

Chapter 1

Section 1.12

Ministry of Public and Business Service Delivery

Follow-Up on 2021 Value-for-Money Audit:

Ontario Motor Vehicle Industry Council

RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2	2				
Recommendation 2	2		2			
Recommendation 3	1			1		
Recommendation 4	3	3				
Recommendation 5	6	2	3			1
Recommendation 6	3	3				
Recommendation 7	2	2				
Recommendation 8	1					1
Recommendation 9	4	3	1			
Recommendation 10	2	1		1		
Recommendation 11	2	2				
Recommendation 12	2	2				
Recommendation 13	2	1		1		
Recommendation 14	1			1		
Recommendation 15	3	1		2		
Recommendation 16	1			1		
Recommendation 17	3	1		2		
Recommendation 18	2	2				
Recommendation 19	2	1	1			
Recommendation 20	2	1		1		
Recommendation 21	4			4		
Recommendation 22	1			1		
Recommendation 23	3	3				
Recommendation 24	3	3				
Recommendation 25	2	2				
Recommendation 26	2			2		
Recommendation 27	4	4				

RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 28	3			3		
Recommendation 29	1			1		
Recommendation 30	1			1		
Total	70	39	7	22	0	2
%	100	56	10	31	0	3

Overall Conclusion

The Ontario Motor Vehicle Industry Council (OMVIC), as of October 20, 2023, had fully implemented 75% of the recommendations that were specifically directed toward it alone. Combined, OMVIC and the Ministry of Public and Business Service Delivery (Ministry), as of October 20, 2023, had fully implemented 56% of the actions we recommended in our *2021 Annual Report*. In addition, OMVIC and the Ministry had made progress in implementing 10% of the recommended actions.

OMVIC had fully implemented recommended actions such as developing a risk framework and assigning an inspection frequency to each level of risk so that it can meet its target to inspect all registered motor vehicle dealers within its required time frame, and so that dealers are inspected based on their risk of non-compliance. In addition, OMVIC developed an inspection oversight process so that inspectors could carry out inspections of motor vehicle dealers more consistently and effectively. OMVIC also implemented a formal framework and criteria for its complaint handlers to follow when determining whether to refer a complaint for further enforcement action so that complaints that warrant enforcement action are consistently escalated. As well, OMVIC reviewed consumer complaints that were not eligible for a claim against the Compensation Fund, and identified 10 opportunities to expand the eligibility criteria for the Compensation Fund. Furthermore, so that the information it publicly reports is accurate, complete and consistent, OMVIC

reported on its website the complete results of the consumer surveys it conducts, and reported on completed inspections and site visits separately. OMVIC and the Ministry also implemented recommended actions that will enhance the ability of its Board of Directors to effectively execute its responsibilities to oversee motor vehicle dealers and protect consumers, including establishing fixed term limits for Board members and limiting industry representation on the Board.

However, little progress had been made toward implementing 31% of the recommended actions in our 2021 audit. Most of these relate to recommendations that were directed to or include the Ministry. These include:

- introducing mandatory continuing education requirements for motor vehicle dealers and salespersons;
- reassessing the limitations of the *Motor Vehicle Dealers Act, 2002* that prevent OMVIC from compelling motor vehicle dealers to provide restitution to consumers when dealers have breached the law;
- requiring motor vehicle dealers to provide vehicle purchasers with an information package at the time of purchasing a vehicle that outlines OMVIC's role and the consumer protections available to them;
- establishing a cooling-off period so that consumers have a reasonable amount of time to cancel their vehicle transaction agreement without penalty;

- establishing a protocol for the Ministry to conduct a review of OMVIC when serious complaints about OMVIC arise; and
- introducing a requirement to report cash transactions over a certain threshold to the Financial Transactions and Reports Analysis Centre of Canada to reduce the risk of money laundering through motor vehicle dealers.

In addition, 3% of the recommended action items were no longer applicable. The status of actions taken on each of our recommendations is described in this report.

Background

The Ontario Motor Vehicle Industry Council (OMVIC) was created by the government of Ontario as a not-for-profit delegated administrative authority to administer and enforce the *Motor Vehicle Dealers Act, 2002*, and it also upholds relevant sections of the *Consumer Protection Act, 2002*. 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. The Ministry of Government and Consumer Services (now the Ministry of Public and Business Service Delivery) is responsible for overseeing OMVIC and monitoring its performance.

Under the *Motor Vehicle Dealers Act, 2002 (Act)*, every Ontario motor vehicle dealer of new and used vehicles and every salesperson they employ must be registered by OMVIC. OMVIC does not receive any government funding and is funded primarily from the registration and transaction fees that it charges for every vehicle sold and leased by registered dealers. In 2022, there were 29,197 registered salespersons (29,537 in 2020) working at 8,175 registered motor vehicle dealers (8,195 in 2020) that reported approximately 1.2 million vehicle transactions (1.3 million in 2020). To ensure that motor vehicle dealers and salespersons complied with legislative requirements, OMVIC undertook activities that included inspections

and investigations of motor vehicle dealers and salespersons, as well as enforcement actions. OMVIC also sought to improve the public's awareness of consumer rights and protections when purchasing a vehicle.

When disputes arise between a registered motor vehicle dealer and a consumer, OMVIC acts as a mediator to resolve the dispute. From 2016 to 2020, OMVIC mediated approximately 5,400 disputes. Our audit found that about 50% of the 5,400 complaints against dealers resulted in no resolution for consumers, whose remaining option was to pursue their dispute in civil court. We also found that OMVIC did not have the authority to compel a motor vehicle dealer to compensate a consumer.

Further, our audit determined that OMVIC had been accumulating large surpluses of money. From 2015 to 2020, OMVIC's accumulated surplus and reserves increased by 275%, from \$6.3 million to \$23.6 million. In 2015, OMVIC doubled its vehicle transaction fee from \$5 to \$10 to invest in improving public awareness, and to increase the resources devoted to its enforcement actions. However, the human resources deployed to its key operating areas, including its complaints, inspection and registration departments, remained largely unchanged after the fee increase. In addition, we found that the number of compliance inspections of dealers declined by 13% from 2016 to 2019.

OMVIC's Board of Directors was, at the time of our audit, heavily represented by motor vehicle dealers even though OMVIC is a consumer protection agency. There were no term limits for Board members and some members had served on the Board for 14 years or more.

Some of our key findings were:

- OMVIC's investigations were lengthy, taking on average 220 days to complete, and their length ranged from one day to as many as 1,633 days. We found significant differences in the average time it took OMVIC investigators to complete their assigned investigations, ranging from 98 days for one investigator to 522 days for another. OMVIC did not have a process to monitor whether investigators were completing investigations on a timely basis and to assess whether

differences between investigators were reasonable, and to take corrective action when they were not.

- Most investigations did not result in enforcement action. In 67% of the 1,547 investigations of motor vehicle dealers completed from 2016 to 2020, OMVIC did not take any enforcement action against the dealer. We found significant differences between investigators in how often they chose to take enforcement action, ranging from action being taken in 9% to 54% of investigations completed. OMVIC did not have a process to monitor whether investigators took appropriate action based on the results of their investigations. We reviewed a sample of 100 investigations that were closed without any further action and found that in 23 of them investigators did not conduct a thorough investigation.
- Most consumers were not aware they had no cooling-off period when purchasing or leasing a vehicle in Ontario. A cooling-off period is a period of time available following a vehicle lease or purchase to cancel the contract for any reason and receive a refund. From 2016 to 2020, 18% of complaints mediated by OMVIC related to disputes over contract cancellations. In contrast, Quebec provides consumers that finance or lease a vehicle with a two-day cooling off period.
- Consumer awareness of, and motor vehicle dealer compliance with, all-in-price advertising continued to be low, despite the law having been in effect for more than 10 years. OMVIC identified that 41% of the motor vehicle dealers it visited in 2020 failed to comply with the all-in-price advertising requirement. About 76% of consumers surveyed by OMVIC either had never heard of the all-in-price requirement or did not understand what it meant.
- The Compensation Fund was unable to protect consumers in all cases when registered motor vehicle dealers had breached the law—it protected consumers only in certain circumstances. The criteria specified in the Act did not capture

all situations in a vehicle purchase where harm to consumers could result. Further, the Compensation Fund Board was not able to use discretion to pay out claims that did not fit the criteria.

- Consumers who purchased vehicles from illegal motor vehicle dealers were not protected by the Compensation Fund. Illegal dealers often posed as private sellers and, in some cases, sold vehicles that were stolen, damaged or rebuilt, or where the odometer had been tampered with. If OMVIC investigated and determined that consumers had been intentionally misled by an illegal dealer, these consumers were still not eligible for compensation.
- The Ministry had not fully investigated governance concerns at OMVIC. In 2019, three of OMVIC's Compensation Fund Board members resigned in protest as a result of actions taken by OMVIC's Board members. In 2017, the Ministry had been notified of the alleged dismissal of a high-ranking senior employee at OMVIC who had made allegations against OMVIC's Board. We found that the Ministry did not thoroughly review any of the concerns raised and limited its efforts to making inquiries to OMVIC's current senior management and placing sole reliance on their representations.

We made 30 recommendations, consisting of 70 action items, to address our 2021 audit findings. We received commitments from OMVIC and the Ministry at that time that they would take action to address our recommendations.

Standing Committee on Public Accounts

On April 6, 2022, the Standing Committee on Public Accounts (Committee) held a public hearing on our audit of the Ontario Motor Vehicle Industry Council. In February 2023, the Committee tabled a report in the Legislature resulting from this hearing. The

Committee endorsed our findings and recommendations, and made 12 additional recommendations. The Ministry reported back to the Committee in June 2023. The Committee's recommendations and our follow-up on its recommendations are found in **Chapter 3, Section 3.04** of our *2023 Annual Report*.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2023 and September 2023. We obtained written representation from OMVIC and the Ministry that effective November 20, 2023, they had provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Registration of Motor Vehicle Dealers

Recommendation 1

To confirm that applicants seeking to register as motor vehicle dealers can be expected to be financially responsible in the conduct of their business, as required by the Motor Vehicle Dealers Act, 2002, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC):

- *implement a revised registration application review process, which includes assessing whether motor vehicle dealers have adequate start-up funding to operate their business; and*
- *train its registration staff on its future updated application review process so that it is consistently applied by all registration staff when reviewing new motor vehicle dealer applications.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC does not, as required under the *Motor Vehicle Dealers Act, 2002* (Act), fully assess whether applicants for motor vehicle dealer registration have sufficient funding to open and operate their dealerships to confirm they

are sufficiently positioned to meet all their financial responsibilities under the Act. We noted that OMVIC collected information on the projected number and price range of vehicles to be sold, start-up capital and planned vehicle inventory. However, OMVIC did not require applicants to provide the type and amount of expected expenditures, such as lease or mortgage payments for their place of business, advertising costs, insurance for vehicles, salaries of employees and vehicle repair costs for selling used vehicles. Instead, OMVIC's review of financial information to make its assessment was focused on verifying where an applicant is obtaining their financing and start-up funds to ensure those funds were not obtained illegally.

In our follow-up, we found that OMVIC had revised its new registration application, added additional questions and requirements about applicants' start-up funding, and implemented a new requirement for applicants to submit a business plan. This included requiring applicants to submit a financial plan that explains how the applicant's business is projected to generate enough income to repay any loans, as well as pay for operational and other expenses. New applicants are also required to fill out a financial template included in the application form that highlights all specific start-up capital and third-party investments that the applicant expects to receive, and the projected monthly operating expenses they will incur, such as rent payments, salary expenses and advertising expenses.

We also found in our follow-up that OMVIC had updated its website to communicate its changes to the registration process, and had prepared and posted an FAQs page to assist applicants with the new requirements. In addition, OMVIC had trained its registration staff on these updated registration processes, and initiated monthly meetings with senior staff to monitor whether registration staff members were consistently applying these new requirements.

Recommendation 2

To enhance consumer protection, and increase recoveries to the Compensation Fund, we recommend that the Ontario Motor Vehicle Industry Council:

- *update its registration policies to require a letter of credit from every motor vehicle dealer at the time of registration;*

Status: In the process of being implemented by December 2023.

Details

In our 2021 audit, we found that OMVIC rarely requested letters of credit from registration applicants, even though the *Motor Vehicle Dealers Act, 2002* allows OMVIC to request a letter of credit from the motor vehicle dealers it registers if it determines that there is a risk that a dealer may not be able to compensate consumers if the dealer fails to meet its obligations under the Act. Our review of a sample of approved registration applications from 2016 to 2020 identified financial risks in 40% of them, which included past bankruptcy filings and past allegations of fraud investigated for illegally selling vehicles without being registered. However, despite having this information at its disposal, OMVIC only required one of these applicants to provide a letter of credit for registration. In addition, we found that from 2016 to 2020, OMVIC obtained letters of credit from just 4% of newly registered motor vehicle dealers.

In our follow-up, we found that OMVIC had reviewed the processes of the Vehicle Sales Authority of British Columbia and the Alberta Motor Vehicle Industry Council concerning letters of credit. Based on its research, OMVIC indicated that it was in the process of updating its relevant policy and processes. OMVIC planned to implement its revised letter of credit policy and procedures by December 2023. Once complete, OMVIC plans to communicate changes to applicants, registrants and stakeholders as needed.

- *extend the time frame that it holds a letter of credit past the closure of the dealership.*

Status: In the process of being implemented by December 2023.

Details

In our 2021 audit, we found that from 2016 to 2020, OMVIC had paid out approximately \$2.4 million in

claims from its Compensation Fund as a result of 60 motor vehicle dealers breaching their obligations under the *Motor Vehicle Dealers Act, 2002* and the *Consumer Protection Act, 2002* and causing financial losses for consumers. Over the same period, we found that OMVIC recovered only about \$520,000 from some of these 60 motor vehicle dealers, or just 22% of the claims it paid. We also found that OMVIC had a letter of credit in place for less than 1% of all motor vehicle dealers registered at the time, including those that were the cause of claims to the Compensation Fund. A letter of credit would have allowed OMVIC to recover additional money directly from motor vehicle dealers for claims paid from the Compensation Fund.

In our follow-up, we found that OMVIC, as previously noted, had reviewed the processes at the Vehicle Sales Authority of British Columbia and the Alberta Motor Vehicle Industry Council concerning letters of credit, and was assessing its options for implementing this recommendation. OMVIC planned to revise its letter of credit policies and procedures by December 2023. Once complete, OMVIC plans to communicate changes to applicants, registrants and stakeholders as needed.

Recommendation 3

To enforce consumer protection in the motor vehicle industry, and to ensure that motor vehicle dealers and salespersons are up to date on changes to the Motor Vehicle Dealers Act, 2002, we recommend that the Ministry of Government and Consumer Services introduce mandatory continuing education requirements for motor vehicle dealers and salespersons.

Status: Little or no progress.

Details

In our 2021 audit, we found that OMVIC did not require registered motor vehicle dealers or salespersons to take continuing education courses as a condition of renewing their registration to keep up with relevant legislative and regulatory changes. As a result, we determined that 54% of registered motor vehicle dealers, and 24% of registered salespersons had not taken OMVIC's updated education course.

In our follow-up, we found that the Ministry had made little progress toward implementing this recommendation. We noted that in October 2022, OMVIC had provided a proposal to the Ministry recommending that it implement a requirement for continuing professional development as a condition for renewing registrations for motor vehicle dealers and salespersons.

We also found that the Ministry was in the process of conducting jurisdictional research, and consulting with other provinces that regulate motor vehicle sales and have continuing education as part of their renewal requirements. The Ministry also collected information on the continuing education programs at other delegated administrative authorities in Ontario, including the Bereavement Authority of Ontario and the Real Estate Council of Ontario. The Ministry told us it was researching options for implementing a mandatory continuing education program. Based on this research and advice from OMVIC, the Ministry said it would then finalize policy options for public consultation and develop proposals for legislative and/or regulatory amendments for the government's consideration.

Recommendation 4

So that the Ontario Motor Vehicle Industry Council (OMVIC) can meet its target to process applications for new motor vehicle dealer registrations in a timely manner, we recommend that OMVIC:

- *work with motor vehicle stakeholder groups to review and revise its application and application process so that it is clear to applicants what specific supporting documents they are required to provide with their application;*

Status: Fully implemented.

Details

In our 2021 audit, we found that from 2016 to 2020, 87% of new motor vehicle dealer applications submitted to OMVIC were missing key information required to process the application. This resulted in increased staff time for OMVIC to follow up and obtain missing information from applicants. We found that the key reason

applications were incomplete was that the application form did not clearly explain what information, including supporting documentation, OMVIC required so it could review and approve an applicant for registration.

In our follow-up, we found that OMVIC had revised its new registration application to clarify the information and documentation needed to process the application, including a new business plan checklist. The new process requires an applicant to include supporting documentation on available start-up funds, ownership of property, inventory, investments, and any outstanding debts (including government tax documents and notices of assessment). OMVIC also indicates on its new registration application form that failure to provide all required supporting documents could delay the application process.

- *perform a cost-benefit analysis of implementing an electronic version of the application process with built-in controls to prevent incomplete applications from being submitted;*

Status: Fully implemented.

Details

In our 2021 audit, we found that one reason that registration applications were sent incomplete to OMVIC was that all applications for new motor vehicle dealers were paper-based and could not be submitted electronically. As a result, no controls were in place to prevent an applicant from submitting an application form with incomplete information.

In our follow-up, we found that OMVIC had launched a new information system in May 2023 and converted all its applications to an electronic format. The new information system includes an online registration portal and application with built-in controls to prevent incomplete applications from being submitted. With the new registration portal, new applicants and existing registrants can submit new applications for registration and registration renewals online.

- *after completing these steps, perform a workload study to determine appropriate staffing levels to process applications within its targeted time frame.*

Status: Fully implemented.

Details

In our 2021 audit, we found that although the volume of new applications for motor vehicle dealer registration had increased by 24% from 2016 to 2019, and in the majority of cases OMVIC had not been meeting its target to complete registration applications within six weeks, OMVIC's level of staff dedicated to reviewing these applications had remained unchanged. We also found that in March 2018, OMVIC engaged a third-party consultant that reviewed its registration department and recommended that OMVIC increase its complement of registration staff. Despite this recommendation, OMVIC had not increased its staffing level at the time of our audit.

In our follow-up, we found that the OMVIC had conducted a workload study of its registration department that concluded the department should add 10 new staff. The positions included a new registration manager to oversee OMVIC's senior registration officers; a working team lead to focus on updating applications, templates, policies and procedures, as well as team training; and additional registration officers to process and approve applications. At the time of our follow-up, eight of the 10 positions had been filled.

Inspections of Motor Vehicle Dealers

Recommendation 5

So that the Ontario Motor Vehicle Industry Council (OMVIC) can meet its target to inspect all registered motor vehicle dealers within the required time frame, and so that dealers are inspected based on their risk of non-compliance, we recommend that OMVIC:

- *develop a risk framework (for example, high, medium and low) and assign an inspection frequency to each level of risk;*

Status: Fully implemented.

Details

In our 2021 audit, we found that about 40% of registered motor vehicle dealers had not been inspected in more than three years, including 14% that had not been inspected in more than five years. We found that

OMVIC had not assigned a risk rating (such as high, medium or low) to each dealer. Although OMVIC had set a target to inspect motor vehicle dealers at least once every three years, we found that OMVIC had not assigned an inspection frequency to its registered motor vehicle dealers based on their assessed risk of non-compliance. This had resulted in some high-risk dealers not being inspected for several years, or at all.

In our follow-up, we found that OMVIC had developed a risk framework in February 2022, and assigned a specific inspection frequency to each level of risk. OMVIC assesses the risk level of a motor vehicle dealer based on factors that include past complaints, the outcome of the last inspection, and code of ethics violations. Based on its assessment, OMVIC assigns dealers a risk level of high, medium or low. High-risk dealers are to be inspected annually, and medium- and low-risk dealers are to be inspected once every three and five years, respectively.

- *determine and assign a risk level and inspection frequency to each motor vehicle dealer;*
- *put in place systems to ensure that each dealer is scheduled for and receives an inspection based on its assigned risk level;*
- *put in place systems to reassess each dealer's risk level on an ongoing basis;*

Status: In the process of being implemented by December 2023.

- *perform a cost-benefit analysis on implementing an information system that can continually assess the risk of each dealer and assign an appropriate inspection frequency based on the dealer's risk level;*

Status: No longer applicable.

Details

In our 2021 audit, we found that OMVIC had not assigned a risk rating (such as high, medium or low) to each dealer. We found that OMVIC generates a list for each of its 12 inspectors for the dealers in the geographic area they are responsible for. Each inspector was expected to inspect all dealers on their list by the

end of the year, manually determining the order in which they are inspected. However, we found that inspectors did not inspect all of the dealers on this list—dealers that were not inspected were rolled over to the list generated for the following year and, as a result, the highest-risk dealers were not prioritized for inspection—and in some cases, were not inspected at all.

In our follow-up, we found that OMVIC put in place a new IT system in May 2023 and was in the process of developing functionalities to use it to determine an appropriate inspection frequency for each motor vehicle dealer, schedule inspections, and reassess the risk level for each dealer on an ongoing basis. OMVIC expects to implement these enhancements to its IT system by December 2023. OMVIC informed us that the IT system will include functionalities so that it is capable of continually assessing the risk of each dealer and assigning an appropriate inspection frequency based on the dealer's risk level.

Since OMVIC has already implemented a new IT system, performing a cost-benefit analysis to ascertain its value is no longer applicable.

- *assess the workload of inspectors and ensure that OMVIC has sufficient staff to carry out and complete annually assigned inspections on a timely basis.*

Status: Fully implemented.

Details

In our 2021 audit, OMVIC's inspectors indicated that additional inspectors were required to complete all the inspections they were assigned. If an assigned inspection was not completed by the end of the year, dealers that were not inspected were rolled over to the list generated for the following year. As a result, we found that between 2011 and 2020, the annual list of dealers to be inspected increased by 73%, from 2,286 in 2011 to 3,948 in 2020. We also noted that, at the time of our audit, one of the inspector positions in the Niagara region had remained vacant since 2015. As a result, the Niagara region had the highest number of dealerships that had not been inspected for more than three years.

In our follow-up, we found that OMVIC had conducted a study to assess the workload of its inspections department, which recommended seven new positions be created. OMVIC told us it filled five of those positions as of August 2023, and it plans to consider hiring additional staff for the inspections department in the future.

Recommendation 6

So that the Ontario Motor Vehicle Industry Council's (OMVIC's) inspectors carry out inspections of motor vehicle dealers consistently and effectively, we recommend that OMVIC:

- *develop and implement an inspection oversight process that includes an inspection file review and documented assessment of whether inspections are carried out effectively and consistently;*
- *where inconsistencies are identified, take steps to facilitate corrective action;*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not have a process in place to periodically review the inspections completed by its inspectors to ensure they were checking everything they were expected to check, and that inspections were performed consistently. In our review of 30 inspection files, we found that inspection practices varied between inspectors. For instance, in seven of the 30 inspections we reviewed, the inspector did not evaluate whether the dealer complied with the all-in-price advertising requirement. We also found that different inspectors reviewed vastly different proportions of vehicle transaction files in relation to the dealer's total volume of transactions. For example, one inspector reviewed 25 transactions from a dealership that sold about 50 vehicles a year, while another inspector reviewed 23 transactions even though the motor vehicle dealer sold over 900 vehicles a year.

In our follow-up, we found that OMVIC had implemented an inspection oversight process, and hired an additional inspection manager to increase the level of

oversight in the department. The manager of inspections conducts monthly meetings with each inspector to review a sample of closed and active inspections to identify and address inconsistencies as appropriate.

- *periodically rotate inspectors in geographic areas when it is feasible to do so.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not periodically rotate its inspectors to ensure they maintained independence from motor vehicle dealers. OMVIC told us that inspectors were hired based on where they lived, which determined the territory they oversaw and their home office. OMVIC noted that rotating inspectors would not be cost-effective due to the increased travel and relocation costs that would be associated with it. Nevertheless, we noted that 40% of registered motor vehicle dealers were located in the Greater Toronto Area, and an opportunity existed to rotate inspectors within this area.

In our follow-up, we found that OMVIC put in place a new policy in February 2022 to periodically rotate inspection staff. According to the new policy, the manager of inspections is to evaluate and rotate inspection staff every three years, where geographically feasible. The manager of inspections also has the discretion to re-evaluate and change the frequency of the rotation, as deemed necessary. OMVIC advised us that between September 2022 and January 2023, it rotated five of its inspectors.

Recommendation 7

So that violations of the Motor Vehicle Dealers Act, 2002 and the relevant sections of the Consumer Protection Act, 2002 are corrected by motor vehicle dealers on a timely basis, we recommend that the Ontario Motor Vehicle Industry Council:

- *develop and implement a framework with appropriate time frames that provides guidance to inspectors on the types of violations of the acts that should be reviewed with a follow-up inspection; and*

- *ensure that follow-up inspections are performed in accordance with this framework.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not provide instructions to guide its inspectors on the types of violations that warrant a follow-up inspection. As a result, OMVIC's inspectors infrequently performed follow-up inspections to confirm that violations of the acts identified during inspections had been addressed. Between 2016 and 2020, OMVIC identified violations of the acts in 2,582, or 25%, of inspections it completed. In 77% of these inspections, OMVIC's inspectors closed the inspection file without taking any enforcement action or performing a follow-up inspection to confirm that the violations had been addressed and had ceased.

In our follow-up, we found that in February 2022 OMVIC implemented a policy to guide its inspectors on the types of violations that require a follow-up inspection. These include failure to disclose a material fact, improper maintenance of books and records, and lien payout concerns. The new policy requires that the follow-up inspections be completed within 12 months of the inspection date.

Recommendation 8

To improve motor vehicle dealer compliance with the all-in-price advertising requirement, we recommend that the Ontario Motor Vehicle Industry Council utilize information gathered by consumer associations to take appropriate enforcement action against motor vehicle dealers that do not comply with the Motor Vehicle Dealers Act, 2002.

Status: No longer applicable.

Details

In our 2021 audit, we found that OMVIC visited 165 dealers between 2016 and 2020 as part of its in-house mystery shopping program and took enforcement action against 52 dealers that it found did not comply with the *Motor Vehicle Dealers Act, 2002* requirement for all-in price advertising. In contrast, over this same

period, OMVIC paid Car Help Canada and the Automobile Protection Association a total of approximately \$1 million to conduct mystery shopping at 397 motor vehicle dealers. The associations identified that 167 of the 397 dealers they visited attempted to charge fees in excess of a vehicle's advertised price—violating the all-in-price advertising requirement. However, we found that OMVIC had not taken enforcement action against any of these dealers.

In our follow-up, we found that OMVIC has ceased using consumer associations to conduct mystery shopping to help uncover all-in pricing advertising violations. This decision was made because OMVIC could not take enforcement action for violations found since the mystery shopping was not being conducted by its own investigators. Instead, OMVIC expanded its internal mystery shopping program by hiring a dedicated manager of investigation for mystery shopping. As a result, OMVIC has increased the number of in-house mystery shopping visits and enforcement actions against non-compliant dealers. For example, OMVIC conducted 193 mystery shopping visits at dealers in 2022 and found violations at 68 dealers. OMVIC issued a caution letter to 41 of these dealers, while the other 27 were referred for further disciplinary action.

Investigations of Motor Vehicle Dealers

Recommendation 9

So that investigations of registered and unregistered motor vehicle dealers and salespersons are completed effectively and on a timely basis, and that appropriate enforcement action is taken where justified, we recommend that the Ontario Motor Vehicle Industry Council:

- *establish reasonable guidelines or benchmarks for enforcement action and the timely completion of investigations;*
- *monitor investigations against these guidelines or benchmarks to identify and follow up where significant differences are found;*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC had not established benchmarks or guidelines for how long different types of investigations should take to complete. We analyzed the 1,547 investigations OMVIC completed between 2016 and 2020 and found that OMVIC's investigations were lengthy, taking on average 220 days to complete. We also found significant differences in the average length of time it took each of OMVIC's investigators to complete their assigned investigations, ranging from an average of 98 days for one investigator to 522 days for another. In addition, we found that most OMVIC investigations did not result in enforcement action. OMVIC did not take any enforcement action against the dealer in 67% of the 1,547 investigations it had completed. We also found significant differences between investigators in taking enforcement action. For example, while one investigator took enforcement action in 42 (54%) of the 78 investigations they had completed, another investigator had done so in only 9 (9%) of 98 investigations they had completed.

In our follow-up, we found that OMVIC had developed and implemented benchmarks for the timely completion of investigations. According to OMVIC's benchmarks, low-, medium- and high-complexity investigations should be completed in four, nine and 18 months, respectively. To ensure appropriate enforcement actions are taken, prior to closing an investigation, the investigator is required to consult with the manager of investigation and obtain approval on the status of the investigation prior to closing the file. In instances where the benchmarks are not met, or likely not to be met, the manager of investigation is required to conduct a review of the circumstances and take appropriate action where needed.

- *establish a process to periodically review investigation files to determine if they are complete and result in appropriate enforcement action, and to take corrective action where necessary;*

Status: In the process of being implemented by December 2023.

Details

In our 2021 audit, we found that OMVIC did not have a process in place to periodically review the investigation files completed by its investigators. We reviewed a sample of 100 investigations that were closed without any further action and found that in 23 of these investigations, investigators did not conduct a thorough investigation. This included nine investigations where there was evidence the *Motor Vehicle Dealers Act, 2002* and the *Consumer Protection Act, 2002* had been violated, but the investigator did not provide a rationale for why no further action was taken before closing the investigation.

In our follow-up, we found that OMVIC implemented a process in November 2022 for management to periodically review investigation files. The manager of investigation is to review investigation files on a monthly basis to determine if they are complete and resulted in appropriate enforcement action, and to take corrective action where necessary. OMVIC indicated it is also in the process of developing functionality in its new information system (implemented in May 2023) to enable an electronic management oversight process by December 2023.

- *develop policies and procedures on key aspects of investigations to help guide the work of its investigators.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not have key operational policies and procedures that described how to undertake certain basic investigative activities, such as how to initiate and close investigations, prepare a prosecution brief and disclosure documents, or obtain a search warrant.

In our follow-up, we found that in November 2022 OMVIC developed and implemented a policy and set of procedures to help guide the work of its Investigations team. The new investigation policy document has detailed procedures on key aspects of investigations including initiation and closure of investigations, prioritization of investigations, benchmarks for timeliness, referral of files for administrative action, collection and

preparation of disclosure documents, search warrant procedures, and interviewing witnesses.

Dispute Resolution Process

Recommendation 10

To provide consumer protection, and strengthen the Ontario Motor Vehicle Industry Council's (OMVIC's) effectiveness in both mediating and resolving disputes between consumers and motor vehicle dealers, we recommend that OMVIC:

- *record in its systems its assessment of whether a motor vehicle dealer has breached one or more provisions of the Motor Vehicle Dealers Act, 2002 or the Consumer Protection Act, 2002 for each complaint it reviews;*

Status: Fully implemented.

Details

In our 2021 audit, we were told that in the course of mediating complaints, OMVIC complaint handlers informally share their views with dealers and consumers on whether the dealer has breached applicable laws. Despite this, complaint handlers do not generally make a formal determination on whether a dealer has breached applicable laws, or record such a determination in OMVIC's systems—in part because OMVIC cannot enforce a binding resolution.

In our follow-up, we found that in September 2023, OMVIC implemented a functionality in its new information system (launched in May 2023) for its complaint handlers to record their assessment of whether a motor vehicle dealer has breached applicable laws. OMVIC also hired a quality assurance manager for its complaints handling department to review escalated complaint files and to assess for any potential breaches of the *Motor Vehicle Dealers Act, 2002* or the *Consumer Protection Act, 2002* that may have been made by motor vehicle dealers. If breaches are identified, the quality assurance manager is to ensure all the necessary information and supporting documentation has been collected, and then to escalate the complaint for further enforcement action.

- *work with the Ministry of Government and Consumer Services to reassess the current limitations of the Motor Vehicle Dealers Act, 2002 that prevent OMVIC from compelling motor vehicle dealers to provide restitution to consumers when they have breached the law.*

Status: Little or no progress.

Details

In our 2021 audit, we found that although OMVIC attempted to mediate and resolve consumer complaints, OMVIC did not have the authority to compel a motor vehicle dealer to reach a fair resolution to a complaint or to provide compensation to a consumer, even if OMVIC informally determined that the dealer had breached one or more of the provisions of the acts. We reviewed a sample of 100 complaints where OMVIC had been unable to mediate a resolution and found that in 50 of these complaints the dealer appeared to have breached one or more of the provisions in the acts. Nevertheless, in these instances the consumer did not receive compensation from the dealer.

In our follow-up, we found that little progress was made toward implementing this recommended action. OMVIC had sent a proposal to the Ministry, recommending it expand the eligibility criteria of the Compensation Fund rather than enable OMVIC to compel a motor vehicle dealer to provide restitution to consumers during the complaint handling process. OMVIC expects that expanding eligibility to the Compensation Fund will encourage motor vehicle dealers to resolve and pay restitution to consumers in the case of a valid complaint, as consumers will otherwise be eligible to make a claim to the Compensation Fund.

We also found that the Ministry was in the process of conducting jurisdictional research, including consulting with other provinces about their rules on compelling motor vehicle dealers to provide restitution to consumers. The Ministry also conducted research on other complaints and dispute resolution processes at other delegated administrative authorities, including Tarion, a delegated authority that backstops builder warranties on new construction homes, and the Home Construction and Regulatory Authority, which

regulates new home builders and vendors. The Ministry told us that once it had completed this research and consulted with OMVIC, it will then finalize policy options for public consultation, and will develop proposals for legislative and/or regulatory amendments for the government's consideration.

Recommendation 11

To improve motor vehicle dealer compliance with the requirements of the Motor Vehicle Dealers Act, 2002, and to ensure that complaints that warrant enforcement action against motor vehicle dealers are consistently escalated for enforcement action, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC):

- *create a clear and specific framework and criteria to be used to determine when a complaint involving a motor vehicle dealer is to be referred for enforcement action;*

Status: Fully implemented.

Details

In our 2021 audit, we found that complaint handlers were not provided with a formal framework or criteria to determine whether a complaint should have been referred for enforcement action. Instead, the decision to refer a complaint for enforcement action was left to the discretion of each individual OMVIC complaint handler based on their assessment of the conduct that resulted in the complaint, and the registrant's previous conduct history.

In our follow-up, we found that in November 2022 OMVIC implemented a formal framework and set out criteria for its complaint handlers to follow when determining whether to refer a complaint for enforcement action. The framework outlines specific instances when a complaint should be referred for enforcement action, including for specific breaches of the *Motor Vehicle Dealers Act, 2002*. These include instances when a motor vehicle dealer misrepresents or fails to make the required disclosures to a consumer about a vehicle, or when a vehicle is sold by a dealer with a safety standards certificate and is subsequently found by a Ministry of Transportation officer to be unsafe to drive.

The framework also includes guidelines that complaint handlers must follow when determining whether to refer a complaint for enforcement action. These guidelines indicate the complaint handler must consider certain factors prior to making a referral for enforcement action, such as the seriousness of the breach in terms of risks to consumers and/or other registrants, the number of times the registrant has been previously warned about this type of breach, how long the dealer has been registered without significant administrative concerns, and how co-operative the registrant has been during the complaint handling process. OMVIC also has updated its complaint handling policies and procedures to reflect this framework.

- *train all complaint handling staff to consistently and accurately apply this framework and criteria to all complaints received and mediated by OMVIC.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not consistently take enforcement action against motor vehicle dealers when its complaint handlers determined a dealer had breached one or more provisions in the acts and caused the consumer harm. We reviewed 100 consumer complaint files where OMVIC had been unable to mediate a resolution, and found that in 50 of these complaints the dealer appeared to have breached one or more of the provisions in the acts. However, we found that in 40 (80%) of these 50 complaints, the file was closed without referral for enforcement action. We also found that 38 out of 40 of these motor vehicle dealers had a history of similar consumer complaints in the past.

In our follow-up, we found that OMVIC had formally trained its complaint handling staff on its new framework and guidelines for referring complaints for further enforcement action. This included explaining to its staff the purpose of the new framework and guidelines, and training them how to use it appropriately to handle incoming complaints. OMVIC also hired two managers for its complaints handling department—a consumer support manager and a quality assurance

manager—to review complaints handled by staff, and to help ensure staff are applying the framework consistently and accurately.

Recommendation 12

So that consumer complaints are effectively mediated and that complaints that warrant enforcement action against motor vehicle dealers are escalated for enforcement, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC):

- *conduct a workload study for its complaint handling staff; and*
- *use the results of this study to ensure that OMVIC's consumer support team is sufficiently staffed.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC had not assessed workloads at its complaints department to determine whether the department was sufficiently resourced to fulfill and execute its responsibilities and effectively resolve complaints. We noted that the number of complaints that OMVIC's complaint handlers were responsible for increased by 20% from 2016 to 2019. Over this same period, the percentage of complaints that were closed without resolution increased from 47% in 2016 to 59% in 2019. In addition, the complaint handlers we spoke to advised us that the demands of their mediation workload limited the number of complaints they were able to escalate for enforcement action.

In our follow-up, we found that OMVIC conducted a workload study of its complaints handling department. The workload study recommended that the complaints department hire nine additional positions, including a consumer support manager to oversee complaints handling staff, and a quality assurance manager to review complaints and ensure they are being handled consistently and accurately. At the time of our follow-up, six of the nine recommended positions had been filled. OMVIC told us it plans to continue to reassess staff demands, and ensure that the complaints department's needs are met.

Compensation Fund

Recommendation 13

To protect consumers who purchase a motor vehicle from a registered motor vehicle dealer that does not meet all its obligations under the Motor Vehicle Dealers Act, 2002 or relevant sections of the Consumer Protection Act, 2002, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC) work with the Compensation Fund's Board of Trustees to:

- review consumer complaints that were not eligible for a claim against the Compensation Fund to develop additional eligibility criteria;

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC's Compensation Fund protected consumers only in certain circumstances and did not always compensate vehicle buyers who suffered a financial loss as a result of a motor vehicle purchase, even if the registered motor vehicle dealer they purchased the vehicle from had breached one or more provisions of the *Motor Vehicle Dealers Act, 2002*. We found that the eligibility criteria specified in the Act for a claim against the Compensation Fund do not capture all possible breaches of the Act in a vehicle purchase that can result in harm to consumers.

In our follow-up, we found that OMVIC had completed an internal review of its consumer complaints that were not eligible for a claim against the Compensation Fund dating from 2017 to 2021. The types of complaints it identified as not eligible for a claim included non-disclosure of a vehicle having had substantial accidents, non-disclosure of significant repairs made to the vehicle prior to sale, and all-in-price advertising violations. Based on OMVIC's review of complaints, as well as consultations with stakeholder groups and the Compensation Fund's Board of Trustees, OMVIC identified 10 ways to expand the eligibility criteria for the Compensation Fund, and provided a proposal to expand the eligibility criteria to the Ministry for its consideration. The proposed additional criteria included:

- **Failing to discharge lien registered against traded-in vehicle:** The Fund would allow a claim when a trade-in vehicle still has an outstanding lien, and the lien is not removed by the dealer prior to sale of the vehicle to a consumer.
- **Serious safety issues resulting in impoundment of vehicle/seizure of licence plates:** The Fund would allow a claim from a consumer who purchased or leased an unsafe vehicle that was then impounded when found to be dangerous/unsafe by the Ministry of Transportation or the police.
- **All-in-price advertising violations:** The Fund would allow a claim if there are damages due to a dealer's false representations about pricing or if promised benefits were not delivered to the customer.
- propose to the Ministry of Government and Consumer Services to include in the Motor Vehicle Dealers Act, 2002 additional criteria for eligibility for compensation, and to also allow the Compensation Fund's Board of Trustees to use their discretion to compensate consumers for claims involving the violation of the acts that do not fit into a specific eligibility criterion.

Status: Little or no progress.

Details

In our 2021 audit, we found that the Board of Trustees, which manages the Compensation Fund and makes claims decisions, did not have the ability to use its discretion to pay out claims that did not fit the specific criteria specified in the *Motor Vehicle Dealers Act, 2002* (Act). As a result, consumers who had suffered losses that did not meet the Fund's specific criteria were often advised by OMVIC to seek compensation through the provincial courts.

In our follow-up, we found that OMVIC had identified 10 ways to expand the eligibility criteria for the Compensation Fund and provided a proposal on its findings to the Ministry. OMVIC expects that its proposal to the Ministry will also increase the Board's ability to use discretion for circumstances and violations that were not previously covered.

The Ministry indicated it has reviewed OMVIC's proposal to expand the eligibility criteria, and asked OMVIC for additional information, including with respect to the sufficiency of the Compensation Fund, whether registrants were making adequate contributions to the Fund, and how OMVIC decided on the proposed eligibility criteria. In addition, the Ministry indicated that it was in the process of consulting with other provinces that regulate motor vehicle sales—including Nova Scotia, Quebec, Saskatchewan, Alberta and British Columbia—about their Compensation Fund eligibility rules to inform potential amendments to the Act. The Ministry told us once its jurisdictional research and discussions with OMVIC are complete, it plans to finalize policy options for public consultation, and will develop proposals for legislative and/or regulatory amendments for the government's consideration. If a decision is made to move forward, the Ministry estimates that any potential changes will come into effect by July 2025.

Recommendation 14

To protect consumers who purchase a motor vehicle from an illegal motor vehicle dealer, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC) work with the Compensation Fund's Board of Trustees and the Ministry of Government and Consumer Services to allow these consumers to make a claim to the Compensation Fund where OMVIC's own investigation confirms that consumers were intentionally misled by an illegal motor vehicle dealer.

Status: Little or no progress.

Details

In our 2021 audit, we found that although OMVIC's regulatory responsibility included investigating and laying charges against unregistered motor vehicle dealers that were operating illegally, consumers who purchased a vehicle from such an illegal dealer and suffered a financial loss were not eligible under the *Motor Vehicle Dealers Act, 2002* and its regulations to make a claim to the Compensation Fund. Even if OMVIC

investigated and later confirmed that consumers were intentionally misled by an illegal dealer, the consumers were still not eligible for compensation.

In our follow-up, we found that little progress was made toward implementing this recommendation. At the time of our follow-up, OMVIC had conducted jurisdictional research in other provinces—including Alberta, British Columbia, Saskatchewan and Quebec—that regulate motor vehicle dealers and have a Compensation Fund or any other similar support services. In addition, OMVIC consulted with consumer and industry stakeholders and OMVIC's Board of Directors on these proposed changes. Consumer and industry stakeholder associations responded that they were opposed to allowing consumers to make claims to the Compensation Fund following the purchase from an illegal dealer, stating that by doing so, consumers would be encouraged to buy a vehicle from anyone, including illegal dealers, which would undermine the purpose of the Compensation Fund. OMVIC also engaged a third-party consultant to conduct a review of the financial implications of implementing this recommendation. That review concluded that increased claims to the Compensation Fund following a purchase from an illegal dealer could range from \$3,900 to \$291,000 per year to the Fund. Based on its research and consultations, OMVIC reported to the Ministry that it did not support expanding access to the Compensation Fund to consumers who purchase vehicles from an illegal dealer.

The Ministry has reviewed OMVIC's findings and is in the process of conducting its own jurisdictional research with Nova Scotia, Alberta, British Columbia, Saskatchewan and Quebec, to consider proposals for amendments to the *Motor Vehicle Dealers Act, 2002*. The Ministry told us that once its research was complete and additional advice was received from OMVIC, it would then finalize policy options for public consultation, and develop proposals for legislative and/or regulatory amendments for the government's consideration. If a decision is made to move forward, the Ministry estimates that any potential changes will come into effect by July 2025.

Consumer Awareness and Protection

Recommendation 15

So that prospective motor vehicle buyers are aware of the Ontario Motor Vehicle Industry Council's (OMVIC's) role and the services it provides to protect consumers, we recommend that OMVIC work with the Ministry of Government and Consumer Services to:

- *develop an information package for vehicle purchasers that outlines OMVIC's role and consumer protections available to them which can be distributed to motor vehicle dealers;*
- *require motor vehicle dealers to provide vehicle purchasers with the information package at the time of purchasing a vehicle;*

Status: Little or no progress.

Details

In our 2021 audit, we found that although OMVIC had increased its annual consumer awareness spending by over 60% between 2015 and 2019, most Ontarians OMVIC has surveyed still indicate that they are not aware of OMVIC or OMVIC's role in regulating motor vehicle dealers and salespersons and protecting consumers in Ontario. In comparison, Tarion reaches homebuyers directly by requiring all licensed builders to provide homebuyers with an information package that details a builder's warranty obligations and the services Tarion has available for homebuyers.

In our follow-up, we found that little progress had been made toward implementing these recommendations. OMVIC had proposed a regulatory change in May 2022 to the *Motor Vehicle Dealers Act, 2002* to the Ministry to require an electronic information guide be provided to all consumers who purchase or lease a motor vehicle. If regulatory changes come into effect, OMVIC plans to develop an information guide outlining OMVIC's role and consumer protections available to them. At the time of our follow-up, the Ministry was reviewing policy options for public consultation. If a decision is made to move forward, the Ministry expects regulatory changes to come into effect by July 2025.

- *develop, implement and monitor the success of a marketing plan to increase consumer awareness about consumer protection rights in place under the Motor Vehicle Dealers Act, 2002 and the Consumer Protection Act, 2002, as well as OMVIC's role and its services available to the public.*

Status: Fully implemented.

In our follow-up, we found that OMVIC developed and implemented a marketing plan in January 2022 to increase consumer awareness of OMVIC and car buyers' rights. The plan outlines specific paid media channels such as social media advertising, sponsored content, and email marketing that are to be used. The plan identifies key consumer issues that are to be targeted each month, such as raising awareness that there is no cooling-off period for vehicle purchases and leases, and OMVIC's Compensation Fund. OMVIC also developed new key performance indicators in January 2022 to track and measure its marketing objectives. OMVIC plans to review and update its marketing plan on an annual basis based on consumer survey results, consultation with consumer and industry stakeholders, and results of its key performance indicators.

Recommendation 16

So that consumers in Ontario have a reasonable amount of time to reflect on their vehicle purchase or lease, and be able to cancel their vehicle transaction agreement without penalty, we recommend that the Ministry of Government and Consumer Services make regulatory changes to put in place a cooling-off period for all vehicle transactions in Ontario, citing best-practice consumer protections in place in other Canadian provinces.

Status: Little or no progress.

Details

Our 2021 audit noted there was no cooling-off period after consumers purchased or leased a vehicle from a registered motor vehicle dealer. A cooling-off period is a period of time following a purchase or lease when a purchaser is allowed to cancel the contract for any

reason and receive a refund. In our review of practices in other Canadian provinces, we found that Quebec allows consumers who finance or lease a vehicle a two-day cooling off period during which they can cancel their financed or leased vehicle and receive a refund. Similarly, British Columbia provides consumers who have leased a vehicle with a one-day cooling-off period during which they can cancel their lease and receive a refund for any fees paid.

In our follow-up, we found that the Ministry had made little progress toward implementing this recommendation. The Ministry had conducted research on rules around cooling-off periods in other provinces and told us that it planned to finalize and present policy options for public consultation to the Minister's Office, based on its research and advice from OMVIC. Once public consultation is complete, the Ministry planned to seek the Minister's Office's approval for a proposal for legislative and/or regulatory amendments for the government's consideration. If a decision is made to move forward, the Ministry estimates that any potential policy changes would come into effect by July 2025.

Recommendation 17

So that consumers potentially receive a more competitive interest rate based on their credit score, we recommend that the Ontario Motor Vehicle Industry Council (OMVIC):

- *take steps to increase public and consumer awareness regarding dealer responsibilities and consumer risks with regard to interest rates;*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC had done little to educate consumers that motor vehicle dealers may not always arrange financing from the lender that provides the lowest interest rate and that the onus was on the consumer to shop around for the lowest rate.

In our follow-up, we found that OMVIC developed a marketing plan in January 2022 that included a focus

on raising awareness about the risks associated with financing. OMVIC also developed a new key performance indicator in January 2022 to measure consumer awareness that dealers are not required by Ontario law to reveal to a consumer the lowest interest rate available when financing a car.

- *include a step in its compliance inspections to verify whether motor vehicle dealers are disclosing to the consumer all the financing offers received; and*
- *propose regulatory changes to the Ministry of Government and Consumer Services that would require motor vehicle dealers to disclose to consumers all the financing options the dealer has received in response to the consumer's credit application.*

Status: Little or no progress.

Details

In our 2021 audit, we noted that when a consumer required financing to purchase a vehicle, motor vehicle dealers may have submitted the consumer's loan application to multiple financial institutions and received multiple offers with different interest rates. Motor vehicle dealers were paid a fee by the lending financial institution for arranging the financing. However, motor vehicle dealers were not required to show consumers all the financing offers they received from lenders.

In our follow-up, we found that OMVIC proposed regulatory changes to the Ministry that would require motor vehicle dealers to disclose to consumers all financing options that the dealer has received in response to the consumer's credit application. The Ministry reviewed OMVIC's proposal for regulatory changes and was in the process of finalizing policy options for public consultation. If a decision is made to move forward, the Ministry estimates that any potential changes would come into effect by July 2025. OMVIC told us that, if regulatory changes come into effect, it will incorporate a step in its compliance inspections to verify if dealers are disclosing all financing options to consumers.

Recommendation 18

So that motor vehicle dealers comply with the requirements of the Motor Vehicle Dealers Act, 2002 to include all the fees and charges in the advertised price of a vehicle, we recommend that the Ontario Motor Vehicle Industry Council:

- *take progressive enforcement action against motor vehicle dealers who do not comply with the requirement; and*
- *increase its efforts to educate consumers about the all-in-price advertising requirement in Ontario.*

Status: Fully implemented.

Details

In our 2021 audit, we found that some motor vehicle dealers continued to charge consumers more than the price advertised for a vehicle, even though the *Motor Vehicle Dealers Act, 2002* had been amended more than 10 years earlier to prohibit such practices. We also found that consumer awareness of the all-in-price advertising requirement continued to be low, possibly contributing to non-compliance by motor vehicle dealers. We noted that OMVIC's mystery shopper program identified that 25 (41%) of the 61 motor vehicle dealers visited in 2020 failed to comply with the all-in-price advertising requirement and attempted to charge more than the advertised price when OMVIC staff posed as consumers.

In our follow-up, we found that OMVIC expanded its mystery shopper program by increasing the number of anonymous visits it made to dealers from 95 in 2021 to 193 in 2022. The 193 mystery shopping visits found that 68 dealers were not in compliance with the all-in-price advertising laws. As a result, OMVIC issued 41 caution letters to dealers, and referred 27 dealers for disciplinary action. We also found that OMVIC included in its marketing plan a greater emphasis on educating consumers about the all-in-price advertising requirement in Ontario. In 2022, OMVIC increased the number of months its marketing campaign focused on all-in-price advertising messaging during the year from four months to seven months.

OMVIC Operations

Recommendation 19

To improve the effectiveness of the Ontario Motor Vehicle Industry Council's (OMVIC's) operations in order to provide better protection to consumers and increase OMVIC's responsiveness in processing dealer registrations and taking enforcement action, we recommend that OMVIC:

- *review the workload of its key operating departments;*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC provided a business case to the Ministry in 2015 indicating its intent to double its vehicle transaction fee from \$5 to \$10 to generate new funds to improve public awareness about OMVIC's role and available consumer protections for car buyers, increase the resources devoted to its operations and increase enforcement actions. Despite the higher vehicle transaction fee, we found that the human resources devoted to its operations and enforcement work had not increased significantly.

In our follow-up, we found that in 2021 OMVIC completed a preliminary workload assessment of its key operating departments. The preliminary assessment showed that the registration, complaints handling and inspection departments should add 10, nine, and seven new staff, respectively. OMVIC informed us that due to budget availability, the number of additional staff identified in the workload studies needed to be reduced to meet key immediate needs, resulting in a final assessment which was to add eight staff to registration, six to complaint handling and five to the inspections department. At the time of our follow-up, eight of the recommended additional positions in the registration department, six of the positions in the complaints handling department, and five of the positions in the inspections department had been filled.

- *put in place a plan to improve operations in the areas of consumer protection and responsiveness to consumers and dealer registrations and enforcement action.*

Status: In the process of being implemented by December 2023.

In our follow-up, we found that OMVIC planned to follow through with this recommendation once its new information system was fully set up. OMVIC expects this new system to increase efficiencies in key operating departments such as its enforcement and complaint handling departments through implementation of automatic risk-based features and management oversight controls. In May 2023, OMVIC implemented an online registration portal and application with built-in controls to prevent incomplete applications from being submitted. OMVIC expects registration wait times to improve without the need for additional human resources. OMVIC informed us that it will assess and develop a plan by the end of 2023 for any additional operational improvements that may be needed once the activity levels for its departments become known.

Recommendation 20

So that the Ontario Motor Vehicle Industry Council (OMVIC) can contribute directly to the Compensation Fund (Fund) to cover future consumer claims, if needed, we recommend that OMVIC, in co-ordination with the Compensation Fund's Board of Trustees:

- *work with the Ministry of Government and Consumer Services to propose an update to the government on regulations under the Motor Vehicle Dealers Act, 2002 that would permit OMVIC to transfer funding from its general surplus to the Fund;*

Status: Little or no progress.

Details

In our 2021 audit, we found that although OMVIC had seen its accumulated surplus and reserves increase by 275% between 2015 and 2020, it did not have the legal authority under the *Motor Vehicle Dealers Act, 2002* to use surplus funds as needed to fund the Compensation Fund, whose sustainability had come into question.

In our follow-up, we found that OMVIC submitted a proposal to the Ministry to allow it to transfer funds from its general surplus to the Compensation Fund.

However, at the time of our follow-up, the Ministry told us it was still developing policy options for public consultation. If approved by government, the Ministry estimates that any potential policy changes will come into effect by July 2025.

- *establish a policy to periodically review the continuing financial sufficiency of the Fund.*

Status: Fully implemented.

Details

In our 2021 audit, we found that there was no policy or practice to periodically engage a third-party actuarial expert to review the Compensation Fund to determine future financial exposure and if the Fund was sufficient to cover future requirements. In the last 10 years, only one actuarial review of the Fund had been completed.

In our follow-up, we found that in September 2022 the Compensation Fund Board approved a policy to periodically review the continuing financial sufficiency of the Fund. The policy states that the Compensation Fund Board will review the Fund's reserve status at least quarterly. In addition, in consultation with OMVIC's management, the Compensation Fund Board will determine when an actuarial study is required. Factors to be considered include consumer claim frequency, consumer claim pay-outs and the Fund's reserve trendline.

Recommendation 21

To confirm that motor vehicle dealers remit complete fees for each motor vehicle transaction to the Ontario Motor Vehicle Industry Council (OMVIC), and that OMVIC collects those complete fees, we recommend that OMVIC:

- *work with the Ministry of Government and Consumer Services to put in place an information-sharing agreement with the Ministry of Transportation (MTO) to obtain motor vehicle registration records;*
- *use the data obtained from MTO to verify the accuracy of vehicle transactions reported by individual motor vehicle dealers;*

- include a step in its motor vehicle dealer inspection process to compare the number of vehicle transactions self-reported by a dealer to the dealer's financial records; and
- take steps to collect unpaid fees from motor vehicle dealers found to have underreported vehicle transactions.

Status: Little or no progress.

Details

In our 2021 audit, we found that the number of vehicle transactions reported by motor vehicle dealers to OMVIC each year was not always accurate, resulting in motor vehicle dealers paying fewer fees to OMVIC than required. Registered motor vehicle dealers are required to remit a \$10 transaction fee to OMVIC for every vehicle sold, leased or exported to consumers. Each year, motor vehicle dealers self-report the number of their vehicle transactions to OMVIC, which uses this number to determine the amount of transaction fees owed by each registered motor vehicle dealer to renew their registration. However, we found that OMVIC did not verify the accuracy of all reported vehicle transactions. Instead, it relied primarily on self-reported numbers from dealers. For example, OMVIC did not have an information-sharing protocol with the Ministry of Transportation (MTO) to compare all reported vehicle transactions to the number of vehicles registered with MTO. When a vehicle is sold or leased, the *Ontario Highway Traffic Act* requires that a motor vehicle dealer register the vehicle with MTO.

In our follow-up, we found that OMVIC worked with MTO to obtain sample datasets of motor vehicle registration records. OMVIC reviewed the datasets and informed us that it could not rely upon the MTO data on its own to verify motor vehicle dealers' self-reported transaction volumes. At the time of our follow-up, OMVIC was exploring alternative ways to verify vehicle transaction volumes, and to implement the remaining recommended actions.

Recommendation 22

To identify and reduce the risk of money laundering activity through motor vehicle dealers, we recommend that the Ontario Motor Vehicle Industry Council and the Ministry of Government and Consumer Services work with their counterparts in the federal government to introduce a requirement for motor vehicle dealers to report cash transactions over a certain threshold to the Financial Transactions and Reports Analysis Centre of Canada.

Status: Little or no progress.

Details

In our 2021 audit, we noted that motor vehicle dealers were not required to report cash transactions over a certain threshold to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). In contrast, entities such as casinos, financial institutions, life insurance companies, money service businesses and others were required to report cash transactions or suspicious transactions exceeding \$10,000 to FINTRAC, a federal agency that analyzes financial transactions reported to it to determine whether there are reasonable grounds to suspect that the information is relevant to the investigation or prosecution of money laundering or terrorist financing. A 2018 report commissioned by the Attorney General of British Columbia identified that organized crime used the automobile market to launder money in the province, at times making use of motor vehicle dealerships.

In our follow-up, we found that the Ministry met with OMVIC, FINTRAC and other provinces to discuss money laundering and requiring motor vehicle dealers to report cash transactions over a certain threshold to FINTRAC. However, at the time of our follow-up, the Ministry had not yet finalized its research on potential options for implementation. The Ministry plans to finalize and present policy options to the Minister's office based on its research and liaise with the federal government as appropriate pending direction by July 2025.

Public Reporting

Recommendation 23

So that the information that the Ontario Motor Vehicle Industry Council (OMVIC) reports to the public is accurate, complete and consistent, we recommend that OMVIC annually report on:

- *the complete results of the consumer surveys it conducts and highlight areas where improvements are needed;*
- *completed inspections and site visits separately; and*
- *time spent to review registration applications, including staff time to follow up and collect missing information.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC selectively reported on survey questions that showed favourable results rather than on questions that indicated consumer awareness had not improved or had declined. For example, OMVIC did not publicly report on survey results between 2014 and 2020 that indicated that 86% of Ontarians did not know that Ontario did not have a cooling-off period.

We also found that OMVIC publicly reported in its annual report that it conducted 12,274 inspections between 2016 and 2020. However, based on our review of inspection data, we found that the number of inspections OMVIC completed was overstated by 3,004 (25%), in part because some inspections were simply site visits conducted to check if a motor vehicle dealer was operating at its registered site. Such visits did not include a detailed review of a dealer's books and records.

In addition, we found that in 2019 OMVIC reported that, on average, it had processed and approved complete applications for new motor vehicle dealer registration in 23 business days, meeting its 20–30 business day target. However, the applications processed within OMVIC's target time frame accounted for only 13% of total applications OMVIC had received. We found that in practice, the vast majority of applications

it received were incomplete, and the average time to process and approve all applications was 120 days—more than five times longer than OMVIC publicly reported.

In our follow-up, we found that OMVIC published on its website the complete results of the consumer surveys conducted for 2022, and highlighted areas of improvement by including their targets for each survey question. OMVIC also reported on the number of completed inspections and site visits for 2022 separately rather than as a combined figure, as well as registration-application processing times including staff time to follow up and collect missing information.

Governance

Recommendation 24

So that the Ontario Motor Vehicle Industry Council's (OMVIC's) Board of Directors effectively executes its responsibilities to oversee motor vehicle dealers and protect consumers by bringing new perspectives to OMVIC, we recommend that OMVIC's Board of Directors, work with the Ministry of Government and Consumer Services to:

- *establish fixed term limits for its Board members that are in line with best practices of existing authorities and other organizations similar to OMVIC;*
- *reassess the proportion of industry representatives on OMVIC's Board and compare it to the proportions in other delegated authorities; and*
- *revise selection criteria for Board members to highlight qualifications that best serve consumer interests.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC did not have term limits for its Board members. As a result, we found that at the time of our audit, some Board members had served on the Board for 14 years or more. Over their tenure on the Board, these members held

key positions such as Chair, Vice-Chair and Secretary-Treasurer. For example, the previous Chair had been on the Board for more than 19 years. We also found that nine of OMVIC's 12 Board members were motor vehicle dealer industry representatives elected to the Board, even though OMVIC was established by the Ontario government to protect the interests of consumers. The composition of OMVIC's Board and its election process criteria were developed at the discretion of the Board and were included in the Board's bylaws.

In our follow-up, we found that in April 2023 the Minister of Public and Business Service Delivery issued Minister's Orders that addressed our recommendations. The Minister's Orders required OMVIC to reduce the number of board members from 12 to nine, and to limit the term of office for elected directors to three years. The Minister's Orders also stated that Board members cannot be re-elected or reappointed if they have served an aggregate of nine or more years. In addition, the Minister's Orders prevent OMVIC from drawing more than 34% of its Board members from the motor vehicle dealership industry. As well, the Minister's orders indicated that in order to serve on the Board, all Board members must also possess a positive orientation for a proactive consumer protection mandate. In June 2023, in response to the Minister's Orders, OMVIC updated its bylaws to address the Minister's Orders.

Recommendation 25

So that the Ontario Motor Vehicle Industry Council (OMVIC) is effectively and transparently governed, we recommend that OMVIC's Board of Directors and the Compensation Fund's Board of Trustees:

- *establish and follow a protocol to ensure procurement of third-party services are well documented, transparent, free from any biases, and best suit the needs of OMVIC and its Compensation Fund; and*
- *establish clear policies that address actual, potential and perceived conflicts of interest.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC's Board decided to continue to retain an investment firm to manage both OMVIC's investments and those of the Compensation Fund despite OMVIC's management ranking the firm's proposal last among six proposals finalized for OMVIC's investments. We also found that three past Board members and one current board member had declared to OMVIC's Board that they had a conflict of interest with the investment firm. In addition, we noted that one current OMVIC Board member participated in initial committee meetings related to the request-for-proposals process to choose a new investment firm.

In our follow-up, we found that in February 2023 OMVIC had updated its procurement policies. According to the updated policies, evaluation criteria must be developed, reviewed and approved by an appropriate authority prior to the commencement of a competitive procurement process. Competitive procurement documents must clearly outline mandatory rating scores and other criteria that will be used to evaluate submissions, including the weight of each criterion. Further, the policies specifically state that the submission that receives the highest score and meets all mandatory requirements specified in the competitive procurement document must be declared the winning bid.

We also found that OMVIC reviewed and updated OMVIC's Board of Directors' Code of Conduct policy to clarify rules around conflict of interests. If a Board member believes that an actual, potential or perceived conflict of interest may exist, the member must immediately disclose the conflict and the nature of the conflict to the Board. The member with the declared conflict must not be involved in any Board discussion regarding the circumstances giving rise to the conflict and must abstain from any vote on the issue. The member also should not be involved in negotiations or other discussions on behalf of OMVIC concerning the matter.

OMVIC also updated the Compensation Fund's Board of Trustees' conflict of interest policies to substantially mirror OMVIC's Board of Directors' policies.

Recommendation 26

So that the Compensation Fund's Board of Trustees can exercise its independent authority to manage and administer the Compensation Fund, we recommend that the Ministry of Government and Consumer Services:

- amend the regulation to disallow the Ontario Motor Vehicle Industry Council (OMVIC) Board from appointing its own Board Members onto the Compensation Fund's Board of Trustees; and
- clarify the roles and responsibilities of the Compensation Fund's Board of Trustees in the administrative agreement with OMVIC to reflect its independent authority with respect to the Compensation Fund.

Status: Little or no progress.

Details

In our 2021 audit, we found that OMVIC's Board interfered with the independence of the Compensation Fund's Board. The OMVIC Board inserted three of its own members to fill vacant positions on the Compensation Fund Board, even though the Compensation Fund Board had already interviewed and selected candidates that it had proposed to OMVIC's Board to fill these positions. With the appointment of these three OMVIC Board members to the Compensation Fund Board, five out of nine members of the Compensation Fund Board were also OMVIC Board members. In addition, we also noted that OMVIC's administrative agreement with the Minister did not refer to the roles and responsibilities of the Compensation Fund Board even though *the Motor Vehicle Dealers Act, 2002* provides for the independent exercise of authority by the Compensation Fund Board.

In our follow-up, we found that the Ministry had not made progress toward implementing these recommended actions. The Ministry informed us that it was still reviewing the recommendations and if a decision is made to move forward, the Ministry estimates that any potential changes will come into effect by July 2025.

Recommendation 27

So that the Ontario Motor Vehicle Industry Council's (OMVIC's) resources are used more economically, we recommend that OMVIC and its Board of Directors:

- more closely align its reimbursement policy with the Ontario government's Travel, Meal and Hospitality Expenses Directive;
- disallow any reimbursement of alcoholic beverages;
- remove the Board Chair's ability to override the meal rates established in the expense policy;

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC's allowable meal reimbursement rates were substantially higher than those of the Ontario government. Between 2016 and 2020, OMVIC incurred approximately \$523,000 in meal expenses. We also found that OMVIC's Board members and its senior management team had purchased alcoholic beverages and expensive meals at upscale venues at OMVIC's expense. In addition, we found that the Board Chair could, at their discretion, authorize alcoholic beverages and meals that exceeded OMVIC's policy limits.

In our follow-up, we found that OMVIC conducted a review comparing its existing Travel, Meal, and Hospitality Policy to the Ontario government's Travel, Meal and Hospitality Expenses Directive, and made a number of changes to its policy. The updated policy disallows the reimbursement of alcoholic beverages as part of a travel or meal expense. Consistent with Ontario government's Travel, Meal and Hospitality Expenses Directive, alcohol consumption is only permitted as part of hospitality events in limited circumstances. Prior to serving alcohol, documentation with approval from the CEO is required. The updated policy also removes the Board Chair's ability to override the meal rates. Only the CEO can use their discretion in special circumstances (for example, the year-end

company event, and year-end Board meeting) to exceed the established meal rates if a business case is provided and approved by the CEO before the event.

- *utilize OMVIC's boardroom to minimize the costs of Board and Board committee meetings.*

Status: Fully implemented.

Details

In our 2021 audit, we found that OMVIC had been hosting many of the Board and Board Committee meetings at hotel venues despite the availability of a boardroom at OMVIC's head office that can accommodate more than 20 people.

In our follow-up, OMVIC informed us that its boardroom has been equipped with all the required equipment to be utilized for Board and Committee meetings. We were also advised that OMVIC's Board of Directors and the Board of Trustees of the Compensation Fund agreed that, to the extent practicable, all Board-related meetings that required attendance in person would be held in OMVIC's boardroom.

Ministry Oversight

Recommendation 28

So that the Ministry of Government and Consumer Services (Ministry) fulfills its responsibility to effectively oversee that the Ontario Motor Vehicle Industry Council (OMVIC) meets its mandate and operates in compliance with applicable requirements, we recommend that the Ministry:

- *require that OMVIC periodically report to the Ministry on its progress in using the additional revenues it is collecting to meet the objectives of its 2015 business case;*
- *set a reasonable deadline for OMVIC to comply with its administrative agreement with the Minister to operate on a cost-recovery basis; and*
- *monitor and take corrective action to ensure that OMVIC complies.*

Status: Little or no progress.

Details

In our 2021 audit, we found that in 2015 OMVIC provided the Ministry with a business case indicating it was doubling its vehicle transaction fee from \$5 to \$10 in order to improve consumer awareness and increase enforcement efforts. However, we found that the Ministry did not sufficiently monitor OMVIC to identify that it had fully implemented the actions it outlined in its business case. In addition, the Ministry had not taken action to ensure that OMVIC operates on a cost-recovery basis as required under OMVIC's administrative agreement with the Minister. As a result, between 2015 and 2020, OMVIC's accumulated surplus and reserves grew by 275%.

In our follow-up, we found that the Ministry had not yet required OMVIC to periodically report to the Ministry on its progress in using the additional revenues it is collecting to meet the objectives of its 2015 business case. The Ministry told us that it plans to revise the administrative agreement with OMVIC to include this requirement as well as set a deadline for OMVIC to comply with the agreement to operate on a cost-recovery basis by December 2024.

Recommendation 29

So that serious concerns raised about the Ontario Motor Vehicle Industry Council (OMVIC) are appropriately addressed, we recommend that the Ministry of Government and Consumer Services (Ministry) establish a protocol to exercise its authority under the administrative agreement between the Minister and OMVIC to conduct a review when serious complaints arise.

Status: Little or no progress.

Details

In our 2021 audit, we found that even though the Ministry had received several significant complaints about Board governance at OMVIC, the Ministry had never initiated any reviews of OMVIC to address those concerns. Instead, the Ministry's efforts to address these concerns were limited to making inquiries to OMVIC's senior management and placing sole reliance on their verbal and written representations. We found a number of indicators that should have triggered the

Ministry to review OMVIC's governance practices prior to our audit.

In our follow-up, we found that the Ministry had not established a protocol to exercise its authority under the administrative agreement between the Minister and OMVIC to conduct a review when serious complaints arose. The Ministry told us that it plans to revise the administrative agreement to include a protocol by December 2024.

Recommendation 30

So that the Ministry of Government and Consumer Services (Ministry) can effectively monitor and address the Ontario Motor Vehicle Industry Council's (OMVIC's) performance in protecting consumers and regulating motor vehicle dealers, we recommend that the Ministry revise the performance indicators it uses to monitor OMVIC's performance to include indicators that more closely monitor OMVIC's operations, including in the areas of inspection, registration, consumer complaint handling, the Compensation Fund, and educating and informing consumers about their rights and protections in purchasing a car.

Status: Little or no progress.

Details

In our 2021 audit, we found that the Ministry did not collect sufficient performance information from OMVIC to be able to monitor whether OMVIC was effectively meeting its mandate to protect consumers and to regulate motor vehicle dealers and salespersons. We found that until 2020, measurable targets had not been established for many of the performance indicators that OMVIC reported to the Ministry, limiting the Ministry's ability to assess OMVIC's performance. In 2020, performance indicators and targets were established that OMVIC would report to the Ministry. However, we found that many key aspects of OMVIC's operations were not covered by these performance indicators.

In our follow-up, we found that the Ministry and OMVIC had preliminary discussions on implementing new performance metrics. Following these discussions, OMVIC began reporting on new performance metrics that are pending Ministry approval in the areas of inspections, registration, consumer complaint handling, the Compensation Fund and educating and informing consumers.