

BULLETIN

Ontario's Economic Downturn

Dear Registrant,

In these difficult economic times, we want to answer registrants' questions about how they can handle the challenges they face without compromising their position as an OMVIC registrant.

In order to maintain registration as a motor vehicle dealer or salesperson, you must conduct business with honesty, integrity, financial responsibility and in accordance with the law.

We understand some dealers may be facing significant financial difficulty as a result of circumstances arising from the current economic climate and which are not related to their conduct as registrants.

OMVIC's primary concern is the conduct of key individuals during a financial crisis with regard to honesty, integrity, financial responsibility and compliance with law. The kind of conduct which may trigger administrative action by OMVIC would include:

- failing to immediately and fully pay out liens on customer trade-ins
- failing to ensure third party warranties are activated with the warranty provider
- knowingly providing non-negotiable payment to customers or suppliers
- improperly transferring dealer assets to related parties
- failing to co-operate with a duly appointed receiver or trustee
- failing to ensure adequate financial controls and reporting are in place
- selling vehicles out-of-trust
- misappropriation of trust monies (e.g. retail sales tax collections, receipts on consignment sales, employee source deductions etc.)
- offering or selling a product or service without reasonable expectation it can be delivered to the customer
- preferentially paying one supplier, while not providing payment to others

We recognize some dealers may be in the position of considering bankruptcy protection and wonder about the consequences of such a decision in terms of OMVIC registration. While we cannot offer any advice on whether your financial position warrants bankruptcy, we can say bankruptcy is not necessarily a sign of financial irresponsibility which would disentitle you to future registration. Bankruptcy can be the responsible step to ensure an equitable distribution of assets instead of going further into debt.

If you are facing financial trouble, we encourage you to consult independent legal advice. Be mindful you should not only consider the lawfulness of any proposed action, but whether it demonstrates honesty, integrity and financial responsibility.

If there are other questions we can help with, please contact Robert Kirsic at: 416-512-3525 or robert.kirsic@omvic.on.ca.

