



ALBERTA MOTOR VEHICLE
INDUSTRY COUNCIL

Compensation Fund Policy

Version 5
April 1, 2024
Legal

Compensation Fund Policy

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Compensation Fund Policy

2. Introduction

2.1 Policy statement

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. 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.

2.2 Purpose

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”), AMVIC Bylaw 2 – Compensation Fund (“Bylaw 2”) and this policy (collectively referred to as the “Legislation”). AMVIC administers the Fund in accordance with the Legislation.

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.

2.3 Definitions

The definitions are as contained in Bylaw 2.

3. Policy

3.1 Duties and responsibilities

3.1.1 AMVIC

AMVIC is responsible for all aspects of administering the Fund and may retain or authorize the employment of legal counsel, accountants, other experts, or advisers, as it considers necessary to assist with properly administering the Fund.

3.1.2 Board of Directors

The AMVIC Board of Directors (the “Board”) is responsible for the governance of AMVIC and overseeing the management of AMVIC’s business and affairs. The responsibilities of the Board in regard to the Fund can be found in the Legislation. The Board may have additional responsibilities in regard to the Fund including but not limited to:

- a) Review the annual report on the administration of the Fund.

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- b) Develop a series of key performance indicators to report on the Fund's performance.
- c) Report to the Minister as required.
- d) At any time, the Board may commission an independent review of the Fund.

3.1.3 Chief executive officer

AMVIC's chief executive officer ("CEO") is responsible for the management of AMVIC. The responsibilities of the CEO in regard to the Fund can be found in Bylaw 2. In addition, the CEO may have additional responsibilities in regard to the Fund including but not limited to:

- a) General oversight of the administration of the Fund.
- b) Determination of all claims to the Fund.
- c) Approval of payments from the Fund in accordance with the AMVIC Accounting Policy.
- d) Provide an annual report on the administration of the Fund to the Board.
- e) Provide any other reporting to the Board when requested.

3.1.4 Manager of legal services

AMVIC's manager of legal services ("MLS") is responsible to give direction and leadership toward the proper administration of the Fund. The MLS responsibilities in regard to the Fund include:

- a) Overseeing the administration of the Fund and ensuring the Fund is administered in accordance with all applicable Legislation and any applicable AMVIC policy.
- b) Providing recommendations to the CEO.
- c) Proposing amendments to this policy as circumstances warrant.
- d) Reporting to the CEO and to the Board when requested.

3.1.5 Compensation Fund coordinator

The Compensation Fund coordinator (the "Coordinator") will be primarily responsible for administering the Fund on a day-to-day basis. The responsibilities of the Coordinator in regard to the Fund include:

- a) Administration of all claims including:
 - i. Documenting the date of receipt of claim;
 - ii. Acknowledging the receipt of claim;
 - iii. Reviewing all claims and application requirements; and
 - iv. Conducting an initial eligibility assessment for all claims.
- b) Conduct claim analysis.
- c) Provide administrative support for the Fund to the MLS.
- d) Facilitate distribution of requisition forms for payment of approved claims from the Fund.
- e) Correspond with claimants and other parties.
- f) Report to the MLS regarding all matters related to the application process and the day-to-day operation of the Fund.
- g) Liaise with investigators regarding claims for compensation.
- h) Develop claim forms and letters as needed for approval by the MLS.

3.1.6 Investigations department

The investigations department handles all complaints, investigation, and enforcement activities. The responsibilities of the investigations department in regard to the Fund include:

- a) Conduct investigations into claims where requested by the MLS or Coordinator.

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- b) Prepare an investigation report regarding the claim and provide it to the Coordinator.
- c) Document the time spent on claims so the Fund can reimburse the costs associated with the investigation.

3.1.7 Compensation appeal panel

The claimant and the automotive business may appeal a decision of the CEO to an appeal panel. The appeal panel is established by the Chair of the AMVIC Board in accordance with Bylaw 2. The responsibilities of the appeal panel include:

- a) Confirming, varying, or quashing the decision of the CEO;
- b) Providing a written decision with reasons for the decision within the time specified in this policy.

3.2 Application of the policy

3.2.1 Receiving a claim

- a) A potential claimant will be assisted by AMVIC to enter a claim using the AMVIC online portal. The claimant is provided with an acknowledgment of receipt of the claim.

3.2.2 Concluding a claim

- a) In most instances, claims will be reviewed and concluded in the order they were received. The time it takes to conclude a claim depends upon a number of factors including whether or not the consumer's complaint file is closed and the number of open claims.

3.2.3 Conduct of appeal hearings

Notice of appeal

- a) A claimant or an automotive business may appeal a decision of the CEO by delivering a written notice of appeal to the CEO within 30 days of receipt of the decision of the CEO.
- b) The notice of appeal must be reasonably complete and include:
 - i. The grounds for the appeal (including the issues disputed) and
 - ii. The facts in support of the appeal (supporting reasons).
- c) The CEO shall, upon receipt of a notice of appeal, refer the appeal to the Chair of the Board.

Appeal panel

- d) The Chair of the Board, with the assistance of legal services, shall establish an appeal panel that consists of the three individuals as directed in Bylaw 2.
- e) If one or more of the appeal panel members dies, resigns or is removed under the Legislation, or in any other manner before the appeal panel's decision is complete, the remaining appeal panel members will issue the panel's decision. If the two remaining panel members cannot reach a consensus, a new appeal panel will be established and the matter reheard.
- f) Once the appeal panel has been established, the appeal panel chair shall provide a copy of the notice of appeal to each of the appeal panel members.

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Independence of the appeal panel

- g) Appeal panel members shall be independent of the parties to the appeal.
- h) If after the establishment of an appeal panel, a member becomes aware of circumstances that give rise to a reasonable apprehension of bias, that member shall promptly disclose the circumstances to the appeal panel chair. The member may decide to recuse themselves from sitting on the appeal panel. If the member does not recuse themselves, the chair of the appeal panel will have the discretion to remove the panel member if there are circumstances that give rise to a reasonable apprehension of bias. The chair of the appeal panel may request submissions from the Appellant or other parties to the appeal hearing before determining whether the panel member should be removed or continue to sit as a member of the appeal panel.

Appeal less than \$10,000

- i) If the largest possible claim under appeal is less than \$10,000, the appeal shall be in writing unless the appeal panel chair makes an order to the contrary.
- j) The appeal panel chair will request the Appellant to provide a written submission of evidence and argument.
- k) Once the written submission of the Appellant is received, the appeal panel chair will ask the other parties to provide a written rebuttal submission of their evidence and argument.
- l) If something new arises in the rebuttal submission, each party will have the opportunity to provide an additional written submission.
- m) If the appeal panel requires additional submissions from the parties, the appeal panel chair will request them.
- n) The appeal panel will provide a written decision to the parties within 45 days of receipt of the last written submission.

Appeal more than \$10,000

- o) Once the appeal panel has been established, the appeal panel chair shall provide a copy of the notice of appeal to each of the appeal panel members.
- p) The appeal panel chair shall select a time, date and location for the appeal hearing and shall notify the parties of the time, date and location they have selected. The appeal panel chair shall provide no less than thirty (30) days notice to the parties of the time, date and location of the appeal hearing.
- q) The appeal panel chair is responsible for establishing hearing procedure and may decide to conduct the hearing by electronic means and may authorize the parties and other participants to attend the hearing by electronic means including teleconference call or videoconference call.
- r) The appeal hearing date shall be no later than 120 days from the date the notice of appeal was received by the CEO. In the event a party to the appeal is unavailable to attend an appeal hearing within the 120 days, the appeal panel chair shall have the discretion to grant an extension upon written request from the party.

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- s) If a party fails to request an adjournment, an extension of time, or fails to attend at the hearing, the appeal shall either:
 - a. proceed as scheduled if other parties are in attendance, or
 - b. if no party attends, the appeal may be considered abandoned.
- t) If the hearing proceeds as scheduled, the appeal panel will provide their written decision in the time required by this policy.

Decision of the appeal panel

- u) The appeal panel that hears the appeal pursuant to section 5.9 of Bylaw 2 may confirm, vary, or quash the decision.
- v) The appeal panel will provide the parties with its written decision within 45 days after the conclusion of the hearing.

Rules of evidence

- w) The appeal panel is not bound by the rules of evidence applicable to judicial proceedings.

Representation

- x) Each party to the appeal will have the opportunity to present their own case or have their case put forward by a lawyer or other representative.

Oath or affirmation

- y) The appeal panel shall not require oaths or affirmations to be given in appeal proceedings.

4. Administration

4.1 Related documents and legislation

Consumer Protection Act
 Automotive Business Regulation
 AMVIC Bylaw 1 – Governance
 AMVIC Bylaw 2 – Compensation Fund
 AMVIC Accounting Policy

4.2 Procedures

4.3 Forms

4.4 Amendment history

Version	Date	Summary of update
1	August 9, 1999	Original
2	March 9, 2005	Reviewed and approved

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3	January 28, 2014	Reviewed and approved
	February 8, 2018	Administrative Changes: change Executive Director to Chief Executive Officer, change <i>Fair Trading Act</i> to <i>Consumer Protection Act</i>
4	January 22, 2019	Amendments to reflect changes in legislation, related regulations and bylaws effective October 31, 2018; conversion to new policy template
5	April 1, 2024	Amendments to reflect changes to AMVIC Bylaw 2 – Compensation Fund effective April 1, 2024. Approved by AMVIC board of directors at Jan. 25, 2024 meeting.

4.5 Scheduled review date

January 2027