



financial intelligence centre

REPUBLIC OF SOUTH AFRICA

**REVISED PUBLIC COMPLIANCE COMMUNICATION No. 07 (PCC07) ON THE
DEFINITION OF A MOTOR VEHICLE DEALER FOR THE PURPOSE OF
SCHEDULE 3 OF THE FINANCIAL INTELLIGENCE CENTRE ACT NO. 38 OF
2001**

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function under section 4(c) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (the FIC Act) read together with Regulation 28 of the Money Laundering and Terrorist Financing Control Regulations (the Regulations) issued in terms the FIC Act.

Section 4(c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the FIC Act.

Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Regulations issued under the FIC Act. Guidance provided by the Centre is authoritative in nature. An accountable institution must comply with the FIC Act and Regulations read with guidance issued by the Centre, and where there is a departure explain the reasons for not adhering to the guidance provided by the Centre. It is important to note that enforcement action may emanate as a result of non-compliance with the FIC Act in areas where there have been non-compliance with the guidance provided by the Centre.

PCC Summary

The Centre views a “person who carries on the business of dealing in motor vehicles” to be any person who is engaged in the business of buying, selling, or exchanging any new and second hand self-propelled vehicle, including a vehicle having pedals and an engine, or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by these means on land, as well as any trailer and caravan.

This includes persons dealing in both new and second hand vehicles.

Disclaimer

The publication of a PCC concerning any particular issue, as with other forms of guidance which the Centre provides, does not relieve the user of the guidance from the responsibility to exercise their own skill and care in relation to the users' legal position. The Centre accepts no liability for any loss suffered as a result of reliance on this publication.

Copyright Notice

This PCC is copyright. The material in a PCC may be used and reproduced in an unaltered form only for personal, non-commercial, use or non-commercial use within your organisation.

Apart from any use permitted under the Copyright Act, Act No. 98 of 1978, all other rights are reserved.

Objective

The objective of this PCC is to provide the Centre's view on the interpretation of “a person who carries on the business of dealing in motor vehicles” as designated in Item 1 of Schedule 3 to the FIC Act.

1. Introduction

- 1.1 Motor vehicle dealers are listed in Item 1 of Schedule 3 to the FIC Act as reporting institutions. The FIC Act does not provide a definition of a motor vehicle or a motor vehicle dealer, and the purpose of this PCC is to clarify the Centre's interpretation of these terms.

2. Definition of a motor vehicle dealer

- 2.1 The Centre has taken into consideration definitions contained in national legislation¹ as well as the interpretation used in the retail motor industry as an indicative interpretation, in determining what is considered a motor vehicle dealer, for purposes of interpreting the term "a person who carries on the business of dealing in motor vehicles" in Schedule 3 to the FIC Act.
- 2.2 The Centre considers a motor vehicle to mean any self-propelled vehicle, including a vehicle having pedals and an engine, or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by these means on land and includes any trailer and caravan.
- 2.3 A motor vehicle dealer is considered as any person who is engaged in the business of buying, selling, or exchanging motor vehicles as described above, regardless of whether such vehicles are new or second hand vehicles.

3. Legal obligations flowing from being a Reporting Institution

- 3.1 Motor vehicle dealers have the following compliance obligations in terms of the FIC Act:
- 3.1.1 **Registration** – Motor vehicle dealers have a duty to register with the Centre in terms of section 43B of the FIC Act.

¹ The National Road Traffic Act No.93 of 1996; and The Road Traffic Accident Fund Act No.56 of 1996

3.1.2 **Cash Threshold Reporting** – Motor vehicle dealers are required to report cash transactions above the prescribed threshold of R24 999.99 to the Centre, in terms of section 28 of the FIC Act. Cash transactions in the context of motor vehicle dealers include the following:

3.1.2.1 motor vehicle related services provided by the motor vehicle dealer; and

3.1.2.2 buying and selling of motor vehicle parts.

3.1.3 **Suspicious and Unusual Transaction Reporting** – Section 29 of the FIC Act requires that any person, who carries on a business, is in charge of a business, manages a business, or is employed by a business, must report suspicious or unusual transactions to the Centre. This reporting obligation is applicable to a person who carries on the business of dealing in motor vehicles as defined in this revised PCC07.

4. Conclusion

4.1 The Centre considers “a person who carries on the business of dealing in motor vehicles” to be any person who is engaged in the business of buying, selling, or exchanging any self-propelled vehicle, including a vehicle having pedals and an engine, or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by these means on land, as well as any trailer and caravan.

4.2 This includes persons dealing in both new and second hand vehicles.

For any further enquiries regarding this Revised Public Compliance Communication No. 07, please contact the Centre on 0860 222 200, or by logging a query at <http://www.fic.gov.za/Secure/Queries.aspx>.

Issued by:

**The Director
Financial Intelligence Centre
03 March 2016**

Schedule 3 to the FIC Act
LIST OF REPORTING INSTITUTIONS

1. A person who carries on the business of dealing in motor vehicles.
2. A person who carries on the business of dealing in Kruger rands.