

Industry-Funded Consumer Protection



**Motor Vehicle
Dealers
Compensation Fund**



FREQUENTLY ASKED QUESTIONS

1 What is the Motor Vehicle Dealers Compensation Fund?

The Motor Vehicle Dealers Compensation Fund (the Fund) reimburses eligible consumers who have suffered a proven pecuniary or out-of-pocket loss related to a vehicle purchase or lease transaction.

You can make a claim to the Fund only if you purchased your vehicle from a registered dealer. Buying a vehicle privately or from an unregistered dealer means you are ineligible for the protection of the Fund.

An independent Board of Trustees consisting of nine members from the public and industry review claims and make decisions about compensation for eligible claimants, based on conditions established by the *Motor Vehicle Dealers Act, 2002* and its Regulations.

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Considering a Claim?

WHAT YOU NEED TO KNOW

The Compensation Fund Is Your Last Resort

Before filing a complaint with the Motor Vehicle Dealers Compensation Fund, ensure that you have exhausted all remedies available to you.



If the dealer is still in business, send written notice of your concerns by registered mail or courier and keep proof of service and copies of the letter(s). If the dealer does not provide

assistance, please contact OMVIC for complaint handling assistance at omvic.on.ca and click "Online Complaints."

We are often able to help you resolve issues with registered dealers without making a formal claim to the Fund or the courts.

Make Sure You Include All Supporting Documents with Your Application

If you are unable to resolve the issue and choose to file an application with the Fund, please complete the application package and mail or email all supporting documents to the Fund. We will review your documents, attempt to contact the dealer (if applicable), liaise with you about any additional information required and prepare your claim for consideration by the Board of Trustees. Fund meetings are not public and you are not required to attend in person.

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2 What is covered by the Compensation Fund?

Compensation (up to a maximum of \$45,000*) may be available for eligible proven losses related to a transaction for a motor vehicle if the dealer refuses or is unable to pay under one of the following criteria:

- a. The dealer has failed to satisfy a court judgment against a dealer that has become final.
- b. The dealer has failed to return a deposit to a consumer on an undelivered motor vehicle.
- c. The dealer has become bankrupt, a receiver has been appointed or a winding-up order has been made.
- d. The dealer has been convicted of an offence related to the trade in the motor vehicle.
- e. The dealer has failed to remit payment on an extended warranty contract, or has not paid for a repair which would have been covered by the dealer's warranty and/or has not refunded the warranty premium paid by the consumer.
- f. The dealer has failed to remit or honour the conditions of a service plan agreement.
- g. The dealer has seriously misrepresented the vehicle to the consumer and the consumer would be eligible for rescission of the contract under Section 50 of the new MVDA.**

Detailed criteria will vary depending on the date of the transaction with the dealer. The Fund staff will be pleased to assist with any questions. You are encouraged to review the *Motor Vehicle Dealers Act* or *Motor Vehicle Dealers Act, 2002* for more information.

(See Question 8 for details.)

- h. The dealer has had its licence revoked by the Registrar and one of the reasons includes issues related to your transaction.**
- i. The motor vehicle has been seized by law enforcement or lawfully by a creditor (not yours) and the motor vehicle will not be returned.**

3 How do I make a claim?

Consumers must complete the forms available at **omvic.on.ca** (under "Compensation Fund"). If you don't have Internet access, please contact OMVIC at 416-226-4500 or 1-800-943-6002.

4 Is there a limit on the claim amount?

YES. Eligible transactions for trades conducted after January 1, 2010 are payable up to a maximum of \$45,000. Claims related to eligible transactions for trades before this date are payable up to a maximum of \$15,000. In some cases, legal fees and interest awarded by the courts are also covered above the maximum payouts.

5 Is there a time limit to submit my claim to the Fund?

YES. You have two years from the date the dealer was unable or refused to pay the claim to submit the information to the Fund for consideration.

* If the trade occurred before January 1, 2010, the maximum claim limit is \$15,000.

** Applies only to transactions occurring after January 1, 2010.

6 Is a snowmobile or pull trailer eligible for compensation?

NO. Only vehicles defined under the *Motor Vehicle Dealers Act, 2002* or *Motor Vehicle Dealers Act* (depending on date of your transaction) are eligible for compensation. Please see specific definitions contained in the *Acts*.

7 If I used the motor vehicle for business purposes (in full or part), am I still eligible to make a claim?

NO. Only an individual customer, or those consumers acting for personal or family use and not for business purposes, may make a claim to the Fund.

8 Where can I review the detailed legal definitions and claim criteria for my claim?

The *Motor Vehicle Dealers Act, 2002* and its Regulations are relevant for all transactions with a dealer that occur after December 31, 2009.

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_02m30_e.htm

www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080333_e.htm

The *Motor Vehicle Dealers Act* and its Regulations are relevant for all transactions with a dealer that occur on or before December 31, 2009.

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90m42_e.htm

www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900801_e.htm



Considering a Claim?

WHAT YOU NEED TO KNOW continued

When Can I Expect a Decision from the Board of Trustees?

The Board of Trustees meets approximately six or seven times per year and does its best to pay out on eligible claims shortly after reviewing applications. However, the turnaround time varies depending on whether or not further inquiries by Fund staff



are required and if you have submitted complete documentation.

The Fund will notify you in writing of the Board of Trustees' decision and reasons for same.

Appealing Decisions

If you disagree with the decision of the Board of Trustees, you can appeal to an independent body called the Licence Appeal Tribunal (LAT). The LAT provides a fair, efficient, impartial

and independent means to appeal decisions concerning compensation claims. There is a fee associated with this service.

Full details about your rights and how to appeal will be set out in the written notification informing you of the Board of Trustees' decision regarding your Fund claim.

How to Contact the Motor Vehicle Dealers Compensation Fund

In addition to filing claims, we are often able to resolve disagreements between consumers and dealers without making formal claims. Please contact us if you have more questions about the Fund, the claims process or to file a complaint.

Ontario Motor Vehicle Industry Council

65 Overlea Blvd., Suite 300, Toronto ON M4H 1P1

Tel: 416-226-3661 Fax: 416-226-9406

Toll-Free: 1-800-943-6002 x3661

Email: compfund@omvic.on.ca

Criteria and Claim Amount



Motor Vehicle
Dealers
Compensation Fund

MY/OUR CONTACT INFORMATION:

Name: _____

Phone: _____ Email: _____

Mailing Address: _____ Postal Code: _____

Name of Registered Dealer: _____

SECTION A: CLAIM CRITERIA FOR TRANSACTIONS ON/BEFORE DEC 31, 2009

If your trade or transaction with the dealer **occurred on or before Dec 31, 2009**, please complete **Section A**.
(If your trade or transaction occurred after Dec 31, 2009, see Section B.)

Please provide all supporting documents.

Check all that apply:

- Judgment** against a motor vehicle dealer that has become **final**. *(Include all court documents.)*
- Dealer has failed to return a **deposit** to a consumer on **an undelivered motor vehicle**. *(This excludes a claim for a refund of monies paid by the customer to the dealer in which the customer has been provided the motor vehicle, but demands a refund based on the cost, value or quality of the vehicle provided.)*
- Dealer has become **bankrupt, a receiver has been appointed or a winding-up order has been made**.
- Dealer has been **convicted under the Criminal Code of Canada of fraud, theft or false pretences** related to the trade.
- Payment for an **uninsured extended warranty** product or **service plan** and the term has not expired, and the dealer did not remit or pay warranty/service plan provider *(e.g., the claim is for unearned premium or repair/service which would have been covered)*.

Amount Of Claim: \$ _____

Date (YYYY/MM/DD)

Signature

SECTION B: CLAIM CRITERIA FOR TRANSACTIONS ON/AFTER JANUARY 1, 2010

If your trade or transaction with a dealer **occurred on or after January 1, 2010**, please complete **Section B**.
(If your trade or transaction occurred before January 1, 2010, see Section A.)

Please provide all supporting documents.

Check all that apply:

- Judgment** against a motor vehicle dealer that has become **final**. *(Include all court documents.)*
- Dealer has failed to return a **deposit** to a consumer **on an undelivered motor vehicle**. *(This excludes a claim for a refund of monies paid by the customer to the dealer in which the customer has been provided the motor vehicle, but demands a refund based on the cost, value or quality of the vehicle provided.)*
- Dealer has become **bankrupt, a receiver has been appointed or a winding-up order has been made**.
- Dealer has been **convicted of an offence related to the trade** in the motor vehicle.
- Dealer has **failed to remit payment on an extended warranty contract**, or has not paid for a repair which would have been covered by the dealer's warranty and/or has not refunded the warranty premium paid by the consumer.
- Dealer has seriously **misrepresented the vehicle** to the consumer and the consumer **would be eligible for cancellation of the contract under Section 50 of the Regulations under the new MVDA**.
- Dealer has had **its licence revoked by the Registrar** *(and one of the reasons includes issues related to your transaction)*.
- The claimant's motor vehicle has been **seized by the police or lawfully seized by a creditor (not your creditor)**, and the **motor vehicle will not be returned**.
- Dealer made a **misrepresentation** about the motor vehicle which the claimant indicated was material for the vehicle to have/not to have.
- The dealer has **failed to honour or remit the conditions of a service plan agreement**.

Amount Of Claim: \$ _____

Date (YYYY/MM/DD)

Signature

The following information is provided as a guideline only and is not meant to be exhaustive. You are encouraged to review our FAQ brochure, the relevant sections of the **Motor Vehicle Dealers Act** and Regulations or the **Motor Vehicle Dealers Act, 2002** and Regulations (depending on the date of your transaction with the dealer) and to consult with your lawyer if you have any questions.

Only proven out-of-pocket or pecuniary amounts can be considered from qualified claimants (only an individual customer or those consumers acting for personal or family use and not for business purposes may make a claim to the Fund if they involve a registered motor vehicle dealer). Private transactions cannot be considered by the Fund.

Sworn Statement or Affidavit of Claimant



**Motor Vehicle
Dealers
Compensation Fund**

This is a sworn affidavit or statement, and requires an oath to be sworn or an affirmation to be made before a commissioner of oaths, notary public or a lawyer.

Please ensure the following information is included: official's name (legibly printed), the commission's date of expiry, and address and phone number of the person taking your affidavit.

IN THE MATTER OF A CLAIM FOR COMPENSATION FROM THE MOTOR VEHICLE DEALERS COMPENSATION FUND UNDER THE **MOTOR VEHICLE DEALERS ACT** OR **MOTOR VEHICLE DEALERS ACT, 2002** AND REGULATIONS THERETO:

Please provide the reasons or basis of your claim, a description of the vehicle and the nature of the transaction or contract. Include all relevant dates and details of phone calls, letters or emails related to your claim with the dealer. (Please attach additional sheets as necessary.)

I understand and acknowledge that the making of a false statement under oath or solemn affirmation, such as this affidavit or sworn statement, may be an offence and may disentitle me from compensation.

Signed,

Signature of Claimant(s)

TO BE COMPLETED BY OFFICIAL TAKING THE AFFIDAVIT:

This affidavit was sworn/affirmed before me at the city of _____ in the
City/Town
province of _____ this _____ day of _____, _____.
Province Month Year

Signature of Official Taking the Affidavit

Name of Official

Address of Official

Phone Number of Official

Cash Payment Affidavit

Complete this form only if payment was in cash.



**Motor Vehicle
Dealers
Compensation Fund**

CLAIM BETWEEN:

Name(s) of Claimant(s)

and

Motor Vehicle Dealer's Name

TO BE COMPLETED BY CLAIMANTS:

I/We, _____ of _____
Name(s) of Claimant(s) City/Town

make oath and say that on the _____ day of _____, _____, I paid \$ _____ in cash
Month Year Amount of Payment

to _____ in respect to the trade of a motor vehicle.
Motor Vehicle Dealer's Name

Attached to this affidavit and marked as Exhibit "A" is a copy of the receipt or other documentation given to me by

_____, dated this _____ day of _____, _____, with respect to this payment.
Name of Dealer Contact Month Year

Signed,

Signature of Claimant(s)

TO BE COMPLETED BY OFFICIAL TAKING THE AFFIDAVIT:

This cash payment affidavit was sworn/affirmed before me at the city of _____
City/Town

in the province of _____ this _____ day of _____, _____.
Province Month Year

Signature of Official Taking the Affidavit

Name of Official

Address of Official

Phone Number of Official

Demand Letter To Dealer



**Motor Vehicle
Dealers
Compensation Fund**

DEALER INFORMATION:

Date (YYYY/MM/DD)

Dealer Name

Dealer Address

DEMAND LETTER:

To: Dealer Principal/General Manager

This demand letter is sent in compliance with Section 79(1)(e) of the **Motor Vehicle Dealers Act, 2002** and Section 12(1) of Regulation 801 to the **Motor Vehicle Dealers Act** providing you with 30 days from the date of this demand letter to honour this demand.

This formal demand letter is a final request to resolve my/our complaint for the value of \$ _____
Amount

with respect to _____
Year/Make/Model of Vehicle VIN

Please be advised that should this complaint remain unresolved, I/we will file a claim for compensation from the Motor Vehicle Dealers Compensation Fund.

THIS COMPLAINT IS BASED ON THE FOLLOWING:

(Fill in details below, attaching additional sheets if necessary.)

MY/OUR CONTACT INFORMATION:

Home Phone: _____ Business Phone: _____ Cell Phone: _____

Mailing Address

Email Address

Fax

Yours truly,

Signature

Name *(please print)*

Signature

Name *(please print)*

IMPORTANT:

1. **Make a copy** for your records.
2. **Send by registered mail or courier** (you'll need proof of service) to the last known business address of the dealership
OR hand-deliver with receipt.

Release and Subrogation



**Motor Vehicle
Dealers
Compensation Fund**

CLAIM BETWEEN:

_____ **and** _____
Name(s) of Claimant(s) Motor Vehicle Dealer's Name

RELEASE AND SUBROGATION:

In consideration of the payment or partial payment of the claim of the undersigned by the Motor Vehicle Dealers Compensation Fund (the "Fund"), the undersigned claimant(s) hereby discharges and forever releases the Fund from all further claims, demands and liability, loss and damage in the relation to the claim (provided, however, that this release shall, in the event of partial payment of the claim of the undersigned, be applicable only to the extent of the claim actually paid).

The Fund is hereby subrogated in the place of and to all rights to recovery, claims and demands of the undersigned against any person or organization, including, but not limited to _____,
Motor Vehicle Dealer's Name

which includes its subsidiaries, parent companies, successors, agents and assigns any party claiming through them to the extent of the payment made. The undersigned further authorizes the Fund to commence any action and/or proceeding, compromise, adjust or settle any action and/or proceeding in the name of the undersigned or otherwise at the expense of the Fund, with respect to the claim to the extent of any payment made by the Fund with respect to the claim. Where only a portion of the undersigned's claim has been paid by the Fund, the Fund is hereby authorized to act as the undersigned's agent with respect to the balance of the claim of the undersigned and, in that regard, is empowered to commence any action and/or proceeding, compromise, adjust or settle any action and/or proceeding in the name of the undersigned or otherwise at the expense of the Fund, including the giving of the releases in the name of the undersigned for such part of the undersigned's claim not subrogated herein. Any monies recovered by the Fund or on its behalf shall be applied firstly towards the cost incurred in recovering the said monies and secondly towards that portion of the claim paid by the Fund. The balance, if any, shall be remitted by the Fund to the undersigned.

It is understood and agreed that in the event a further payment is received by the undersigned from the Fund, this release and subrogation shall apply to such further payment without re-execution of this document.

The undersigned hereby confirms that it has not received payment and/or reimbursement of the said claim from any other source and the undersigned has not released or discharged the said claim, or any part thereof, against any other person or corporation and covenants. The undersigned also confirms that it will furnish the Fund with all papers and information in its possession and execute such documents and do everything in its power necessary for proper litigation of the said claim. In the event the undersigned receives any payment and/or reimbursement of the said claim from any other source subsequent to the date hereof, the undersigned agrees to immediately advise the Fund of such payment and/or reimbursement and immediately remit such payment and/or reimbursement to the Fund.

IN WITNESS WHEREOF the undersigned hereby executes this document dated this _____ day of _____, 20____.
Month Year

Print Name(s) of Claimant(s)

Signature of Claimant(s)

Print Name of Witness

Signature of Witness

Notice and Consent



**Motor Vehicle
Dealers
Compensation Fund**

NOTE: PLEASE ENSURE THAT YOU HAVE READ THIS DOCUMENT IN FULL BEFORE SIGNING BELOW. PROVIDING FALSE INFORMATION REGARDING YOUR CLAIM FOR COMPENSATION MAY DISENTITLE YOU TO PAYMENT.

I hereby consent to the use of information provided on the forms in support of my claim to the Motor Vehicle Dealers Compensation Fund and/or in the use of information obtained as a result of their verification to determine whether my claim qualifies for payment for which I am applying, and to use and disclose such information to others for purposes which are consistent with the Motor Vehicle Dealers Compensation Fund claim request and the **Motor Vehicle Dealers Act** or **Motor Vehicle Dealers Act, 2002** and relevant Regulations, and with the provision of non-identifiable statistical information.

I authorize the Motor Vehicle Dealers Compensation Fund and/or the Ontario Motor Vehicle Industry Council to collect such additional information about me as may be necessary to complete or verify the information contained on these forms, and further agree to furnish any additional authorization or release to obtain information to determine my eligibility for compensation.

The sources that the Motor Vehicle Dealers Compensation Fund and/or the Ontario Motor Vehicle Industry Council seek information from may include, but are not limited to, the dealership, law enforcement agencies, the Ministry of Transportation, the Superintendent of Bankruptcy, the Trustee in Bankruptcy, insurance companies, the provider of extended warranties and other agencies that may be deemed necessary.

I certify that the information provided by the undersigned in support of the claim to the Motor Vehicle Dealers Compensation Fund is true to the best of my knowledge and belief.

Signature of Claimant(s)

Name of Claimant(s)

Date [YYYY/MM/DD]