



Compliance report on cessation of the deferred sales charge option in the distribution of individual variable insurance contracts

June 2024

Executive summary

A deferred sales charge (DSC) is a fee that a customer pays if the customer withdraws money from an individual segregated fund contract before the end of a specified time period. This charge has led to customers incurring costs to access their own money and encountering surprise fees.

Committed to strengthening protection and improving financial fairness for life insurance customers with segregated fund contracts, FSRA imposed a ban on new DSCs in Ontario on June 1, 2023, by amending its Unfair or Deceptive Acts or Practices Rule (UDAP Rule).

Following the ban, FSRA performed an industry compliance check and reviewed 54 information filings received from 14 insurers in 2023. Here are the key findings:

- The DSC option was removed from segregated fund contracts so that the DSC option was no longer available for new contracts issued after June 1, 2023,
- The DSC option was not added to existing segregated fund contracts which did not previously have DSC as an option, and
- DSC options were not changed in a way that made it less favourable for customers under existing segregated fund contracts.

The findings show that the industry is broadly in compliance with FSRA's requirement to remove the DSC option from new segregated fund contracts, improving financial outcomes for Ontario consumers.

Introduction and background

Individual Variable Insurance Contracts (IVICs), commonly referred to as segregated fund contracts, are life insurance contracts which have fluctuating market values based on a customer's investment selections. One of the main investment options available under an IVIC are segregated funds.

Segregated funds resemble mutual funds. However, unlike mutual funds, segregated funds are purchased under life insurance contracts. The insurance elements of a segregated fund contract offer certain protections, including:

- Guaranteed protection against some or all of the investment risk associated with the segregated fund. The guarantee is a minimum of 75% of the contract holder's gross contributions at a specific maturity date (usually no less than 10 years from the date of the original investment) or at the death of the insured person. Some segregated funds cover 100% of the gross contributions.
- Guaranteed death benefits for beneficiaries of the contract, which are not subject to probate.
- Protection from creditors (in most cases).

Under the *Insurance Act*¹, insurers are required to file information about their variable insurance contracts with the Financial Services Regulatory Authority of Ontario (FSRA)². And, so long as an insurer continues to issue a segregated fund contract, they are required to update the information they've filed with FSRA in certain circumstances including when there is a material change in the contract or other facts set out in the latest information they filed.³

¹ *Insurance Act*, RSO 1990, c. I.8

² See s. 110 of the *Insurance Act*.

³ See s. 110 (6) of the *Insurance Act* and *Variable Insurance Contracts*, O Reg 132/97, s.4.

The information filed by an insurer contains important details about how the segregated fund contract and its investments option work. This information includes the sales charge options a customer can choose from (i.e. the fee the customer is charged) when they make a deposit into the segregated fund contract.

There are a few different types of sales charge options commonly offered in relation to the distribution of a segregated fund contract and an insurer might describe the sales charge options they offer differently from other insurers. To help consumers and industry understand the various sales charge options offered, Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) included a list of sales charge options commonly available under segregated fund contracts as an appendix to the [Discussion Paper on Upfront Compensation in Segregated Funds](#).

One such sales charge option is the deferred sales charge option (DSC). Early in 2022, CCIR and CISRO announced that due to the high risk of poor consumer outcomes associated with DSCs in the sale of segregated fund contracts, insurers should refrain from engaging in new DSC sales and that a transition to the ban of such sales was expected by June 1, 2023. FSRA chose to implement this ban in Ontario by amending its Unfair or Deceptive Acts or Practices Rule (UDAP Rule).

FSRA made 2 amendments to its UDAP Rule to address DSCs in the sale of segregated fund contracts.⁴ The first amendment came into force on June 1, 2023 (the First UDAP Amendment). This amendment bans the issuance of any new segregated fund contract which contains a DSC option.⁵ It also prohibits insurers from adding DSC options to existing segregated fund contracts or making an existing DSC less favourable to a Customer.

⁴ You can find out more about these amendments by looking at the UDAP Rule or visiting our [website for the UDAP Rule](#).

⁵ The First UDAP Amendment does not apply to a situation where a person has an existing segregated fund contract with an insurer and the insurer issues a replacement segregated fund contract on substantially similar terms for example, where the customer converts an RRSP to a RRIF. See UDAP Rule sec. 11(2).

The second amendment came into force February 14, 2024 (the Second UDAP Amendment). This amendment requires insurers to remove DSCs as an option from existing segregated fund contracts if those contracts allow that change. It also requires insurers to give customers new information to help them make informed decisions about sales charge options and their investments in IVICs.

This report provides FSRA's view on industry compliance with the First UDAP Amendment and is based on insurer information filings received by FSRA in 2023.

Data review and analysis

As part of its assessment of industry compliance with the First UDAP Amendment, FSRA reviewed and analyzed the data on DSCs provided in the information filings relating to segregated fund contracts that it received from insurers during 2023.

Through the data review and analysis FSRA determined that during 2023, the DSC option:

- Was removed from segregated fund contracts so that the DSC option was no longer available for new contracts issued after June 1, 2023,
- Was not added to existing segregated fund contracts which did not previously have DSC as an option, and
- Was not changed in a way that made it less favourable for customers under existing segregated fund contracts.

FSRA is encouraged by additional information received with the 2023 IVIC filings which showed that some insurers had started removing the DSC option from existing segregated fund contracts well in advance of the Second UDAP Amendment coming into force.

Details

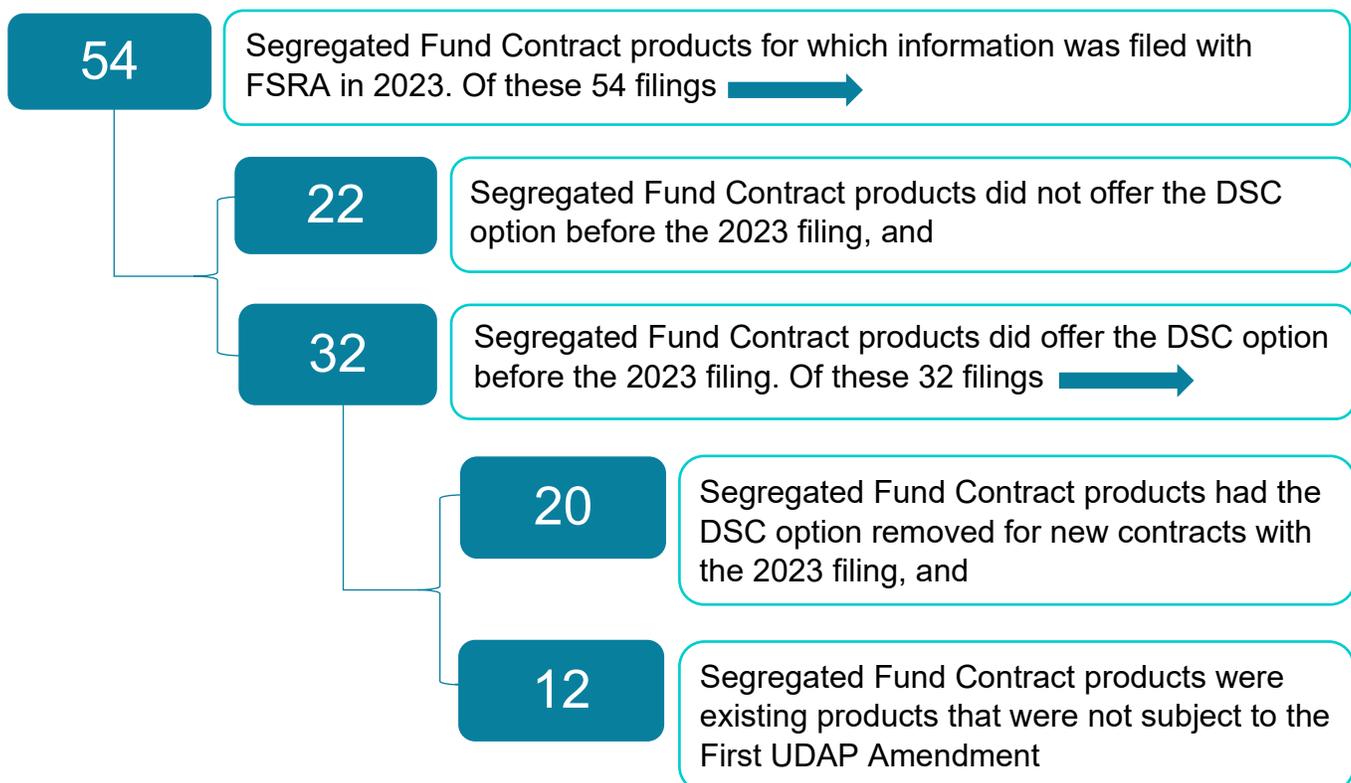
During calendar year 2023, FSRA received:

- 54 information filings from 14 different insurers

These 54 filings relate to:

1. Segregated fund contracts where the insurer no longer issues new contracts but continues to accept deposits from customers with existing contracts. In these situations, the information that insurers file with FSRA reflects changes the insurer is making to the segregated fund contracts for existing customers.
2. Segregated fund contracts an insurer will use when issuing a new contract to a customer in the future.

Filings in 2023 relating to Segregated Fund Contract products



Conclusions

FSRA takes a risk-based and evidence-informed approach to supervision. Based on the information relating to segregated fund contracts filed in 2023, FSRA is of the view that the industry is broadly in compliance with the First UDAP Amendment.