

Regulatory Statement

Elimination of Deferred Sales Charges

Regulatory Statement Number	23-015
Legislation:	<i>Financial Institutions Act</i> (Section 244(2)(e))
Date:	May 18, 2023
Distribution:	All Life Insurance Companies Authorized to Conduct Business in British Columbia

PURPOSE

This Regulatory Statement sets out the position of the Superintendent of Financial Institutions (“Superintendent”) that deferred sales charges (“DSCs”) on individual variable insurance contract (“IVIC”) sales might reasonably be expected to harm the interests of insureds and therefore fall within Section 244(2)(e)(ii) of the *Financial Institutions Act* (“FIA”). Accordingly, the Superintendent instructs all life insurance companies (including extraprovincial insurance corporations) authorized to conduct insurance business in British Columbia (“B.C.”) to refrain from issuing IVICs that are subject to a DSC, effective June 1, 2023.

BACKGROUND

IVICs are investment products with features similar to mutual funds including with respect to remuneration and fees. An IVIC is an individual contract of life insurance under which the insurer’s liabilities vary in amount depending upon the market value of a specified group of invested assets in segregated funds. IVICs include a provision in an individual contract of life insurance under which policy dividends are deposited into segregated funds.

DSCs include the fees and charges set out in Appendix 1 and may include additional fees and charges based on legislation in effect in the insurance company’s primary jurisdiction and/or based on the insurance company’s own IVIC(s).

Each of the participating jurisdictions of the Canadian Securities Administrators (“CSA”) adopted rules to end DSCs on mutual funds, effective June 1, 2022.¹ Both the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations have urged insurers to refrain from including or using DSCs in the sale of new IVICs by no later than June 1, 2023.²

The Superintendent is concerned about potential harm to consumers from DSCs and wishes to avoid regulatory arbitrage in the sale of IVIC or mutual fund products.

REQUIREMENTS

Effective June 1, 2023, the Superintendent instructs all life insurance companies authorized to conduct insurance business in B.C. to refrain from issuing IVICs that are subject to a DSC.

¹ [Canadian securities regulators adopt ban on deferred sales charges, 2020](#)

² [CCIR and CISRO statement on Deferred Sales Charges an upfront commission in segregated fund sales, 2022](#)

Classification: **Public**

600-750 West Pender Street
Vancouver, B.C. V6C 2T8

T 866 206 3030
F 866 660 3365

You're Protected
bcfsa.ca

Life insurance companies should make (potential) insureds aware of the changes in effect from June 1, 2023, so that consumers may make an informed purchase decision about an IVIC containing a DSC before that date.

The Superintendent does not consider a replacement IVIC on the same terms and conditions, a transfer of ownership of an existing IVIC, or conversion of an existing IVIC required in connection with tax legislation or other applicable legislation to be a new issue.

As noted, the Superintendent may consider continued use of DSCs in IVICs on or after June 1, 2023 as a practice that might reasonably be expected to harm the interests of insureds under Section 244(2)(e)(ii) of the FIA. Failure to cease issuing IVICs with DSCs after this date may result in an order under Section 244(2)(f) of the FIA or other enforcement action. The Superintendent or BC Financial Services Authority (“BCFSA”) are not limited to making an order under Section 244 of the FIA but may consider all other regulatory options and/or powers available.

ADDITIONAL INFORMATION

For questions or to request a meeting with BCFSA staff in respect of this Regulatory Statement, please contact the Market Conduct Branch at insurance@bcfsa.ca.

LEGISLATION

FIA, ss. 244, 253.1

Securities Act, s. 1 “mutual fund”

Interpretation Act, ss. 27(2), 28(3)

Copies of the legislation are available at www.bclaws.gov.bc.ca.

APPENDIX 1

DSC includes:

- i) a fee or charge that the insured with respect to an IVIC is required to pay under the IVIC because the insured,
 - a) makes a withdrawal from a segregated fund, or
 - b) changes the sales charge option that applies to any investment in a segregated fund under the IVIC, and where the fee or charge is calculated based on a percentage of the amount that is withdrawn or affected by the change, and/or the original cost of the units redeemed or affected by the change, according to a predetermined calculation or schedule set out in the IVIC,
- ii) a fee or charge that the insured with respect to an IVIC is required to pay under the IVIC because the insured does not make payments when required under the IVIC,
- iii) a fee or charge the insured with respect to an IVIC is required to pay that is described in the IVIC by one of the following terms, or a term substantially similar to any of these terms,
 - a) deferred sales charge, DSC, DSC sales charge, DSC charge, DSC fee,
 - b) low-load sales charge, low-load charge, low-load fee, low sales charge, or
 - c) back-end sales charge, back-end load, back-end charge, back-end fee, or
- iv) any fee or charge a reasonable insurer would consider to be a deferred sales charge, providing however and despite the foregoing, a deferred sales charge does not include,
 - a) a fee or charge the insured is only required to pay at the time they deposit funds to the IVIC,
 - b) a fee or charge the insured is required to pay because the insured moves money among investment options within the IVIC more often than the IVIC permits without charge,
 - c) a short-term trading fee the insured is required to pay if the insured withdraws money from the IVIC, or moves money among investments options within the IVIC, within 90 days of investing the money, or
 - d) a market value adjustment the insured is required to pay that is calculated based on changes in interest rates, but not based on compensation an agent received with respect to the investment.

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the Financial Institutions Act and Credit Union Incorporation Act, Regulations, and other pertinent legislation. While the comments in a particular part of a Regulatory Statements may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, instructions, definitions, and positions contained in a Regulatory Statements generally apply as of the date on which it was published, unless otherwise specified.