



Financial
Intelligence Centre

THE FIC ACT'S IMPACT ON MOTOR VEHICLE DEALERS

PART 1 OF 2

Shedding light on the road ahead for motor vehicle dealers

Motor vehicle dealers (MVD) are currently classified as reporting institutions under Schedule 3 of the Financial Intelligence Centre Act (FIC Act). As reporting institutions they are obliged to register with and file certain regulatory reports with the Financial Intelligence Centre (FIC). The FIC is proposing to change MVDs from being reporting institutions to accountable institutions.

Under the FIC Act, accountable institutions have more compliance obligations as compared to reporting institutions. It is possible that MVDs may be placed under a new category, proposed as 'high value goods dealers', of accountable institutions. The current proposal is that high value goods dealers will include all entities that engage in business where the value of goods and or services exceeds R100 000.

HERE ARE SOME QUESTIONS WE ANTICIPATE THE INDUSTRY MAY STILL HAVE

Why the change from reporting institution to accountable institution?

The MVD sector has been identified as being at risk of being abused by money launderers. This sector has been used by criminals to hide ill-gotten funds, and as an avenue for them to introduce their proceeds of crime into the financial system.

What do the new obligations entail?

The new obligations include, but are not limited to, the adoption of a risk-based approach, the development of a risk management and compliance programme, customer due diligence, record keeping, appointment of a person responsible for compliance and conducting training.

When might the changes be implemented?

The FIC consulted all potentially affected stakeholders during 2018. Currently, it is completing the draft proposal for the Minister of Finance. Should the Minister approve this proposal, a consultation paper with draft amendments to the Schedules will be published for comment. After the consultation process is completed, the approved amendments will be implemented.

When are the compliance requirements expected to commence?

As MVD's are currently reporting institutions, and as such should already be compliant with requirements applicable to Schedule 3 reporting institutions. Until the new proposal is signed off by the Minister, non-compliance with current reporting institution obligations for MVDs will apply, including remedial action and/or penalties.

If I am found to be non-compliant and penalised, can I appeal this decision?

Yes, you can appeal the decision through the FIC adjudication process.

Can I outsource my FIC compliance function to a third party, such as a consultant?

There are certain requirements which you cannot outsource such as your reporting obligations.

Can I let my client know that I have reported them to the FIC?

Under no circumstances may you inform your client (including any other persons subject to the report) that you have reported a suspicious or unusual transaction report (STR) on them to the FIC, this is called "Tipping Off" and is an offence.

What happens if one of my vehicle sales transactions looks suspicious, and I do not submit a suspicious or unusual transaction report (STR) or a suspicious activity report (SAR) to the FIC within the stipulated time lines?

Failure to report a suspicious or unusual transactions, is an offence. You may still submit the report to the FIC with an explanation as to why it was not submitted in time.

Am I protected from criminal prosecution if I submit a suspicious or unusual transaction report (STR) or a suspicious activity report (SAR) to the FIC?

Yes, the FIC Act makes provision that anyone who submits a report to the FIC will have their identity protected.

For further details, call the FIC's customer contact centre on 012 641 6000

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