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Introduction

This document is a companion piece to a guideline on non-financial responsibilities and obligations. Both guidelines provide information to support dealers and ensure they can carry out their business effectively and provide good service to their customers in a variety of areas related to their financial responsibilities and obligations. It consolidates existing information in one package to make it more accessible and easier to understand.

In all cases, dealers should remember that they are bound by the requirements of the legislation and regulations of the [Motor Vehicle Dealers' Act](#) (MVDA), as well as the other statutes listed below. Especially important in this context is the [Code of Ethics](#), which governs dealers' overarching responsibility to operate with integrity, professionalism, accountability, etc., in all of their transactions with customers.

This guideline will provide information about several different provincial laws and their associated regulations as they pertain to financial transactions in the automotive sales sector. While the information in this guideline is grounded in the relevant legislation, if you have specific questions about your company's approach to the matters outlined, it's always best to seek independent advice from competent legal counsel.

Terminology

- For the purposes of these guidelines, the word "Act" refers to the [Motor Vehicle Dealers' Act](#) (MVDA).
- [The Regulation](#) refers to Regulation 333/08 GENERAL
- [The Code of Ethics](#) refers to Regulation 332/08 Code of Ethics and Operation of Committees

Context

The legislation regarding dealers' non-financial responsibilities and obligations falls primarily under two provincial statutes – the [Motor Vehicle Dealers Act, 2002](#) (MVDA) and the [Consumer Protection Act, 2002](#) (CPA). There is also some interaction with the [Sale of Goods Act](#). The MVDA's [Code of Ethics](#), in particular, articulates the expectations of dealers with respect to [integrity, accountability, compliance, respect](#) and [professionalism](#), among others. What's listed below is an overview of some of the more relevant sections of the legislation. Other parts also apply.

Guidelines

Dealers' requirements:

Financial responsibility

- Demonstrate their integrity by being financially responsible and operating their businesses in [a professional manner](#).

Liens

- Pay out any outstanding loan on the vehicle or any outstanding bill for the repair or storage of the vehicle.¹
- Ensure that any goods sold are free of encumbrances.

Negative equity

- Dealers may choose to include negative equity in a sales transaction. If they do so, it must be done in a manner that is clear and transparent.

¹ In recent years, there have been several claims made to the Motor Dealers' Compensation Fund when dealers have failed to pay out a lien on a trade-in vehicle. When dealers fail to pay out liens, not only does it pose a significant risk of financial hardship to the consumer; it also damages the reputation of the industry as a whole.

- Negative equity usually occurs when a customer's trade-in is worth less than the amount still outstanding on the loan.
- These requirements regarding negative equity speak to dealers' responsibility under the Code of Ethics to conduct their business with professionalism and integrity. [These resources](#) offer additional explanation and support for dealers on this important topic.

About OMVIC and these guidelines

The Ontario Motor Vehicle Industry Council (OMVIC) administers and enforces the *Motor Vehicle Dealers Act, 2002* (MVDA), its regulations and code of ethics, as well as relevant sections of the *Consumer Protection Act* (CPA), on behalf of Ontario's Ministry of Public and Business Service Delivery. OMVIC's mandate is to maintain a fair and informed marketplace by protecting the rights of consumers, enhancing industry professionalism and ensuring fair, honest and open competition for registered motor vehicle dealers.

As businesses and markets evolve, industries continue to experience trends and changes that require regulators to adapt in an effort to ensure regulatory expectations are clear and readily available. Consequently, registrants often seek guidance to ensure their businesses comply with relevant legislation and consumer protection measures.

The list of available guidelines can be found [here](#). Once the page opens, you'll see the guidelines listed on the left-hand side.

Contact

The Dealer Support team is available to assist dealers in achieving and maintaining compliance with the MVDA and Code of Ethics. Registrants who wish to contact Dealer Support can reach the team at the phone number below and leave a message. Messages are returned in priority sequence.

Phone: 1-800-943-6002 ext. 4

Email: dealers@omvic.on.ca

Appendix – legislative/regulatory references

Excerpts from the Code of Ethics (Regulation 332/08)

- [Section 3](#): A registrant shall be financially responsible in carrying on business.
- A registrant shall not indicate to any person, directly or indirectly, that any payment, commission or other remuneration in connection with a trade in a motor vehicle is fixed or approved by the administrative authority, if any, a government authority or any motor vehicle board or association.
- [Section 9 \(5\) \(c\)](#): If a registered motor vehicle dealer enters into a contract to sell or lease a motor vehicle to a purchaser or lessee who is not another registered motor vehicle dealer... the dealer who receives the vehicle being traded in agrees to pay any outstanding loan on the vehicle or to pay any outstanding bill for the repair or storage of the vehicle.

Excerpt from the Sale of Goods Act

- [Section 13 \(c\)](#): In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is... an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.