



Submission to Ministry of Justice On Phase II: Anti-Money Laundering and Countering Financing of Terrorism

16 September 2016



Dear Sir / Madam

Submission:

Phase II of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

This submission is from:

Motor Trade Association (Inc)
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The contact person in respect of this submission is:

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Thank you for the opportunity for MTA to provide comment on the implementation of Phase II of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. We present our views on the possible effect on registered motor vehicle traders with respect to high value goods..

Yours sincerely

Greig Epps
Industry Relationships Manager

Introduction

The Motor Trade Association, Incorporated (MTA) was founded in 1917 and currently represents approximately 3,700 automotive industry businesses including general and collision repair workshops, vehicle sales, service stations, parts and retailing. In total MTA members employ in excess of 40,000 staff across New Zealand. MTA advises, supports and educates the automotive community to keep vehicles on New Zealand roads safe and working. While the automotive industry has gone through huge change over the last century, our goal at MTA has stayed the same – to create a sustainable business advantage for members and to support the motoring public.

We appreciate the opportunity to comment on the implementation of Phase II of the AML/CFT.

Overview of the retail motor trade

Those selling motor vehicles for gain, or those who sell six or more vehicles within a calendar year, are required to be Registered Motor Vehicle Traders ('RMVT' or 'dealers') in accordance with the Motor Vehicle Sales Act 2003 (MVSA).

The requirements for becoming a RMVT are not onerous – simply providing a few identity details and the necessary registration fee. Nonetheless, the responsibilities of a compliant RMVT are substantive as they are subject in their dealings to the Consumer Guarantees Act and the Fair Trading Act. There are myriad product information requirements that they must disclose through Customer Information Notices (CIN cards) and Vehicle Fuel Efficiency Labels (VFEL). Dealers who also provide finance assistance at point-of-sale (usually on behalf of a finance company) are also subject to the requirements of the Consumer Credit and Financing Act.

Currently there are about 3,300 RMVT. Those RMVT cover a wide mix of business types, ranging from sole traders through to large companies employing over 100 staff. MTA has about 600 RMVT as members, divided roughly evenly between those who sell new cars and those who sell used cars.

Dealers sell all new vehicles (135,000 in 2015), an estimated 90% of fresh used import vehicles (135,000 in 2015), and about 30% of the sales of vehicles already existing in the NZ fleet (about 240,000 vehicles in 2015). This means dealers sell about half a million vehicles each year. Conversely, private sellers (as distinct from dealers) sell a similar number, but the average value of those vehicles is likely to be considerably less than those sold by dealers.

Motor vehicle sales through RMVT are usually already well recorded. Dealers will routinely record:

- the customer's identity (usually by taking a copy of the customer's driver's licence, or any relevant identifying information for a business entity),
- relevant contact details (address details, phone numbers, email address).

Sale documentation usually consists of a standard form sale contract, recording the customer's details, the vehicle/s details (description, vehicle registration number, VIN number, and vehicle description). The dealer will usually organise the transfer of registration held on the government managed Motor Vehicle Register. The MVSA requires the dealer to keep a record of all contracts for sale for six years.

MTA conducted an informal survey of our dealer member base, which indicated that the receipt of large cash payments (\$10,000 plus) is relatively infrequent, but that it does occur. Most dealers currently expect to face questions when presenting large cash sums as deposits with their banks. When offered payment by large cash sums, dealers will often seek to redirect the respective customer to a bank, and ask the customer to deposit the cash and draw a bank cheque, or internet transfer as payment.

For the most part, customers seem to accept that MTA dealers will reluctant to accept cash and agree to alternative methods when suggested. Our members reported no loss of sales due to a request for the customer to return with a bank cheque or to transmit funds via bank transfer.

Response to Consultation Questions

We have responded below to only those questions that we felt we could provide an informed answer.

Part	Question	MTA comment
3	8: Should the Act apply to all dealers of high value goods, or just particular ones?	<p>There is merit in targeting known high risk sectors, eg high value goods dealers, but that might only serve to redirect money laundering activities to other sectors which are not otherwise actively monitored.</p> <p>On that basis, it might be better that all business be targeted. But this is a very large task. The banks, as the ultimate destination of large cash sums, must have the obligation to always seek related information about the sources of any large cash deposits, regardless of the industry sector. This requirement would logically feedback down the 'handling chain' making it difficult for any party to dispose of large cash sums, without the provision of the relevant information about its source.</p> <p>In short, if a business knew it would face questions when seeking to bank large cash sums, it would need to routinely seek the necessary information from the client. Or avoid large cash payments. If a business regularly failed to capture and pass on relevant source information to their Bank, then that business should also eventually become the subject of further investigation itself. Compliance will ultimately turn on the level of enforcement applied.</p> <p>As noted in the discussion in our introduction on the operation of the retail motor trade, there is a good deal of information recorded at point of sale, and the most efficient way to apply AML/CFT requirements would be to tailor the AML/CFT regulations to accommodate the industry method for data collection (ie dealers simply provide sale contract information for suspicious transactions, rather than undergo some other lengthy process).</p>
3	9: What is the ultimate threshold for cash transactions that would trigger AML/CFT customer due diligence and reporting requirements?	<p>\$10,000 should be the designated trigger point. It is an easy round number, the base level for 5 digit payments, and is still a significant amount of cash. Higher amounts are not so readily categorised (eg \$15,000 or \$20,000). Also, as we progressively move toward a cash-less society, \$10,000 in cash is still a very 'noticeable' amount.</p>

5	14: What is the necessary lead-in period for business in your sector to implement measures they will need to put in place to meet their AML/CFT obligations?	6 months minimum, ideally 12 months
5	15: Where possible, please tell us how you calculated how long it will take to develop and put in place AML/CFT requirements.	12 months allows time for the messages to be publicised and promoted, and time for awareness, training and implementation.
6	16: Should the current requirement to report suspicious transactions be expanded to reporting suspicious activities?	<p>Ideally yes, but it does come with complications. The motor vehicle market is a very competitive environment. Dealers are keen to maintain positive reputations.</p> <p>A dealer may become suspicious if a cash sale did not eventuate, or if the customer changed payment methods, after the customer realised that questions would be asked about source of funds and that there would be other information requirements.</p> <p>On that basis the situation might warrant further investigation, and the dealer would have to consider the circumstance carefully. On the other hand a change of mind by the customer might well be entirely 'innocent'.</p> <p>Also, assuming the purchase transaction was not completed, it is likely some of the relevant information might not yet have been captured by the dealer.</p> <p>Also, without any business relationship would the dealer still be focussed on the need to report the situation to the relevant authorities? A number of issues would likely arise under such circumstances, including the whether the dealer's involvement in any such reporting would remain confidential?</p> <p>Many of these types of situations would depend on the level of guidance and training available for dealers. Understanding money laundering strategies and knowing what to 'look for' will have an influence on the outcomes.</p>

6	17: Should industry regulators be able to share AML/CFT related information with government agencies?	Yes
6	18: Should AML/CFT supervisors be able to share customer's AML/CFT related personal information with government agencies?	Yes

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