

The Financial Intelligence Unit provides this guidance as a Public Compliance Communication (PCC) under its mandatory obligation as stipulated section 15 (2) (e) of the Money Laundering and Proceeds of Crime Act of 2008 (as amended).

Introduction

Motor Vehicle Dealers are listed under schedule 1 of the MLPCA as Accountable Institutions, and as such are accountable to the obligations stated under the same Act. The Act does not necessarily provide a description of 'Motor Vehicle Dealerships' and the purpose of this PCC is to clarify the unit's perspective of this term. The intention is to further outline the obligations incumbent on this industry under this Act.

Definition of Motor Vehicle Dealership.

A motor vehicle dealer is considered as any person who is engaged in the business of buying, selling, leasing or exchanging motor vehicles, regardless of whether such vehicles are new or second hand vehicles.

Motor vehicle dealers are an attraction to Money Launderers for many reasons, and as such have been identified as High Risk by the National Risk Assessment. One common element of money laundering cases relating to vehicle dealers is the unreported use of cash to pay for the purchased vehicles. Large amounts of dirty cash may easily be to purchase vehicles without going through the regulated banking system.

Money Launderers may buy luxurious vehicles and then travel neighbouring jurisdictions to transfer value so as to avoid detection by financial institutions.

Furthermore, Laundering Risks and ways laundering can occur through vehicle sellers include:

1. Structuring Cash deposits below the reporting thresholds, where payments are made via EFT.
2. Trading in vehicles and conducting successive transactions of buying and selling new and used vehicles to produce complex layers of transactions.
3. Accepting third-party payments, particularly from jurisdictions with ineffective money laundering controls.

YOUR OBLIGATIONS

Herein is a summary of the legislative requirements under the Money Laundering and Proceeds of Crime Act, and all supporting framework thereof. These obligations apply to you if you fall within the definition of a Motor Vehicle above. The AML/CFT laws impose these obligations;

1. Register with the FIU
2. Submit Threshold Transactions and Suspicious Transactions
3. Do not "Tip Off"
4. Keep Records
5. Identify and Verify your customers
6. Appoint a Compliance Officer
7. Develop Internal Compliance Policies and Programs.

(1) Register with the FIU

MVD's are to register with the FIU for purposes of identifying themselves as an entity which is to be supervised by the FIU. Upon commencement of your business, you must register with the FIU as soon as you commence business operations.

How to Register?

Register on the online Registration Form. Alternatively contact the FIU on the number 22322529.

The dealership is further an obligation to update registration details immediately where any of the details of registration change, by communicating the new details to the Compliance department of the FIU.

(2) Submitting Reports to the FIU.

Suspicious Transactions/Activities report.

1. That funds being used for the purpose of a transaction are the proceeds of a specified offence; or
2. A transaction or an attempted transaction is related to the commission of a money laundering offence.

The compliance officer of an entity must determine whether a transaction or an activity is suspicious based on the knowledge of the customer and that of the industry. You are better positioned to have a sense of transactions which appear to lack justification or cannot be rationalized as falling within the usual methods of legitimate

business. While general indicators may point to a suspicious transaction, industry-specific indicators may also prove beneficial to front line employees who detect suspicion, whether completed or attempted. The following pointers may be red flags to consider when determining suspicion;

- a) Customer attempts to purchase vehicle with a significant amount of CASH
- b) Customer is reluctant or refuses to produce personal identification documents for the transactions to be completed
- c) Customer pays substantial down payment in cash and balance is financed by unusual source, e.g., a third party or a private lender
- d) Purchases carried out on behalf of persons who appear to lack economic capacity to make such purchases
- e) Last minute cancellation of order, which means that funds would have to be reimbursed to the customer via business cheques, or EFT.
- f) Customer purchases vehicle without inspecting it.
- g) Customer purchases multiple vehicles in a short time period, and seems to have a few or no concerns about the type, cost, condition, etc.
- h) Customer purchases vehicles but registers them as a "Rental"
- i) Customer has a known criminal background
- j) Customer uses or produces identification with different names
- k) Customer is reluctant to put their name on any document that would connect them to the purchase.
- l) Purchase appears to be beyond the means of the Customer based on their stated known occupation or income.

Reporting an STR to the FIU does not negate the MVD to commence or maintain a business relationship with their client.

The MLPCA dictates that an STR must be submitted IMMEDIATELY upon formulation of the suspicion.

Threshold Transactions.

Motor Vehicle Dealerships are to report Every transaction that is of a M100 000 and above to the FIU. Monthly reports are to be submitted on a monthly basis, on the last working day of the month. A grace period of 5 business days is offered by the unit, to the MVD. The MVD is to be in contact with the FIU prior to commencing the submissions, in order to facilitate the required sensitization.

3. Tipping Off.

Where the MVD has submitted an STR to the FIU, any member of the MVD's staff MUST not disclose the fact or content of such report to any other person. It is an offence to deliberately tell ANY person, including the customer, that they have, or their business has filed a suspicious transaction report about the customer's transactions.

4. Record Keeping.

The law prescribes that, the MVD is to keep and maintain record for a period of Five years or more beginning on the date a business transaction is conducted, and ensure that they are readily available as and when they are required by the Unit. The following records are to be kept;

- (a) Daily records of transactions
- (b) Receipts
- (c) Paying-in books
- (d) Customer or client correspondence
- (e) Cheques.
- (f) A register of copies of suspicious transactions reports submitted to the FIU
- (g) And all other documentation related and relevant to their business relationship.

5. Identify and Verify Customer details.

An MVD is to take reasonable measures to 'know your customer'. It shall satisfy itself that a prospective customer and any other person acting on behalf of the customer is who she/he claims to be. The MVD is to obtain identification particulars of their customer by reference to a document obtained from a reputable source which bears a clear and easily identifiable photograph.

Furthermore, an MVD must take reasonable measures to verify beneficial owner of the motor vehicle purchased.

APPLYING THE RISK BASED APPROACH.

The MVD is to determine the need to undertake the requirements mentioned above using a Risk Based Approach (RBA). The MVD shall apply the RBA in order to ensure that measures to prevent or mitigate money laundering are commensurate with the risks identified. In implementing the RBA, processes to identify, assess, monitor, manage and mitigate money laundering are to be put in place. Where a higher risk is identified, enhanced measures to mitigate the risk are to be applied, equally where the risks are lower, simplified measures may be applied. However, where there is suspicion of money laundering, no simplified measures may be applied. Examples of High risk clientele for MVD's include;

Non-resident customers

Politically Exposed Persons (PEP's)

Legal Persons or legal arrangements such as Trusts, that are personal-assets holding vehicles.