



ALBERTA MOTOR VEHICLE  
INDUSTRY COUNCIL

# AMVIC Bylaw 2 – Compensation Fund

Version 2  
April 1, 2024



# Bylaw 2- Compensation Fund

## Table of Contents

1. Purpose of the Fund.....	2
2. Definitions.....	2
3. Interpretation.....	3
4. Continuance.....	4
5. Making a claim.....	4
6. Payment from the Fund.....	8
7. Security requirement.....	9
8. Expenses and replenishment.....	9
9. Amendment history.....	9

## Bylaw 2- Compensation Fund

### 1. Purpose of the Fund

- 1.1. The Consumer Protection Act (“CPA”) permits regulatory boards to establish a fund to pay claims of consumers who have suffered a financial loss arising out of the operation of a business licensed under the CPA. The Alberta Motor Vehicle Industry Council (“AMVIC”) has been delegated by the Minister of Service Alberta and Red Tape Reduction, via the Mandate and Roles Document, to administer a compensation fund for these purposes.
- 1.2. The AMVIC Board of Directors authorized the establishment of a compensation fund that is known as the AMVIC Compensation Fund (the “Fund”). The Fund was established on January 1, 2012, in accordance with section 137 of the CPA. The Fund is subject in all respects to the provisions of the legislation including the CPA, Automotive Business Regulation (“ABR”) and this bylaw (collectively referred to as the “Legislation”). AMVIC administers the Fund in accordance with the Legislation.
- 1.3. The purpose of the Fund is to provide compensation to consumers for eligible financial losses related to the purchase, lease, consignment or other arrangement resulting from a transaction with an automotive business licensed by AMVIC in circumstances where the business has filed for receivership, has filed for bankruptcy or is no longer licensed with AMVIC.

### 2. Definitions

- 2.1. For the purposes of this bylaw, the following terms shall have the following meaning unless the context otherwise requires:
  - a. “ABR” means the Automotive Business Regulation, Alta Reg. 192/99 as amended;
  - b. “appeal panel” means the appeal panel established in section 5.9 to hear the appeal of a decision of the CEO;
  - c. “automotive business” means “automotive business” as defined in the Designation of Trades and Businesses Regulation, Alta. Reg. 178/1999, as amended;
  - d. “Board of Directors” or “Board” means the Board of Directors of AMVIC;
  - e. “CEO” means the individual selected by the Board as the CEO of AMVIC and includes an acting CEO;
  - f. “Chair of the Board” means the Chair of the Board of Directors as appointed pursuant to the ABR;
  - g. “claimant” means a consumer that makes a claim against the Fund.

## Bylaw 2- Compensation Fund

- h. "consumer" means an individual who receives or has the right to receive goods or services for personal use from an automotive business as a result of a purchase, lease, consignment, or other arrangement, but does not include an individual who intends to sell the goods after receiving them.
- i. "CPA" means the Consumer Protection Act, R.S.A. 2000, Chapter C-26.3, as amended;
- j. "director" means an individual of the Board of Directors of AMVIC;
- k. "financial loss" means a quantifiable amount that has actually been incurred by the claimant, is measurable in a dollar value and is directly related to the transaction;
- l. "Fund" means the Compensation Fund established by AMVIC pursuant to section 137 of the CPA;
- m. "levy" means the per vehicle sales levy approved by the Minister under section 136(8) of the CPA;
- n. "licence" means a licence issued under the CPA and ABR;
- o. "Minister" means the Minister charged with the administration of the CPA, or such successor legislation in the Province of Alberta under which the Minister or a government official has the authority to delegate to AMVIC the authority to licence and regulate the automotive business industry;
- p. "public director" means a Director appointed by the Minister pursuant to the ABR;
- q. "salesperson" means a person registered by AMVIC as a salesperson under section 16 of the ABR; and
- r. "transaction" means the purchase, lease, consignment or other arrangement between a consumer and an AMVIC licensed automotive business.

### 3. Interpretation

- 3.1. In this bylaw, unless the context otherwise indicates, the Interpretation Act, being Chapter I-8, R.S.A. 2000, as amended from time to time, applies to this bylaw.
- 3.2. Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neutral genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.
- 3.3. The headings used throughout this bylaw are inserted for reference purposes only, and are neither to be considered or taken into account in construing the terms of provisions of any section nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

## Bylaw 2- Compensation Fund

### 4. Continuance

- 4.1. The Fund was established on January 1, 2012, and is continued by this bylaw, in accordance with section 137 of the CPA.
- 4.2. An application made under the provisions of previous bylaws continues under this bylaw.
- 4.3. The claim limit is calculated as per section 5.7.2.b. of this bylaw.

### 5. Making a claim

#### 5.1. Conditions

- 5.1.1. A consumer may be eligible for compensation from the Fund if the following conditions have been met:
  - a. The automotive business was licensed by AMVIC at the time of the transaction;
  - b. The consumer suffered a financial loss that is directly related to the transaction;
  - c. The consumer applies to the Fund for compensation in accordance with this bylaw.
  - d. The consumer provides an undertaking in accordance with section 5.3 of this bylaw.
  - e. The consumer provides any additional information requested by the CEO;
  - f. The automotive business has filed for receivership, has filed for bankruptcy, or is no longer licensed with AMVIC.

#### 5.2. Time to submit a claim

- 5.2.1. A consumer must submit a claim to the Fund no later than three (3) years from the date of the transaction with the automotive business.

#### 5.3. Undertaking

- 5.3.1. A consumer is not eligible for compensation from the Fund unless the consumer has provided an undertaking that indicates if the consumer recovers money from the Fund, the Consumer will deduct the amount recovered from any source referred to in section 5.6.1 and will reimburse AMVIC for that amount.

#### 5.4. Application requirements

- 5.4.1. The consumer shall complete the online claim form available in the AMVIC online portal. In the event a consumer cannot complete an online claim, AMVIC can provide the claimant with a form they can complete and return to AMVIC. AMVIC will make every effort to assist a consumer with submitting a claim.

## Bylaw 2- Compensation Fund

5.4.2. The consumer shall consent to AMVIC providing the completed claim form to the automotive business.

### **5.5. Review process**

5.5.1. The CEO shall review claims to determine if they meet the eligibility criteria for compensation under this bylaw and will determine the amount of any eligible claims.

5.5.2. The CEO may delegate their powers and responsibilities.

5.5.3. The CEO shall give the automotive business written notice that a claim has been made and shall give the automotive business 30 days to make representations in writing.

5.5.4. If the CEO receives representations from the automotive business, the CEO may give the Claimant an opportunity to respond to the representations in writing.

5.5.5. The CEO shall give the claimant written notice of the decision and reasons for the decision including whether or not the claim met the eligibility requirements and the amount of compensation.

5.5.6. The claimant will have 30 days from the date of the written notice of the decision to appeal the decision as per section 5.9.

5.5.7. The CEO shall give the automotive business written notice of the decision to the last address according to the records of AMVIC. Notices sent are deemed to have been received in accordance with section 177 of the CPA.

5.5.8. If the CEO has determined the claim to be eligible, the automotive business will have 30 days from the date of the written notice of the decision to appeal the decision as per section 5.9 or pay the claim.

### **5.6. Recovery from other sources**

5.6.1. A consumer is not eligible for compensation from the Fund in relation to any amount the consumer has recovered in relation to the claim from:

- a. the automotive business;
- b. a salesperson, employee, representative or agent of the automotive business;
- c. any other person who caused or is vicariously liable for the claim;
- d. a civil action, whether it is a judgment or a settlement agreement;
- e. any form of security provided to AMVIC by an automotive business;
- f. any source of insurance; or
- g. any other source or entity.

## Bylaw 2- Compensation Fund

### 5.7. Claim limits

5.7.1. In this section, “Alberta CPI” means the Consumer Price Index for Alberta published by Statistics Canada.

5.7.2. All payments from the Fund are restricted to the following limits:

- a. The claimant is not entitled to make a claim against the Fund for an amount greater than:
  - i. what the Claimant has paid in relation to the automotive transaction plus interest;
  - ii. what the Claimant has agreed to receive in relation to the automotive transaction plus interest;
  - iii. what the Claimant will be obligated to pay in relation to the automotive transaction;
  - iv. the **amount** of a court judgment, including court costs and interest, against an automotive business related to the consumer’s transaction, to the maximum amount identified in 5.7.2 b. and c. The amount of a default judgment or a judgment by consent against an automotive business is excluded from consideration.
- b. Notwithstanding section a. above, the maximum amount that will be paid for an eligible claim is:

Date of transaction	Claim maximum
March 31, 2024 and earlier	\$25,000.00
April 1, 2024 through December 31, 2024	\$30,000.00
January 1, 2025 through December 31, 2025 and subsequent years	To be increased annually using the calculation set out in c. below.

- c. From January 1, 2025 through December 31, 2025 and subsequent calendar years, the maximum amount shall be increased annually, with effect from January 1, by an amount equal to
  - i. the amount for the previous calendar year,  
multiplied by
  - ii. the annual change in the Alberta CPI, determined in accordance with section 5.7.1 and rounded to 1/10 of a percentage point.

## Bylaw 2- Compensation Fund

For the purposes of subsection 5.7.1, the change in the Alberta CPI is the amount determined by the formula

$$X = \frac{(A-B)}{B}$$

Where:

- X is the annual change in the Alberta CPI;
- A is the sum of the 12 individual monthly Alberta CPI indexes for the 12-month period ending on September 30 of the calendar year that ended before the commencement of the calendar year for which the increase is being calculated;
- B is the sum of the 12 individual monthly Alberta CPI indexes for the 12-month period immediately preceding the 12-month period referred to in A.

If the annual change is a negative number, that negative number shall be treated as if it were zero.

- d. The claimant is not entitled to make a claim against the Fund for:
  - i. indirect losses - losses that are not directly related to the amount of the transaction, including but not limited to legal fees, court costs, loss of credit, loss of income, parking, mileage and any other out-of-pocket expenses;
  - ii. future losses that have not already occurred.

### **5.8. Civil Action**

- 5.8.1. Nothing in this bylaw prevents a consumer from pursuing a civil action against an automotive business.

### **5.9. Appeal process**

- 5.9.1. The claimant and the automotive business may appeal the decision to an independent appeal panel.
- 5.9.2. The claimant or automotive business must give a notice of appeal to the CEO within 30 days of receipt of the decision of the CEO.
- 5.9.3. The notice of appeal shall specify:
  - a. The grounds for the appeal and
  - b. The facts in support of the appeal.
- 5.9.4. Within 10 days of the receipt of a notice of appeal, the CEO will provide the appellant with an acknowledgement of receipt of the notice of appeal and will forward the notice of appeal to the Chair of the Board.

## Bylaw 2- Compensation Fund

- 5.9.5. Within 45 days of an appeal being received, the Chair of the Board shall establish an appeal panel.
- 5.9.6. The Chair of the Board shall establish an appeal panel that consists of three individuals. The appeal panel will consist of:
  - a. A Chairperson;
  - b. An individual who is the owner or employee of an automotive business licensed by AMVIC;
  - c. A representative of the public, including Public Directors of the AMVIC Board of Directors appointed under the CPA, ABR and AMVIC Bylaw 1-Governance.
- 5.9.7. The Chairperson of the appeal panel shall set the date, time and location of the appeal hearing and notify the Appellant, AMVIC and any other party to the appeal.
- 5.9.8. If the largest possible claim under the appeal is less than \$10,000, the appeal shall be in writing unless the Chairperson of the appeal panel makes an order to the contrary.
- 5.9.9. If any party has questions relating to the appeal procedure, those questions will be directed to the Chairperson of the appeal panel for clarification.
- 5.9.10. The decision of the appeal panel is final and binding.

## 6. Payment from the Fund

- 6.1. A claim that has been determined as eligible by the CEO shall be paid in accordance with this bylaw.
- 6.2. AMVIC is not required to make a payment from the Fund until:
  - a. the appeal period from a decision of the CEO has expired, or
  - b. the appeal panel has rendered a decision.
- 6.3. Nothing in this bylaw requires AMVIC to pay compensation that exceeds the maximum amounts allowed in section 5.7 of this bylaw.
- 6.4. The CEO or the appeal panel may award interest and may use the rates under the Judgment Interest Act, RSA 2000, to calculate interest.
- 6.5. Where a claimant has received other compensation for an eligible loss from some other source, the CEO will subtract the amount of any other compensation received from the amount of the eligible loss when determining the amount of compensation to be paid.

## Bylaw 2- Compensation Fund

### 7. Security requirement

- 7.1. The nature of wholesale and consignment sales transactions create a high-risk environment for potential financial harm to consumers. In order to mitigate this risk, consignment and wholesale businesses are required to provide AMVIC with security.
- 7.2. If AMVIC receives a compensation fund claim regarding an automotive business that has provided AMVIC with a form of security (irrevocable standby letter of credit, surety bond, or cash), the principal amount of the security shall be forfeited.
- 7.3. The principal amount of the security shall be transferred to the Fund and held until claims to the Fund involving the automotive business have been assessed, determined and paid.
- 7.4. The value of any financial loss claimed and any claims procedures shall be determined pursuant to this bylaw.
- 7.5. The first source of payment of an eligible claim will be from the security received by AMVIC.
- 7.6. After all claims relating to the automotive business are paid from the security, the amount of any security remaining will be returned to the source that provided the funds.

### 8. Expenses and replenishment

- 8.1. Expenses associated with administering the Fund will be charged to the Fund.
- 8.2. At the start of each fiscal year, the Board of Directors shall set a portion of the levy to be allocated to the Fund. If the Fund requires an increase or a decrease in revenue in response to claim trends, the annual levy allocation can be adjusted by the Board of Directors at any meeting of the Board.
- 8.3. All money allocated to the Fund will be held pursuant to the terms of the CPA and the ABR.
- 8.4. If the Fund has more than \$5,000,000, the Board will not allocate a portion of the levy to the Fund.

### 9. Amendment history

Version	Date	Summary of update
1.	Nov. 1, 2018	Original. Approved by Board of Directors. Replace previous Bylaws from Society.
2.	April 1, 2024	Approved by AMVIC Board of Directors on Nov. 21, 2023. Approved by Minister of Service Alberta and Red Tape Reduction on Feb. 16, 2024 to come into force on April 1, 2024. Replace version 1.