

## Chapter 12

# Financial and Consumer Affairs Authority—Regulating Motor Vehicle Dealers to Protect Consumers

### 1.0 MAIN POINTS

By February 2022, the Financial and Consumer Affairs Authority improved its processes to regulate motor vehicle dealers to protect consumers, but still has work to do. It implemented two recommendations and partially implemented one of the other two recommendations we made in 2020.

The Authority implemented a new policy and procedures manual for inspecting motor vehicle dealers. It also formally monitored the completion of motor vehicle dealer inspections compared to its inspection plan.

While the Authority developed a framework for selecting motor vehicle dealers for inspection, based on a formal analysis of key risks, it had not yet fully implemented this framework. Using clearly defined risk factors to select motor vehicle dealers for inspection can help the Authority ensure it focuses its limited inspection resources on dealers at a higher risk of non-compliance.

In addition, the Authority has not developed a process to formally analyze the results of its enforcement activities for motor vehicle dealers. Analyzing enforcement activity results (such as non-compliance trends) can help focus enforcement resources on areas that can best promote compliance.

A well-defined, risk-informed approach can help build Saskatchewan motor vehicle consumers' confidence in the Government's ability to protect their consumer rights.

### 2.0 INTRODUCTION

The Financial and Consumer Affairs Authority is a Treasury Board Crown corporation created to protect Saskatchewan consumers, public interests, and businesses by providing effective, balanced and timely market regulation.<sup>1</sup> The Authority is dedicated to advancing the interests of consumers by ensuring fair trading conduct and minimizing opportunities for unfair, unlawful, or deceitful commercial activity. It is specifically responsible for regulating financial securities and services, insurance and real estate, pensions, and consumer-related businesses, including motor vehicle dealers.

The Consumer Protection Division is responsible for regulating consumer protection in Saskatchewan. This includes market regulation; sector-specific business and salesperson licensing; complaint investigation; education initiatives; inter-agency and inter-jurisdictional cooperation; and enforcement action across nine industries, including motor vehicle dealers.<sup>2</sup> There were 841 motor vehicle dealers in Saskatchewan at March 31, 2022.

<sup>1</sup> Financial and Consumer Affairs Authority of Saskatchewan, *Annual Report 2020/21*, p. 7.

<sup>2</sup> *Ibid.*, p. 11.



## 2.1 Focus of Follow-Up Audit

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This chapter describes our first follow-up audit of management's actions on the recommendations we made in 2020 about the Authority's processes to regulate motor vehicle dealers to protect consumers.<sup>3</sup>

Our *2020 Report – Volume 1*, Chapter 7, concluded that for the 12-month period ended December 6, 2019, the Financial and Consumer Affairs Authority had effective processes except in a few areas. We made four recommendations.

To conduct this audit engagement, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Authority's progress toward meeting our recommendations, we used the relevant criteria from the original audit. The Authority agreed with the criteria in the original audit.

Our audit approach included discussing actions taken with Authority management and reviewing key documents provided by management (e.g., Board reports, policy and procedures manual, risk-based inspection framework).

## 3.0 STATUS OF RECOMMENDATIONS

This section sets out each recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation at February 25, 2022, and the Financial and Consumer Affairs Authority's actions up to that date.

### 3.1 Risk-Based Approach for Inspections Developed, But Not Yet Fully Implemented

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***We recommended the Financial and Consumer Affairs Authority select motor vehicle dealers for inspection based on a formal analysis of key risks for non-compliance.*** (*2020 Report – Volume 1*, p. 76, Recommendation 1; Public Accounts Committee has not yet considered this recommendation as of May 4, 2022)

**Status**—Partially Implemented

The Financial and Consumer Affairs Authority developed a well-defined risk framework it plans to use to select motor vehicle dealers for inspection. However, the Authority has not yet fully used this framework to analyze key risks in selecting motor vehicle dealers to inspect.

In summer 2020, the Authority developed its *Risk Based Inspection Program* containing a robust risk-based dealer inspection framework (Framework). The Authority designed the Framework to make informed decisions in its allocation of resources; focus attention on proactive risk reduction through targeted inspections; reduce unnecessary regulatory burdens; and focus attention on outcomes in regulatory decision-making.<sup>4</sup>

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<sup>3</sup> *2020 Report – Volume 1, Chapter 7*, pp. 65–82.

<sup>4</sup> Financial and Consumer Affairs Authority, *Consumer Protection Division Risk Based Inspection Program*, p. 4.

The Framework has five steps, as shown in **Figure 1**, and is cyclical in nature, building upon past analysis and dealer history. The Framework will be applied across dealers, at least annually, but can be applied more often if any new concerns arise, such as recent compliance action against the motor vehicle dealer.

**Figure 1—Motor Vehicle Dealer Inspection Framework**



Source: Consumer Protection Division Risk Based Inspection Program.

In addition, the Authority developed a list of risk factors to consider when assessing the risk for each motor vehicle dealer, as shown in **Figure 2**. The Authority’s guidance requires consideration of both the likelihood that the risk factor will occur and the expected impact.

**Figure 2—Risk Factors Considered in Motor Vehicle Dealer Risk Assessment**

<b>Vehicle Safety Factors:</b>	
<ul style="list-style-type: none"> <li>• Dealer sells rebuilds</li> <li>• Dealer routinely inspects all vehicles for safety</li> <li>• Dealer has been warned by the Authority for selling unsafe vehicles in the last three years</li> </ul>	<ul style="list-style-type: none"> <li>• Dealer routinely inspects off-lease vehicles for safety</li> <li>• Dealer imports vehicles for resale</li> <li>• Dealer sells under \$5,000 vehicles</li> </ul>
<b>Dealer Operations Factors:</b>	
<ul style="list-style-type: none"> <li>• Dependence on consignments for business</li> <li>• Volume of salesperson turnover</li> </ul>	<ul style="list-style-type: none"> <li>• Delinquency in paying Consumer Protection Division (CPD) licensing fees</li> </ul>
<b>Business Office Factors:</b>	
<ul style="list-style-type: none"> <li>• Documentation is compliant with legislative authorities</li> <li>• Dealer does leasing</li> <li>• Dealer does sub-prime loans</li> <li>• Dealer has internal controls in place for handling consumer information</li> </ul>	<ul style="list-style-type: none"> <li>• Privacy Policy—Does a dealer ensure consumer privacy in all sales/leases?</li> <li>• Financial security claims in the past five years</li> <li>• Dealer maintains full documentation review with consumer prior to sale</li> </ul>
<b>Dealer Compliance Factors:</b>	
<ul style="list-style-type: none"> <li>• Last inspection of dealer</li> <li>• Results of previous dealer inspection</li> <li>• Warning letters in the past five years</li> <li>• Undertaking (Voluntary Compliance Agreements) in the previous five years</li> <li>• Compliance orders in the previous five years</li> <li>• Suspensions/Conditions—as a result of compliance activity</li> </ul>	<ul style="list-style-type: none"> <li>• Level of cooperation with CPD complaint and investigation process</li> <li>• Level of cooperation with licensing—payment of all fees</li> <li>• Action by other regulatory bodies against dealer</li> <li>• Volume of substantiated complaints</li> </ul>

Source: Adapted from the Consumer Protection Division Risk Based Inspection Program Appendix A: Risk Based Dealer Inspection Summary Template.



The Authority conducted 40 inspections of motor vehicle dealers in 2021–22; however, we found the Authority did not fully use its new Framework when selecting motor vehicle dealers for inspection during their 2021–22 fiscal year. It did utilize some factors of the Framework, including considering the date of the dealer’s last inspection, results of previous inspections or investigations, and the sale of consignment vehicles.

Management indicated they plan to use the Framework once they obtain some additional information from motor vehicle dealers (e.g., number of salespeople turnover/changes at the dealership; whether the dealer sells rebuilds; whether the dealer imports vehicles for resale; inventory level changes compared to previous year at the dealership; number of unpaid lien claims against the dealership) and are able to automate key aspects of the vehicle dealers’ inspection rating process in its Registration Licensing System. Management expects to update its Registration Licensing System in 2022–23.

Not fully assessing risk factors when selecting licensed motor vehicle dealers for inspection increases the risk of an inconsistent selection process, and using inspection resources on dealers at lower risk of non-compliance. Documenting the rationale for selecting dealers helps to demonstrate the use of a fair and consistent regulatory approach.

## 3.2 Updated Policy and Procedures Manual for Inspections of Motor Vehicle Dealers Implemented

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***We recommended the Financial and Consumer Affairs Authority update and implement a policy and procedures manual for inspections of motor vehicle dealers.*** (2020 Report – Volume 1, p. 79, Recommendation 2; Public Accounts

Committee has not yet considered this recommendation as of May 4, 2022)

**Status**—Implemented

In April 2020, the Financial and Consumer Affairs Authority implemented a new policy and procedures manual, the *Consumer Protection Division Compliance Policy and Procedures Manual* (Manual).

The Manual documents the policy and procedures that support the Authority’s efforts to promote compliance and to enforce laws regulating the vehicle sales industry in Saskatchewan.<sup>5</sup>

The Manual includes:

- Roles and responsibilities for the Authority’s staff
- Requirements for dealer liaison visits<sup>6</sup>
- Requirements for inspections, including communication specifications
- Requirements for investigations
- Guidance around enforcement actions

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<sup>5</sup> Financial and Consumer Affairs Authority, *Compliance Policy and Procedures Manual*, p. 4.

<sup>6</sup> Dealer liaison visits are regular contact with vehicle dealers, whether in person, via phone or email, meant to foster relationships with the motor vehicle dealers and the Authority.

For all of the five inspections we tested (conducted since April 2020), the Authority followed its established procedures. It completed the inspection as expected and communicated the results of inspections in a timely manner (e.g., generally within one month of the inspection).

Having updated policies and procedures that reflect the Authority's current practices enables more effective training and understanding of staff.

### 3.3 Monitoring the Completion of Vehicle Dealer Inspections

***We recommended the Financial and Consumer Affairs Authority formally monitor the completion of motor vehicle dealer inspections compared to inspection plans.*** (2020 Report – Volume 1, p. 80, Recommendation 3; Public Accounts Committee has not yet considered this recommendation as of May 4, 2022)

**Status**—Implemented

The Financial and Consumer Affairs Authority monitors the completion of motor vehicle dealer inspections compared to its inspection plans.

We found, at the beginning of the fiscal year, inspectors and the Director of the Consumer Protection Division agreed on which motor vehicle dealers to inspect for the year (i.e., 40 inspections). The inspectors then tracked the planned inspections and key information about the inspections (e.g., date of planned inspection, date report sent to licensee, date inspection results reviewed by Director) in a spreadsheet.

At February 17, 2022, we found the Authority had completed 79% of the inspections planned for the year ended March 31, 2022. We also found the Authority's staff properly recorded an explanation when they did not complete a planned inspection.

Formally monitoring the completion of its annual inspection plan increases the likelihood of the Authority effectively using inspections as a proactive enforcement activity.

### 3.4 Analysis of Enforcement Activity Results Needed

***We recommended the Financial and Consumer Affairs Authority formally analyze the results of its enforcement activities for motor vehicle dealers to support a risk-informed enforcement approach.*** (2020 Report – Volume 1, p. 81, Recommendation 4; Public Accounts Committee has not yet considered this recommendation as of May 4, 2022)

**Status**—Not Implemented

The Financial and Consumer Affairs Authority does not formally analyze the results of its enforcement activities.

We found the Authority does not formally document its analysis of non-compliance trends and other findings from inspections and complaint investigations. Rather, management indicated they informally track trends and results of motor vehicle dealer inspections.



Management indicated they are currently working on a process to document and report analysis of non-compliance trends. They expect to report trend analysis to senior management starting in 2022–23.

Lack of formal analysis of enforcement activity results (such as non-compliance trends) for motor vehicle dealers increases the risk of not focusing enforcement resources on the highest risk areas of non-compliance or on areas that can best promote compliance. Taking a well-defined, risk-informed approach may best protect Saskatchewan purchasers of motor vehicles and could result in a gain of consumers' confidence in the Government's ability to protect consumer rights.