

JULY 2024

# Insurer Oversight of Functions Delegated to Intermediaries in British Columbia

Consolidated Observations Report

**BCFSA** 

# Contents

<b>Executive Summary</b>	<b>1</b>
<b>Introduction</b>	<b>3</b>
<b>Consolidated Observations</b>	<b>5</b>
I. Compliance with Legislation	5
II. Outsourcing Arrangements	7
III. Public Facing Material	10
IV. Training	12
V. Complaints Handling	14
<b>Conclusion and Next Steps</b>	<b>16</b>



Production of this document included environmentally friendly best practices.  
Please reduce, reuse, and recycle.

Copyright © 2021 BCFS A O All Rights Reserved O Classification: **Public**

# Executive Summary

British Columbia Financial Services Authority (“BCFSA”) regulates insurance activity in British Columbia (“B.C.”) through the *Financial Institutions Act* (“FIA”) and its accompanying regulations as well as regulatory standards. BCFSA oversees approximately 200 insurers, excluding captives, reciprocals, and exempt insurance corporations, that conduct insurance business in B.C.

In B.C., vehicle owners must purchase a basic Autoplan liability insurance package from the Insurance Corporation of British Columbia (“ICBC”). Optional liability and collision coverages are also available, which every owner can buy from ICBC or from a private insurer.



BCFSA is responsible for regulating insurers who underwrite optional automobile-related insurance products in B.C., including those often referred to as supplemental insurance products.




BCFSA is also responsible for regulating the sale and distribution of insurance products, including vehicle warranty insurance aimed at providing additional coverage to that provided by automobile insurance. Insurance products can only be underwritten by appropriately authorized insurers and marketed and sold by licensed insurance agents unless an appropriate exemption from either of these requirements exists under the legislation. Not all insurance products can be distributed through vehicle dealerships in B.C. Supplemental insurance products are often distributed by intermediaries, including managing general agents and third-party administrators, through vehicle dealerships in B.C.

Over the past several years, BCFSA has received an increasing number of enquiries and complaints related to supplemental insurance products distributed through vehicle dealerships in B.C. To better understand how insurers were distributing these products in the B.C. marketplace, BCFSA conducted a thematic review of selected insurers’ oversight of intermediaries who distributed supplemental insurance products through vehicle dealerships in B.C. between 2020 and 2023.

BCFSA used the fair treatment of customers standards outlined in the Guidance Conduct of Insurance Business and Fair Treatment of Customers (“FTC Guidance”) developed by the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations as a guiding framework to assess processes and procedures. The review focused on four areas: compliance with legislation, outsourcing arrangements, public facing materials, and training. BCFSA identified insufficient or absent controls in all four areas of review as well as additional findings.

This report provides a summary of key observations from BCFSA’s thematic review.

Area Examined	Assessment	Key Observations
<b>Compliance with Legislation</b>		Control environments were not robust enough to manage the risk of non-compliance with legislative requirements.
<b>Outsourcing Arrangements</b>		<ul style="list-style-type: none"> <li>• Lack of formal outsourcing policies and procedures;</li> <li>• Lack of formal, comprehensive due diligence and risk-assessment processes for assessing new outsourcing opportunities;</li> <li>• Outsourcing agreements lacked clear, comprehensive, and enforceable roles and responsibilities; and</li> </ul>

Area Examined	Assessment	Key Observations
		<ul style="list-style-type: none"> <li>Insurer's oversight controls in place did not provide assurance that intermediaries understood and fulfilled their delegated responsibilities, as required.</li> </ul>
<b>Public Facing Material</b>		Design and distribution of public facing materials delegated to intermediaries lacked appropriate involvement and oversight by the insurer. Marketing materials did not promote insurance products in a clear, fair, and non-misleading manner.
<b>Training</b>		<ul style="list-style-type: none"> <li>Lack of appropriate controls to ensure intermediaries understood and fulfilled their training-related responsibilities over distributors; and</li> <li>Training programs varied greatly between intermediaries and programs, and contained inherent weaknesses that hindered fair treatment of customers outcomes.</li> </ul>
<b>Complaints Handling</b>		Lack of appropriate oversight over complaints handling processes delegated to intermediaries, including lack of controls to ensure complaints-handling policies and procedures were easily accessible to customers and complaints were handled using a simple and accessible procedure.

Legend:  Expectation met  Expectation partially met  Expectation not met

This report includes information relevant to all insurers authorized for business in B.C., both Life and Health and Property and Casualty insurance sectors. It highlights:

- Importance of insurers' oversight of delegated functions;
- Examples of insurer's processes and procedures that did not meet fair treatment of customers expectations; and
- Opportunities for insurers to review and strengthen their internal controls and oversight practices.

This report is intended to help insurers operating in B.C. review and assess effectiveness of their oversight over intermediaries and their distribution channels. The observations and guidance provided in this report represent a high-level summary of BCFSA's concerns based on the thematic review. No finding or recommendation specifically applies to a particular insurer or intermediary. As set out below, insurers should consider the report as a starting point for their own further enquiries and self-assessment.

While the scope of the review focused on supplemental insurance products distributed through vehicle dealerships in B.C., BCFSA assessed many entity level controls such as rules, policies and procedures that state the expectations across the whole organization and are not specific to a particular insurance product. All insurers in B.C. will benefit from reading this report. How each insurer address findings and recommendations included in the report may vary subject to insurer unique circumstances, including size and the organization's maturity and capacity.

Those insurers who choose to self-assess and strengthen their controls over intermediaries position themselves well in their efforts to comply with the B.C. [Insurer Code of Market Conduct](#), in effect from April 1, 2024.

# Introduction

Insurers configure their distribution operations in the most appropriate way to achieve their corporate objectives. To meet marketplace challenges such as economies of scale, cost control or heightened competition, insurers often rely on contractual arrangements with intermediaries. These arrangements potentially increase insurers dependence on the intermediaries and increases their risk profile, if the arrangements are not properly managed.

As stated in the FTC Guidance and Insurer Code of Market Conduct, where there is an ongoing relationship between the customer and the intermediary, the insurer remains responsible for servicing policies throughout their life cycle and ensuring that intermediaries have appropriate policies, procedures, and processes in place in respect of the activities performed on the insurer's behalf. To protect policyholders and mitigate risks to the company, it is important for an insurer to establish effective oversight over intermediaries and their distribution channels, and proactively manage it.

Over the last few years BCFSAs had received an increasing number of complaints concerning the supplemental insurance products distributed by intermediaries in B.C. To understand and assess effectiveness of the insurers management and oversight controls over intermediaries, BCFSAs conducted a thematic review of insurers distributing supplemental insurance products in B.C. via vehicle dealerships.

The graphic below illustrates the distribution process of supplemental insurance products examined by BCFSAs.

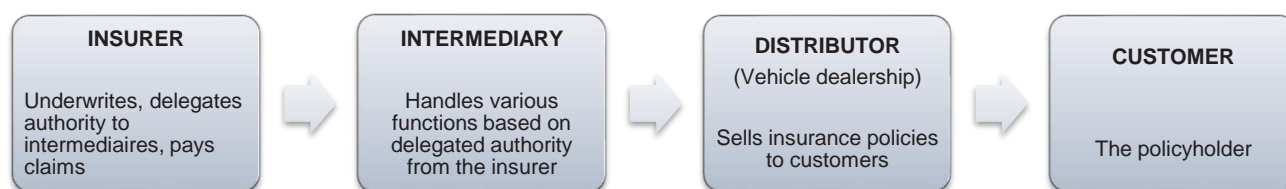


Table 1 below includes examples of primary and supplemental insurance products commonly being sold in B.C.

<b>Primary Automobile Insurance Products</b>	<b>Supplemental insurance products (all products are optional)</b>
Mandatory ICBC Basic Autoplan	Mechanical breakdown protection coverage (i.e. Vehicle Warranties)
Optional collision coverage	Vehicle replacement coverage
Optional comprehensive coverage	Anti-theft coverage
Optional specified perils coverage	Various appearance protection coverages
Optional excess liability coverage	Excess replacement benefit/deductible reimbursement benefit insurance coverage

The objective of BCFSA's thematic review was to determine whether insurers established effective controls to prevent improper sales of supplemental insurance products distributed through automobile dealerships in B.C.

BCFSA used the fair treatment of customers standards outlined in the FTC Guidance as the primary guiding framework to assess insurer's processes and procedures.

Over a two-year period, BCFSA examined a sample of insurers active in the supplemental insurance market. Several factors were considered in the selection process, including the insurer's automobile insurance market share in B.C., volume of automobile-related complaints reported to BCFSA and CCIR, and their compliance history with national insurance regulators.

The examination period was from 2020 to 2022 and included additional review of some of the insurer's key processes in place in 2023, subsequent to the examination period. Findings and recommendations summarised in this report are still relevant as of the date of the report.

BCFSA reviewed a sample of supplemental insurance products. During the review, we assessed whether insurers:

- Complied with relevant legislation, regulations, and industry guidance;
- Established effective controls to manage and oversee functions that were delegated to intermediaries;
- Ensured: 1) supplemental insurance products' public facing material contained appropriate information to assist customers in making an informed decision; 2) supplemental insurance products were promoted in a clear, fair, and non-misleading way; and
- Ensured intermediaries administering the automobile insurance programs had the appropriate licensing, knowledge, and abilities to distribute products.

This report provides a summary of common observations noted during the examination and recommendations for consideration and implementation, none of which are specific to a single insurer.

# Consolidated Observations

## I. Compliance with Legislation

**Insurers and intermediaries are expected to act in compliance with the laws, regulations, and guidelines to which they are subject.**

*Guidance Conduct of Insurance Business and Fair Treatment of Customers (FTC Guidance)  
Section 1 Conduct of Business*

### Scope

BCFSA assessed insurers business practices, including oversight over intermediaries' business practices, against applicable legislative requirements. The examination focused on sections of the FIA that were related to the examination's scope.

### Observations

Insurers are expected to comply with all relevant FIA regulatory, fiscal and taxation requirements as part of their business authorization.

We found all insurers established various practices to manage risk of regulatory non-compliance. However, often these practices were weak. We noted insurers' lack of comprehensive and robust approach to governance, risk management and regulatory compliance with B.C. legislation. More specifically, our examinations identified the following breaches of the FIA sections:

FIA Section	Regulatory Breach by Insurers
<b>Section 159</b> Authorized business	Section 159 of the FIA prohibits extraprovincial insurance corporations from carrying on insurance business without business authorization. A business authorization issued to an extraprovincial insurance corporation may be confined to one or more classes of insurance.  We found some insurers underwrote vehicle warranty insurance products without being appropriately authorized by BCFSA for that class of insurance.
<b>Section 75</b> Unauthorized insurance business prohibited	Section 75 of the FIA prohibits persons from carrying on insurance business in British Columbia unless the person is an insurance company or extraprovincial insurance corporation that has a business authorization to carry on insurance business.
<b>Section 91</b> Disclosure of identity in advertising, etc.	Section 91 of the FIA requires a financial institution to disclose its identity in marketing and other material.  We found insurers failed to comply with Section 91 of the FIA by not consistently disclosing their identity in the insurance product's marketing material.

FIA Section	Regulatory Breach by Insurers
<b>Section 93</b> Prohibition against unfair, misleading, or deceptive documents	Section 93 of the FIA prohibits unfair, misleading, or deceptive documents or related advertising.  We found instances where insurance product documents contained potentially unfair or misleading information.
<b>Section 176</b> Insurance applications to be accepted only from holders of licences  Related sections 178 and 180.	Section 176(b) of the FIA prohibits an insurer from making a contract of insurance or issuing or delivering a policy unless the application for insurance is received by or from an insurance agent licensee.  We found insurers failed to comply with Section 176 (b) by accepting applications for insurance from unlicensed agents.

### Recommendations for insurers:

1. Establish appropriate controls to ensure compliance with legislative requirements set out in the FIA and relevant regulations.

Specifically related to supplemental insurance products, insurers must understand licensing requirements for insurers and intermediaries distributing these products in B.C. and ensure compliance with the FIA, relevant regulations and BCFSAs Regulatory Statement “Product Warranty, Vehicle Warranty, and Automobile Insurance” published on April 25, 2024.

2. Strengthen control environment, including entity level controls, to ensure robust controls over any outsourcing arrangements in B.C. and appropriate consideration to the principles of fair treatment of customers.

### B.C. Insurer Code of Market Conduct

These recommendations align with the following principle in the [Insurer Code of Market Conduct](#):

1. Governance and Business Culture  
 FTC is a core component of the governance and business culture of insurers.



## II. Outsourcing Arrangements

**Insurers are expected to have effective systems and controls in place and communicate clear strategies for selecting and managing arrangements with intermediaries as part of their overall distribution plan.**

**Insurers are expected to conduct due diligence in the selection of intermediaries to assess, amongst other things, that they are authorized and have the appropriate knowledge and ability to conduct insurance business and have appropriate governance policies and procedures with respect to fair treatment of customers.**

**Insurers and intermediaries are expected to have written agreements in place established in respect of their business dealings with each other, to clarify their respective roles and facilitate the achievement of expected outcomes in matters of fair treatment of customers.**

**Insurers are expected to manage contracts, once in place, to ensure that intermediaries continue to be authorized and remain suitable to do business with them and comply with the conditions of their contract.**

*Guidance Conduct of Insurance Business and Fair Treatment of Customers (FTC Guidance)  
Section 4 Relationships between Insurers and Intermediaries*

### Scope

BCFSA examined the effectiveness of insurers':

- Outsourcing strategies, policies, and procedures to support intermediaries' distribution plan;
- Due diligence process in selecting intermediaries to distribute supplemental insurance products prior to entering into an arrangement to provide service;
- Agreements with intermediaries, including robustness of conditions, scope, and limits of contracted services; and
- Oversight and monitoring of functions delegated to intermediaries, including compliance with the contract conditions.

BCFSA did not examine the intermediaries' oversight and monitoring of distributors, as it was out of scope.

### Observations

- 1. Outsourcing Strategies, Policies, and Procedures:** Insurers are expected to have a formalized approach for selecting, appointing, and managing arrangements with intermediaries.

Overall, we found that none of the examined insurers had established comprehensive outsourcing strategies, policies, and procedures to support management of the intermediary distribution channels. While some insurers developed policies and procedures to guide outsourcing activities, they often lacked sufficient detail or direction. Other insurers did not establish any formal outsourcing strategy, policies, and procedures.

- 2. Due Diligence Processes:** Insurers are expected to apply effective standards to pre-screen an intermediary to ensure that the intermediary is authorized, has the capability to provide the expected services and has appropriate controls and processes in place over the functions it is to perform on behalf of the insurer.

We found that none of the examined insurers established a thorough due diligence process to screen prospective intermediaries. While insurers considered some relevant factors, there were many aspects that were not assessed, including: intermediary's internal controls environment, reporting and monitoring controls, complaints history or discipline history (if any), and other factors.

- 3. Written Agreements:** Insurers should have a written agreement with each intermediary which clearly defines the conditions, scope and limits of outsourced functions, and other important elements.

We found all insurers had written agreements in place with intermediaries. However, most agreements lacked clear, comprehensive, and enforceable roles and responsibilities of parties involved. In addition, agreements lacked critical elements such as intermediaries' expected level of services, performance measures to determine whether the commitments contained in the agreement are fulfilled, complaints notification and complaint handling process, and others.

- 4. Monitoring of the Intermediaries:** Insurers should have a program in place to effectively manage third party service providers. The program, among other things, should include proactive and effective management of intermediaries and their compliance with the conditions of the outsourcing agreement.

We found insurers had not established effective monitoring controls over intermediaries. While insurers established some mechanisms to monitor compliance with certain roles and responsibilities defined in outsourcing agreements, insurers did not broadly monitor intermediaries' compliance with established roles and responsibilities, nor monitor compliance closely enough to detect and address instances of non-compliance.

## Recommendations for insurers:

- 1. Outsourcing Strategies, Policies, and Procedures:** Establish comprehensive outsourcing strategies, policies, and procedures. There needs to be a robust due diligence process and a formal, regular process to review, and update established policies and procedures to ensure they are complete, up to date, and in compliance with relevant legislation, regulations, and industry guidance.

As a general expectation driven by the Insurer Code of Market Conduct in effect April 1, 2024, fair treatment of customers principles should be considered and reflected, as needed, in the insurer's policies, procedures, and processes. These should then be communicated to staff, intermediaries, and other relevant parties involved.

- 2. Outsourcing Agreements:** Establish a comprehensive and enforceable written agreement with each intermediary that encompasses all necessary elements (including those related to fair treatment of customers), meets the insurer's business objectives and mitigates associated risks.

The agreement should:

- include clear delegations of authority and applicable limits;
  - clearly define roles and responsibilities of each party involved;
  - state performance measures and type;
  - state frequency of reports and information the insurer expects to receive from the intermediary;
- and

- other information.

Any deviation from the standard agreement should go through scrutiny and appropriate level of reviews. Agreements should be reviewed and, if necessary, updated on a regular basis.

- 3. Monitoring and Oversight:** Establish, and implement into practice, effective ongoing oversight controls to ensure compliance with defined roles and responsibilities and service levels established in written agreements with intermediaries.

Controls should assure the insurer that intermediaries:

- provide complete, adequate and accurate information reports;
- employ staff that are qualified and appropriately licensed;
- have effective controls over services, including services subcontracted; and
- others.

### **B. C. Insurer Code of Market Conduct**

These recommendations align with the following principles in the [Insurer Code of Market Conduct](#):

1. Governance and business culture  
FTC is a core component of the governance and business culture of insurers.
3. Outsourcing  
Functions related to conduct of insurance business outsourced to service providers do not hinder the quality of services or jeopardize the insurer's ability to achieve FTC.

### III. Public Facing Material

**BCFSA expects that a customer is given appropriate information to make an informed decision before entering into a contract.**

*Guidance Conduct of Insurance Business and Fair Treatment of Customers (FTC Guidance)  
Section 6.6 Disclosure to Customer*

**BCFSA expects that product promotional material is accurate, clear, not misleading and consistent with the result reasonably expected to be achieved by the customer of the product.**

*FTC Guidance - Section 6.7 Product Promotion*

**Insurers are expected to be satisfied that the involved intermediaries are providing information to customers in such a manner that will assist them in making an informed decision.**

*FTC Guidance - Section 4.0 Relationships between Insurers and Intermediaries*

#### Scope

BCFSA examined whether insurers established effective controls over public-facing materials to ensure that customers received sufficient and appropriate information to make an informed decision before entering into a contract. Specifically, we reviewed supplemental automobile insurance product brochures, sales aids, websites, and insurance policies.

#### Observations

We expect customers to be provided with reasonably complete pre-contractual information to enable them to make an informed decision about the product prior to entering into a contract. In addition, we expect insurers to establish a formal process to oversee public-facing materials of its products.

We found all examined insurers had delegated the design and distribution of public-facing materials to intermediaries. However, insurers:

- Did not establish a formal process to conduct a regular review of the quality of the public-facing materials. While some insurers performed an initial review of the public-facing materials prior to the insurance product's launch, they did not maintain oversight of the materials after that;
- Did not ensure customers received reasonably complete pre-contractual information to enable them to make an informed decision about supplemental automobile products prior to entering into a contract. Often, the insurance policy provided at the point of sale was the only available source of information that stated all key features of the product, including conditions, exclusions, restrictions, and fees; and
- Did not establish effective controls to ensure that public-facing materials were designed in a manner that aligned with fair treatment of customers principles. We found some public-facing materials included unclear, incomplete, inaccurate, and potentially misleading information.

## Recommendations for insurers:

1. Ensure that customers receive sufficient and appropriate information about the insurance product to make an informed decision before entering into a contract.
2. Establish formal review processes of the public-facing materials to ensure they are comprehensive, clear, compliant with legislation, and aligned with fair treatment of customers principles.

### **B. C. Insurer Code of Market Conduct**

These recommendations align with the following principles in the [Insurer Code of Market Conduct](#):

6. Disclosure to customer  
Customers are given appropriate information to make an informed decision before entering into a contract.
7. Product promotion  
Functions related to conduct of insurance business outsourced to service providers do not hinder the quality of services or jeopardize the insurer's ability to achieve FTC.

## IV. Training

**Insurers are expected to provide relevant information and training to intermediaries to ensure that they understand the target market and characteristics of the product.**

*Guidance Conduct of Insurance Business and Fair Treatment of Customers (FTC Guidance)  
Section 6.4 Design of the Insurance Product*

**Insurers are expected to be satisfied that the involved intermediaries are providing information to customers in such a manner that will assist them in making an informed decision.**

*FTC Guidance - Section 4 Relationships between Insurers and Intermediaries*

### Scope

We reviewed the quality of the intermediaries' training programs and examined whether insurers had established effective oversight controls over training programs.

### Observations

We expect insurers to ensure there is a robust training program in place, including clear roles and responsibilities of parties involved and expectations for training content, delivery method, and assessment of the program effectiveness.

All insurers delegated training of distributors to intermediaries. However, we found:

- None of the insurers formally defined training program service levels, standards, content requirements, training frequency, or desired outcomes in the outsourcing agreements or elsewhere;
- None of the insurers monitored or evaluated the quality and effectiveness of the intermediaries' training programs. Insurers did not use training metrics or establish reporting requirements to confirm that intermediaries provided training to distributors as required, and that training was completed prior to them executing their responsibilities; and
- In practice, the training programs reviewed varied greatly between intermediaries and all contained significant weaknesses. In some cases, insurance product training was not made mandatory and some programs promoted harmful sales practices.

### Recommendations for insurers:

1. Formally define and communicate training program roles and responsibilities to intermediaries with delegated training authority.
2. Establish and implement proactive monitoring of intermediaries who have been assigned the responsibility to train distributors to ensure that they carry out their responsibilities according to defined expectations. Insurers should obtain reasonable assurance that those distributing their products are trained and sufficiently knowledgeable about the products, compliance requirements, and fair treatment of customers principles.

### **B. C. Insurer Code of Market Conduct**

These recommendations align with the following principles in the [Insurer Code of Market Conduct](#).

1. Governance and business culture

FTC is a core component of the governance and business culture of insurers.

4. Design of insurance products

The design of a new insurance product or significant adaptations made to an existing product take into account the interests of the target consumers' group.

## V. Complaints Handling

**BCFSA expects that insurers and intermediaries make information on their policies and procedures on complaints handling publicly available.**

*Guidance Conduct of Insurance Business and Fair Treatment of Customers (FTC Guidance)  
Section 6.6, Disclosure to Customers*

**BCFSA expects complaints to be examined diligently and fairly, using a simple and accessible procedure.**

*FTC Guidance - Section 6.11, Complaints Handling and Dispute Resolution*

### Scope

BCFSA examined whether a simple and accessible complaint process was made available to customers including access to insurer's complaint policies and information on independent dispute resolution options.

### Observations

We expect insurers to establish formal roles and responsibilities for complaints handling, and complaints-handling procedures that are clear, easy to understand and available to policyholders.

We found all insurers established policies and procedures related to complaints handling and made information on their complaints-handling policies and procedures publicly available on the insurers' websites.

However, we found:

- Intermediaries' complaints-handling policies and procedures were not made publicly available to allow consumers to find, understand and easily navigate the complaint process;
- Insurers' outsourcing agreements with intermediaries did not clearly define complaints-handling roles and responsibilities, including service standards and complaint escalation expectations; and
- Insurers did not establish controls over delegated complaints-handling functions to ensure intermediaries provided customers with clear complaints handling and dispute resolution information.

### Recommendations for insurers:

1. Establish formal roles and responsibilities for complaints handling and dispute resolution in the outsourcing agreements.
2. Establish formal standards for complaints handling and ensure they are communicated to all relevant parties, including intermediaries. Standards should facilitate a consistent approach to complaints handling regardless of the party handling the complaint.
3. Ensure that clear and easy to understand information about complaints handling and independent dispute resolution processes is made publicly accessible for customers not only at the insurer's level, but at the intermediary and distribution level.



### **B.C. Insurer Code of Market Conduct**

These recommendations align with the following principles in the [Insurer Code of Market Conduct](#):

6. Disclosure to customer  
Customers are given appropriate information to make an informed decision before entering into a contract.
9. Disclosure to policyholder  
Policyholders are provided with information which allows them to make informed decisions throughout the lifetime of their contracts.
11. Complaints handling and dispute resolution  
Complaints are examined diligently and fairly, using a simple and accessible procedure.

# Conclusion and Next Steps

---

Insurers are responsible for the fair treatment of customers throughout the life-cycle of the insurance product, as they are the ultimate risk carrier. However, intermediaries also play a significant role in insurance distribution. BCFSA expects insurers to have appropriate controls over functions performed by intermediaries and to manage their relationships in a way that ensures customers are treated fairly.

Our review determined that insurers did not consistently establish effective controls over intermediaries to prevent improper sales of supplemental insurance products distributed through automobile dealerships in B.C.

BCFSA will continue to conduct thematic reviews of the insurance sector to advance consumer protection in B.C. and support compliance with the Insurer Code of Market Conduct. BCFSA expects these consolidated reviews and reports will serve as a tool for insurers in all sectors to review, assess and strengthen their own controls.



600-750 West Pender Street  
Vancouver, B.C. V6C 2T7

604 660 3555  
Toll free 866 206 3030  
[info@bcfsa.ca](mailto:info@bcfsa.ca)