.
- 3.2.10. The Registrar will provide or obtain a legal opinion on behalf of the MDCCF Board where
- (a) the Chair of the MDCCF Board requests an opinion, or
 - (b) the Claims Manager, after consultation with the Registrar, determines that a legal opinion is required to determine eligibility for compensation.
- 3.2.11. The Registrar will request a legal opinion from outside counsel on behalf of the MDCCF Board where
- (a) the opinion requires the expertise of outside counsel
 - (b) the opinion requires a significant amount of research or drafting time, or
 - (c) a potential for prejudicing future adjudication prevents the Registrar from providing an opinion.
- 3.2.12. Where the MDCCF Board requires legal counsel to attend a Board meeting, the Registrar will request outside counsel to attend. If outside counsel is unavailable, the Registrar may attend, provided there is no potential for prejudicing future adjudication.

Dispute resolution

- 3.2.13. The Claims Manager will determine whether to refer a claim to the VSA Consumer Services Department for dispute resolution pursuant to the Claim Processing and Adjudication Policy and Procedures.
- 3.2.14. Where the Claims Manager refers a claim, the VSA Consumer Services Department will attempt to resolve the dispute giving rise to a claim pursuant to its policy and procedures for addressing consumer complaints.

MDCCF Administration Policy

Investigation of claims

- 3.2.15. The Claims Manager, in consultation with the VSA Manager of Compliance, will determine whether an investigation is required to support the adjudication of a claim or a reconsideration of a decision by the MDCCF Board.
- 3.2.16. Upon hearing a claim or reconsidering a decision, the MDCCF Board may adjourn the hearing pending an investigation or further investigation of the claim and may direct that specific matters be investigated.
- 3.2.17. Where the VSA Compliance Department investigates a claim, the Claims Manager will liaise with the VSA Manager of Compliance to ensure that investigation reports can be completed in time to allow for disclosure to the parties prior to the hearing date.
- 3.2.18. The Claims Manager will review claim investigation reports and, where required, will consult with the VSA Manager of Compliance and the Registrar to determine whether further investigation is required.
- 3.2.19. When an investigation report is complete, the Claims Manager will provide the report to the parties to the claim pursuant to the Claim Processing and Adjudication Policy and Procedures.
- 3.2.20. The VSA Compliance Officer who conducted the investigation will review any responses to the investigation report from the parties and determine whether additional investigation is required based on the information in the response.
- 3.2.21. When the investigation is completed the Claims Manager will request an Investigation Cost Recovery Invoice from the VSA Finance Department.
- 3.2.22. The Claims Manager will include a copy of the Investigation Cost Recovery in the MDCCF Board's claim documents.
- 3.2.23. At the claim hearing the Board will determine the amount of the investigation costs for recovery from the Compensation Fund by the VSA Finance Department.
- 3.2.24. The Claims Manager will notify the VSA Finance Department of the approved amount of the investigation costs for recovery by the VSA from the Compensation Fund.

4. Compensation Fund Management and Accounting

4.1. Legislative authority and requirements

General

- 4.1.1. The Compensation Fund is a trust fund under the *Financial Administration Act*. [MDA s. 14(3)]

The VSA is the trustee of the Compensation Fund, who

- (a) may invest the amounts and the earnings in investments permitted for a trust fund under section 40 of the *Financial Administration Act*, and
- (b) must pay money out of the Compensation Fund in accordance with directions from the MDCCF Board given under the MDA. [MDA s. 14(6)]

- 4.1.2. The costs of administering the Compensation Fund, including money paid to MDCCF Board members; the costs incurred in investigating and processing claims; and the costs to recover overpayments to claimants must be paid from the Compensation Fund. [MDA s. 22]

Compensation payments

- 4.1.3. The Claims Manager will batch all claims approved by the MDCCF Board and send a cheque request memo for claim payments to the VSA Finance Department. [DAA Agreement – Schedule C s. 5(c)]
- 4.1.4. The cheque request memo will be signed by the VSA President and the MDCCF Board Chair. [DAA Agreement – Schedule C s. 5(d)]
- 4.1.5. The VSA Finance Department will process the cheque request memo and provide the claim payment cheque(s), payable to the claimant(s), to the Claims Manager. [DAA Agreement – Schedule C s. 5(e)]
- 4.1.6. The Claims Manager will send the claim payment cheque(s) to the claimant(s). [DAA Agreement – Schedule C s. 5(f)]

MDCCF Administration Policy

Collecting contributions and repayments

- 4.1.7. The Registrar will collect all payments and remit them to the VSA Finance Department for deposit into the Compensation Fund. [DAA Agreement s. 14][MDA s. 14(2) 24(2) and 24.01]
- 4.1.8. The Registrar must credit the contributions made to the Compensation Fund under paragraph 2.1.2 and 2.1.7 to the motor dealer that made the contribution, but the crediting does not give the motor dealer any right to those contributions. [MDCCF Reg s. 2(4)]
- 4.1.9. The VSA will deposit all contributions to the Compensation Fund received from the Registrar. [DAA Agreement Schedule C s. 4(a) and 5(a)]

Board member remuneration and expenses

- 4.1.10. Each MDCCF Board member must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in the discharge of board duties and, in addition, may be paid remuneration set by the VSA. [MDA s. 15(3.1)(a) and (b)]
- 4.1.11. The VSA will collect expense claims and receipts from all MDCCF Board members who are not also members of the public service and will confirm the claimed expenses. [DAA Agreement – Schedule C s. 5(j)]
- 4.1.12. Each MDCCF Board member will send expense claims related to an MDCCF Board meeting to the Claims Manager to be approved .
- 4.1.13. The VSA Finance Department will process the expense claims against the Compensation Fund and send reimbursement cheques from the Compensation Fund directly to the MDCCF Board member making the claim. [DAA Agreement – Schedule C s. 5(l)]
- 4.1.14. The VSA Finance Department will maintain expense claim records and will issue federal T4 tax forms for MDCCF Board members annually. [DAA Agreement – Schedule C s. 5(m)]

MDCCF Administration Policy

Administrative and operating expenses

- 4.1.15. The VSA Finance Department will prepare a monthly statement for costs incurred in administering the Compensation Fund.
- 4.1.16. The monthly statement will itemize the VSA's costs within the following categories:
 - (a) administrator remuneration and general administrative overhead
 - (b) claims investigation costs, and
 - (c) MDCCF Board meeting costs, excluding individual Board member per diem and expenses. [DAA Agreement – Schedule C s. 5(h)]
- 4.1.17. The MDCCF Board will review the monthly statement for approval. Once approved, the VSA Finance Department will pay the statement from the Compensation Fund.

Maintaining records and reporting on the Compensation Fund

- 4.1.18. The Registrar must maintain a record of contributions made to the Compensation Fund under paragraph 2.1.2 and 2.1.7 and must provide to the MDCCF Board, on a quarterly basis, a statement of the assets of the Compensation Fund. [MDCCF Reg. s. 2(5)]
- 4.1.19. The VSA Finance Department will maintain a monthly balance spreadsheet for the Compensation Fund.
- 4.1.20. Any interest earned by the Compensation Fund will remain in the Compensation Fund.
- 4.1.21. The VSA Finance Department will maintain a record of contributions to the Compensation Fund, including contributions received. [DAA Agreement Schedule C s. 5(b)]
- 4.1.22. The MDCCF Board will provide the VSA Board with an annual report on the administration of the Compensation Fund. [DAA Agreement s. 14(e)]

4.2. Policy

Ensuring the sufficiency of the Compensation Fund balance

- 4.2.1. The balance of the Compensation Fund will be monitored regularly and contributions to the Compensation Fund will be increased where required to ensure that the balance is sufficient to meet its projected liabilities.
- 4.2.2. The Registrar and the MDCCF Board Chair will each review the Compensation Fund balance and its projected contributions and liabilities at least once per quarter.
- 4.2.3. If the MDCCF Board Chair believes that the balance of the Compensation Fund may not be sufficient to meet its projected liabilities, the MDCCF Board Chair will advise the Registrar.
- 4.2.4. If the Registrar believes that the balance of the Compensation Fund may not be sufficient to meet its projected liabilities, the Registrar will
 - (a) consult with the MDCCF Board Chair, and
 - (b) where feasible, review the matter with VSA Boardbefore determining whether contributions to the Compensation Fund must be increased.

Where the Registrar determines that contributions to the Compensation Fund must be increased in order to ensure the sufficiency of the Compensation Fund balance, the Registrar will not grant any waivers of required annual contributions to the Compensation Fund.
- 4.2.5. If, in the opinion of the Registrar, the action taken under paragraph 4.2.4 will not adequately increase the balance of the Compensation Fund, the Registrar will require that all dealers make one additional contribution per year in an amount up to \$600.
- 4.2.6. The Registrar will cease to require an annual additional contribution under paragraph 4.2.5 as soon as the sufficiency of the Compensation Fund can be ensured through regular annual contributions.

MDCCF Administration Policy

Compensation payments

- 4.2.7. All decisions of the MDCCF Board to award compensation will be recorded in the minutes of the Board meeting, along with any specific instructions to the Claims Manager regarding calculation of the amount awarded or payment of compensation.
- 4.2.8. The Legal Administrative Assistant will complete a cheque requisition form for claim(s) approved at each MDCCF Board meeting based on the minutes of the meeting and send the completed requisition form(s) along with the draft decision(s) to the MDCCF Board Chair for review and approval.
- 4.2.9. After approval by the MDCCFB Chair, the Claims Manager will provide the cheque requisition(s) to the VSA Finance Department for processing at the time that the Board's decision(s) is (are) sent to the parties.
- 4.2.10. After receiving claim payment cheques from the VSA Finance Department, the Claims Manager will send the cheque(s) to the claimant(s) pursuant to the Claim Processing and Adjudication Policy and Procedures.

Collecting contributions and repayments

- 4.2.11. The VSA Licensing Department will collect dealer contributions and repayments to the Compensation Fund on behalf of the Registrar, and will
 - (a) credit the contribution or repayment to the dealer in the dealer's licensing records
 - (b) identify the contribution or repayment as a credit to the Compensation Fund in the VSA database, and
 - (c) forward the payment to the Finance Department for processing.
- 4.2.12. The VSA Finance Department will process claimant repayments to the Compensation Fund.

Board member remuneration and reimbursement of expenses

- 4.2.13. After consultation with the Chair of the MDCCF Board, the President will set a remuneration rate and schedule of allowable expenses for MDCCF Board members.

MDCCF Administration Policy

- 4.2.14. At the end of each meeting, the Chair of the MDCCF Board will review the time required of Board Members for the meeting, including preparation time, which will be recorded in the minutes.
- 4.2.15. After a meeting, MDCCF Board members will submit a claim form to the Legal Administrative Assistant, which indicates the remuneration and expenses claimed in relation to the meeting.
- 4.2.16. The VSA Legal Administrative Assistant will confirm the remuneration and expenses amounts on the claim forms by reference to the minutes of the meeting and send the forms to the Claims Manager for approval.
- 4.2.17. The Claims Manager will review the claim forms and provide the claim forms to the VSA Finance Department for processing.
- 4.2.18. The VSA Finance Department will issue payment for remuneration and eligible expenses for each MDCCF Board meeting to the members and will prepare and distribute T4 tax forms to members annually.

Salary costs to be recovered

- 4.2.19. The VSA will recover the cost of time used by
 - (a) the Claims Manager, VSA Consumer Services Department staff and VSA Legal Administrative Assistant for the day-to-day operation of the Compensation Fund and Board support
 - (b) the Registrar to provide policy analysis and legal advice to the Claims Manager and the MDCCF Board
 - (c) the VSA Compliance Department staff to investigate claims that have been heard by the MDCCF Board, and
 - (d) the VSA Finance Department staff to process contributions and repayments to the Compensation Fund.
- 4.2.20. The amount of salary, benefits and other remuneration recovered for VSA employees, other than VSA Compliance Department staff, will be based on the percentage of time dedicated to Compensation Fund-related activities for each. The percentage of salary to be recovered under paragraph 4.2.18 will be determined annually as part of the VSA

MDCCF Administration Policy

budgeting process, and may be amended during the fiscal year to better reflect actual time used.

- 4.2.21. The amount of salary, benefits and other remuneration recovered for VSA Compliance Department staff will be based on the actual time spent on investigative duties for a claim.

Expenses to be recovered

- 4.2.22. The VSA Finance Department will prepare a statement of the following expenses incurred in providing administrative and operational support for the Compensation Fund:
- (a) materials, services and infrastructure required to support the MDCCF Board and the day-to-day operation of the Compensation Fund
 - (b) legal opinions from outside counsel and other services required to provide policy analysis and legal advice behalf of the MDCCF Board, and
 - (c) materials and services required to investigate claims that have been heard by the MDCCF Board.
- 4.2.23. The MDCCF Board will review the statement for approval.
- 4.2.24. Once approved, the VSA Finance Department will pay the statement from the Compensation Fund.

Recovery of salary, benefits and other remuneration

- 4.2.25. The VSA Finance Department will prepare a monthly statement for the following salary and remuneration costs to be paid from the Compensation Fund:
- (a) remuneration and reimbursement of expenses for MDCCF Board members
 - (b) the percentage of monthly salary and benefits for VSA staff as identified in paragraph 4.2.20, and
 - (c) the salary and benefits attributable to the time spent by VSA Compliance Department staff on investigating claims that have been heard by the MDCCF Board.
- 4.2.26. The MDCCF Board will review the statement for approval.
- 4.2.27. Once approved, the VSA Finance Department will pay the statement from the Compensation Fund.

MDCCF Administration Policy

Remitting contributions and recovery of expenses

- 4.2.28. The VSA Finance Department will prepare a monthly statement that is the difference between
- (a) the amount of contributions and repayments to the Compensation Fund received during the month, and
 - (b) the amount of recoverable expenses as identified in paragraph 4.2.23.
- 4.2.29. The MDCCF Board will review the statement for approval.
- 4.2.30. Once approved, the VSA Finance Department will pay the statement from the Compensation Fund.

Reporting

- 4.2.31. The Claims Manager will request a monthly general ledger balance statement from the VSA Finance Department and will provide a report on the Compensation Fund's monthly balance to the Chair of the MDCCF Board, the Registrar, and the VSA Director of Finance and Operations.
- 4.2.32. After each MDCCF Board meeting, the Claims Manager will provide a list of claims adjudicated at the meeting and their corresponding investigation numbers to the VSA Director of Finance and Operations.
- 4.2.33. The Claims Manager will provide a quarterly report to the MDCCF Board and the Registrar, which includes
- (a) monthly Compensation Fund balances
 - (b) potential liabilities based on current claims against the Compensation Fund, and
 - (c) a 12 month cash flow projection for the Compensation Fund.
- 4.2.34. The Chair of the MDCCF Board will present an annual report to the VSA Board, which includes
- (a) statistics on applications and claims processed for the previous year
 - (b) the amount of claim payments recovered by the Compensation Fund, and
 - (c) other pertinent information on the operation of the Compensation Fund as determined by the Chair.

MDCCF Administration Policy

- 4.2.35. The Claims Manager will prepare a report on the Compensation Fund for the public to be included in the VSA's annual report.