

## **Discussion Guide**

# **Tarion Seeking Input on Changes to the Enrolment Fee to Ensure Protection for Current and Future Purchasers**

Tarion is seeking public feedback on proposed changes to the enrolment fee schedule to ensure that the Guarantee Fund can continue to support a comprehensive new home warranty program and protect current and future new home purchasers.

As a result of a higher than normal volume of builder receiverships and recent extraordinary claim payments to support consumers (i.e. over \$100 Million), the Guarantee Fund for consumers is in need of capital replenishment to return it to a position where it can continue to withstand possible future catastrophic losses and protect consumers in Ontario.

Tarion is proposing to implement specific changes to our existing fee structure, specifically:

- Implement a temporary enrolment fee increase of \$250; this non-refundable amount is to replenish the Guarantee Fund for consumers and would be maintained until the capital in the Fund is adequate under the Office of the Superintendent of Financial Institutions (OSFI) capital guidelines, which Tarion anticipates can be achieved by the end of 2027, at which time the temporary fee increase will be rolled back.
- In addition, Tarion is proposing a separate non-capital related fee adjustment in the amount of \$55 per home, which is intended to address market increases in claims due to inflation.

The temporary enrolment fee increase of \$250 is intended to increase the capital available to the program to address unexpected catastrophic losses in the future. Recent market conditions resulted in an unprecedented increase in builder bankruptcies and an unprecedented number of consumers whose deposits on new homes were put at risk.

The amount of consumer supporting deposit payouts reached over \$100 Million, which is the largest amount of consumer support required in the history of the warranty program. While the Guarantee Fund was sufficient to manage that catastrophic claim situation, it is necessary to replenish it so that it will remain strong enough to weather future unanticipated catastrophic events, whether they are financial or construction related. The current plan projects to raise close to \$30 Million over three years, depending on the level of new home construction activity.

The funds raised through the capital replenishment amount would be used to support the Guarantee Fund's ability to pay out consumer claims.

While standard industry practice would recommend the fund be re-capitalized within one year, Tarion has determined that the Guarantee Fund can bear the risk of a phased approach, starting on August 1 of 2025, to replenish Tarion's Guarantee Fund across three years to minimize any impact on stakeholders – with a goal of meeting the Guarantee Fund's actuarially-determined capital target in 2027 and removing the temporary increase.

This is a balanced approach to minimize the financial burden on homeowners and builders, while ensuring the long-term stability of the Guarantee Fund and the warranty program for current and future homeowners.

The non-capital related fee adjustment of \$55 relates to inflationary costs to run the program, and the impact of inflation on the general costs of repairs that are funded through the claim compensation program.

**Please review this consultation discussion guide and submit any feedback on the proposed changes to [submissions@tarion.com](mailto:submissions@tarion.com) by May 22, 2025.**

While this consultation focusses on specific proposed changes and questions, if you have additional comments, please send them to [submissions@tarion.com](mailto:submissions@tarion.com). Please title these with the subject “Additional Submissions”. Tarion recognizes that not every topic will be relevant to each individual or organization. Please provide comments on the topics that are relevant to you or your organization.

## **Background on Tarion**

Tarion is an independent consumer protection organization authorized by the provincial government to administer the Ontario New Home Warranties Plan Act (ONHWPA).

A key component of the organization’s mandate is managing the Guarantee Fund that provides compensation to consumers for warranty claims where a builder has failed to fulfill its warranty obligations. The Fund also provides a shield to protect consumers against a significant claims event which causes catastrophic losses – for example, widespread failure of building materials or building techniques – that have bankrupted other warranty programs in Canada and abroad.

To determine the adequacy of the Guarantee Fund, Tarion follows the Own Risk and Solvency Assessment (ORSA) guideline for federally regulated insurers, established by the Office of the Superintendent of Financial Institutions (OSFI) to maintain strong risk assessment, and capital management.

Tarion’s revenue to support the Guarantee Fund and sustain operations comes from the enrolment fee paid by builders and vendors, which in some cases can be passed on to home buyers as an add-on cost at closing. Tarion does not receive funding from the government or the public and, to run the program, relies exclusively upon this fee and investment income earned on the Guarantee Fund.

As a non-profit without shareholders, any surplus from enrolment fees remains in the Guarantee Fund for the benefit of future Ontario consumers.

The amount of the enrolment fee varies according to home sale price and is set out in [Registrar Bulletin 15](#).

Tarion had been able to keep the fee unchanged for a number of years until an enrolment fee increase on January 1, 2024 (further details below) which was necessary to fund the various enhanced warranty coverage changes over the last several years and address increases in the cost of building material and labour, which have contributed to higher claim costs.

The warranty provides up to \$400,000 per freehold home and \$300,000 per condominium unit, as well as additional coverage for deposit and financial loss, delayed closing and occupancy, and condominium common elements. The current per home fee for the warranty range from \$585 (for homes with a purchase price up to \$300,000) to \$6,000 (for homes with purchase price of \$4 Million or more), and the average enrolment fee (considering volume of homes in each band) is \$1,750.

This single fee is paid by the vendor/builder when the home is enrolled in the warranty program and provides pre-possession protections and seven years of warranty coverage, which amounts to about \$250/year if it were charged as an annual amount. It is common practice for vendors to pass the enrolment fee on to purchasers in the statement of adjustments at closing on real estate transactions, but not all vendors do this. However, it is generally fair to look at the enrolment fee as a “pass through” cost which will be added to the cost of new housing, either as a specific add on charge or as part of the overall input cost of new home construction.

This single fee is typically lower than the annual premiums charged by private home insurance providers for insurance coverage and is significantly lower than the cumulative costs of such insurance which is payable each year for the duration of home ownership. The proposed incremental enrolment fee increase represents a very small percentage of total new home costs and is also low relative to other surcharges which apply to new home development.

Tarion has a track record of taking a conservative approach to any fee increases. Prior to the increase in 2024, over the last 25 years the compound annual growth rate of the enrolment fee was only 2.6% and, aside from a nominal increase of \$20-300 in 2018 coinciding with enhanced deposit protection, the fee has not increased since 2010. It was also reduced in 2012, and 2021 in conjunction with the launch of the HCRA.

## **Current Challenges and Risks to The Warranty Program**

In the last few years, while making significant investments and improvements in the warranty program, the program has been faced with a number of challenges.

A combination of a higher-than-normal volume of builder receiverships and recent extraordinary claims payments have put tremendous pressure on the Guarantee Fund and increased the risk of this critical component of consumer protection not being available for future and current homebuyers. Most significantly, this includes paying out over \$100 Million to homeowners over 2023 and 2024 who were left out of pocket and victimized by the actions of illegal and insolvent builders. Tarion helped these hundreds of consumers and anticipates there will be more deposit exposure due to receiverships in 2025.

While Tarion has strengthened its underwriting practices and is exploring further policy changes to mitigate the illegal and insolvency risks in partnership with the Home Construction Regulatory Authority (HCRA), Tarion has determined that the proposed temporary fee change is required to return the Guarantee Fund for consumers to a position that is consistent with best practices as per the OSFI capital guidelines to continue to provide the comprehensive protection offered by the warranty program and withstand possible future catastrophic losses.

The risk of underfunding the Guarantee Fund is insolvency in the event of a further catastrophic event. Such an event could be a further large-scale builder bankruptcy event, a catastrophic capital market crash, a catastrophic claim event, or a combination of such events. There is precedent in

Canada, including cases in Quebec and British Columbia, for these to occur. Tarion has an obligation to ensure that the Guarantee Fund remains prepared for to protect consumers even in the face of such eventualities.

For example - the leaky condo crisis in British Columbia in 1999, or more recently, deteriorating concrete in Québec (due to the presence of pyrrhotite) required intervention from the federal government with claims losses to the magnitude of \$700 Million and \$100 Million, respectively.

These cases serve as a stark reminder of the important protection Tarion provides for consumers and the very real threat of large scale, multi-million dollar payouts which can happen suddenly and unexpectedly.

In Ontario, the recent exceptional spike in builder insolvencies has proven the continued need for a sustainable Guarantee Fund. The \$100 Million in claim payments to support consumers represent the highest amount of consumer protection compensation issued by a warranty program in Canadian history while remaining solvent and experiencing no disruption to customer focused service delivery to new homeowners.

It is important to note that private insurers may refuse to provide further coverage after a catastrophic event, such as cases of private insurers that have stopped providing flood protection in hurricane risk areas or fire protection in areas at risk of fire. The provincial warranty program is meant to provide permanent and stable protection for Ontarians in the new home marketplace.

Addressing this catastrophic risk with temporary changes in enrolment fees is, in Tarion's view, more consistent with our mandate for consumer protection than reducing or eliminating coverage for homeowners.

Therefore, Tarion must provide continued prudent management of the Guarantee Fund and has carefully considered different approaches to mitigate this risk and replenish the Guarantee Fund. In considering different options, Tarion's goal was to balance the need to replenish the Fund versus the impact on stakeholders and housing affordability.

Tarion reviewed multi-year financial data to determine possible scenarios ranging from optimistic to pessimistic, and even catastrophic. These scenarios also accounted for different housing mixes, levels, or enrolments, recognizing the current trends in condominium building vs. freehold homes, and claims data.

Based on the review, it was determined that action is needed in the near term to address the financial stress on the Guarantee Fund for consumers and replenish the Fund.

Standard industry practice would recommend this amount be collected within one year. However, in conducting our financial review, Tarion has determined that the Guarantee Fund can bear the risk of phasing in the replenishment period across three years to minimize the impact on stakeholders – with a goal of meeting the Fund's actuarially-determined capital target by 2027; at which point the capital portion of the fee increase would be reversed.

## **Proposed Change – Changes to the Enrolment Fee Schedule**

To ensure the Guarantee Fund can continue to protect new home purchasers, Tarion is proposing to:

- Implement a temporary enrolment fee increase of \$250; this non-refundable amount is to replenish the Guarantee Fund for consumers and would to be maintained until the capital reaches an appropriate level having regard to the OSFI capital guidelines. Tarion projects that, subject to certain market assumptions, the capital target may be met within three years of the implementation of the proposed increase, at which time the temporary fee increase will be reversed.
- In addition, Tarion is proposing a separate non-capital related fee adjustment in the amount of \$55 per home, which is intended to address market increases in the claim costs due to inflationary pressures.

These changes would not be in effect until August 1, 2025, and will be applied only to homes with a sale price of over \$400,000. A proposed updated Enrolment Fee Schedule can be found here in [Appendix A](#).

## **Questions to Consider**

1. Should Tarion implement the temporary capital replenishment increase of \$250 and the \$55 inflation-based increase, the average total enrolment fee in 2025 for deposit protection and seven years of warranty coverage will be approximately \$2,000. Does a one-time average fee of \$2,000, for up to \$100,000 of deposit and \$400,000 warranty protection, seem reasonable given the current price of homes?
2. Do you agree with Tarion's proposal to take 3 years to replenish the Guarantee fund by increasing the one-time temporary Capital Replenishment Charge of \$250 and maintain it over approximately three years to ensure it remains a viable option to continue to protect current and future homebuyers? If not, what other options should Tarion consider instead?
3. Do you agree with Tarion's proposal to not apply the fee increase for homes with a sale price of \$400,000 or under?
4. Do you have any other feedback on the proposed enrolment fee schedule changes?

## **Stakeholder Impacts**

On average, the proposed temporary fee increase compared with the purchase price of a home is less than 0.07%, and the total enrolment fee represents less than 0.3% - it is unlikely that this fee increase will have a material impact on the creation of new housing supply.

Additionally, by only applying these fee charges to homes starting with a sale price over \$400,000 is a way for Tarion to provide some measure of mitigation to affordable housing options.

Finally, the largest portion of the fee adjustment is intended to be temporary and is planned to be reversed once sufficient capital has been accumulated which is currently forecasted to happen within three years of the fee increase being implemented.

### **Purchasers/Consumers**

- A significant positive impact for current and future new home purchasers who would continue to receive the protections and benefits of the warranty program supported by a robust Guarantee Fund.
- While there would be no direct impact to purchasers of new homes, there is the possibility that any changes to Tarion's enrolment fee would be passed onto them and result in a minimal impact as part of the final purchase price of the home.

### **Builders and Vendors**

- A stable Guarantee Fund and warranty program has a positive impact on builders and the new home buying industry by supporting continued confidence in the new home buying marketplace.
- To minimize the direct impact on builders, Tarion plans to phase in the replenishment period across three years compared to a more significant increase for only one year.
- While there is an added cost to builders, the overall impact on the cost of the construction of a home is minimal but could have relatively minor implications for a builder's financial planning.
- The impact of a small increase in enrolment fees will have the largest aggregate impact on the very high volume builders. High volume builders are also the category of builder which pose the highest risk to the Guarantee Fund for deposit risk in the event of insolvency.

### **Tarion**

- The capital replenishment does not benefit Tarion directly. The funds accumulated would go to the Guarantee Fund for the benefit of Ontario consumers. As a non-profit, Tarion does not issue dividends, or distribute surplus to any party. No compensation at Tarion is connected with or increased by capital accumulation in the Fund.
- The proposal will bring stability to the Guarantee Fund and help ensure the long-term stability of the fund for consumers, while not imposing a significant financial burden on builders and homeowners.



### Appendix A – New Fee Schedule

Estimated Sales Price Range			Current Total Fee	Temporary Capital Replenishment	Fee Adjustment	Total Fee Adjustment	New Fee	13% HST	New Fee (including HST)
Up to	-	\$300,000.00	585	-	-	-	585	76	661
\$300,000.01	-	\$350,000.00	655	-	-	-	655	85	740
\$350,000.01	-	\$400,000.00	725	-	-	-	725	94	819
\$400,000.01	-	\$450,000.00	815	250	55	305	1,120	146	1,266
\$450,000.01	-	\$500,000.00	890	250	55	305	1,195	155	1,350
\$500,000.01	-	\$550,000.00	970	250	55	305	1,275	166	1,441
\$550,000.01	-	\$600,000.00	1,020	250	55	305	1,325	172	1,497
\$600,000.01	-	\$650,000.00	1,460	250	55	305	1,765	229	1,994
\$650,000.01	-	\$700,000.00	1,555	250	55	305	1,860	242	2,102
\$700,000.01	-	\$750,000.00	1,615	250	55	305	1,920	250	2,170
\$750,000.01	-	\$800,000.00	1,685	250	55	305	1,990	259	2,249
\$800,000.01	-	\$850,000.00	1,750	250	55	305	2,055	267	2,322
\$850,000.01	-	\$900,000.00	1,885	250	55	305	2,190	285	2,475
\$900,000.01	-	\$950,000.00	1,955	250	55	305	2,260	294	2,554
\$950,000.01	-	\$1,000,000.00	2,020	250	55	305	2,325	302	2,627
\$1,000,000.01	-	\$1,250,000.00	2,190	250	55	305	2,495	324	2,819
\$1,250,000.01	-	\$1,500,000.00	2,260	250	55	305	2,565	333	2,898
\$1,500,000.01	-	\$1,750,000.00	2,440	250	55	305	2,745	357	3,102
\$1,750,000.01	-	\$2,000,000.00	2,815	250	55	305	3,120	406	3,526
\$2,000,000.01	-	\$2,250,000.00	3,190	250	55	305	3,495	454	3,949
\$2,250,000.01	-	\$2,500,000.00	3,565	250	55	305	3,870	503	4,373
\$2,500,000.01	-	\$3,000,000.00	4,125	250	55	305	4,430	576	5,006
\$3,000,000.01	-	\$3,500,000.00	4,875	250	55	305	5,180	673	5,853
\$3,500,000.01	-	\$4,000,000.00	5,625	250	55	305	5,930	771	6,701
\$4,000,000.01	-	or more	6,000	250	55	305	6,305	820	7,125