RESPONSE OF THE USED CAR DEALERS ASSOCIATION OF ONTARIO TO THE AUDITOR GENERAL'S VALUE-FOR-MONEY AUDIT OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

The Used Car Dealers Association of Ontario ("UCDA") welcomes the opportunity to share its thoughts and comments on the Auditor General's "Value for Money" Audit of the Ontario Motor Vehicle Industry Council ("OMVIC").

Many of the issues raised in the report, and in the 30 recommendations, are not new ideas. They have been considered over the years by the UCDA, OMVIC and other stakeholders. In previous meetings and contacts with Ministry officials, the UCDA has discussed concerns with OMVIC efficiency, accounting, responsiveness, oversight and governance. Other recommendations, it is fair to say, have never been considered, and we hope to explain why in this response. We have not included our past submissions to government on many of these issues, but would be pleased to share them with the Ministry should it find it helpful.

We have two fundamental concerns about the Auditor General's report:

1. In several instances, her recommendations range far beyond what we expected this value-for-money audit would entail, and instead venture into the realm of policy, rule making and politics. In short, we think the Auditor General has exceeded her mandate.

2. We do not believe the Auditor General has an appreciation of our industry, its history, or the creation and development of the regulatory regime under which it operates. This a product both of an understandable lack of expertise in the subject-matter of her inquiries as well as a failure to adequately consult with persons or stakeholders that could have helped to better inform her of the industry, the issues it faces, the relationship with OMVIC and consumers and solutions to those issues that would enhance the industry and better protect consumers.

As an example, we note the following comments by the Auditor General, which exemplify our concern with her lack of insight:

"We also noted that OMVIC's Board of Directors is heavily represented by motor vehicle dealers even though OMVIC is a consumer protection agency."

This observation misses the point on at least two levels.

First, OMVIC was created to administer a self-managed industry. Dealers regulating dealers was the very point of OMVIC's creation. Government felt, and we agreed, that the industry would be more proactive and knowledgeable in the regulation of its own industry than government ever was or could be, and this has proven to be true. Moreover, no public monies other than transaction fees (which dealers may choose to pass on to consumers), sustains OMVIC's operations. Funding is provided by the industry itself, a key element of the self-managed process that must be kept in mind. It should also be noted that self-management works. We would ask the Ministry to consider that under the current regulatory model, OMVIC has been more proactive in its enforcement, prosecutions and inspections than was the case before OMVIC was established. It is clear that the professionalism of the industry, under the current makeup of the Board of Directors, has blossomed.

Second, OMVIC is not 'just' a "consumer protection agency", nor was it ever intended to be. If it was, dealer-to-dealer sales would not be regulated, a point the Auditor General seems to have glossed over. While we acknowledge OMVIC's role in the protection of consumers in transactions involving the purchase or lease of motor vehicles, it was not the only intention when OMVIC was established. Our knowledge of the government's intention when it created OMVIC stems directly from our participation in the process leading to the establishment of OMVIC and in the development of the regulatory regime that followed in 2010. In our view, it should not be classified as a consumer protection agency. Other legislation exists that primarily focuses on consumer protection. UCDA believes that OMVIC should be considered a 'professional regulator,' not an enforcement arm for any special interest group.

As we prepared our submission, we were cognizant of the principles of professional regulation outlined in a report submitted in April 2019 to the Professional Engineers of Ontario by Harry Cayton, an advisor to the United Kingdom-based Professional Standards Authority. We agree with the following principles outlined in that report – entitled “A review of the regulatory performance of Professional Engineers of Ontario”:

- Good professional regulation is found in powers, policies, and practices that seek to deliver regulatory objectives in a manner that does not impose unnecessary burdens, that supports innovation and promotes productivity, and allows services and professional practice to flourish
- Good regulation reflects prevailing good practice and remains relevant. In contrast, poorly designed and delivered regulation does not serve or protect the public interest. Rather it imposes unnecessary costs on society, practitioners and the public without any meaningful benefit
- Transparency: Regulators must be open, and keep regulations and regulatory processes simple and user friendly
- Accountability: Regulators must be able to justify decisions, and be open to public scrutiny
- There is a public interest in all regulators carrying out their duties in an efficient and effective manner, and seeking to avoid inconsistency, disproportionality, and a lack of transparency and accountability.

We believe that in order to be an effective regulator, OMVIC should adhere to these common principles, much like other self-regulating professions, such as the legal, medical, dental professions and others.

In our view, many of the Auditor General’s recommendations would lead to more red tape, more regulations and more legislation that would hinder, not help, the industry and the consumers it serves. We believe that OMVIC currently has the mandate and the legislative and regulatory authority to operate in accordance with the principles outlined above. What OMVIC requires is better oversight and guidance in order to improve how it fulfills its mandate.

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.

UCDA: we are generally in agreement with the recommendation, with these provisos:

- We are unaware of who at OMVIC has the specialized expertise and knowledge required to analyze the financial requirements that applicants for registration must have in order to meet financial responsibilities of a new dealer. In our view, a knowledgeable third party should be retained to assess what the start-up costs might be for each class of registrant.
- The specific financial requirements must be reduced to writing in clear and concise language, so that there is no ambiguity as to the financial expectations expected of new registrants.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation about the need to review the application process and develop guidelines to fully assess the new dealer applicants' financial strength to ensure they have sufficient funds to operate their business. OMVIC will require new dealer applicants to provide a business plan regardless of their dealer class. The business plan includes their start-up capital, all expected expenditures such as lease or mortgage payments for their place of business, advertising costs, insurance for vehicles, salaries of employees, and repair recondition costs for used vehicles.

The new dealer application procedure will be updated based on the Auditor General's recommendation. The process may differ for each dealer class due to capital requirements and operational expenses. OMVIC will use this information to determine whether a new dealer applicant has sufficient funding to start a motor vehicle dealer business. OMVIC will also ensure that staff are trained on these added guidelines, with a view to applying them in a consistent manner when reviewing new dealer applications

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; and

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

UCDA:

The letter of credit process does not work. A more detailed review of the issue by the Auditor General would have demonstrated that letters of credit have not solved any of the problems that she imagines exist. What the Auditor General appears to be referring to is really the same as a bond, and that was replaced years ago by the Compensation Fund. We believe if the amounts that have actually been collected out of OMVIC mandated letters of credit were reviewed, one would find that they are negligible. Further, if the objective of the letter of credit is to protect the Compensation Fund from having to pay out claims, we would invite a proper analysis of paid claims to determine what proportion of claims have resulted from the actions of new dealer registrants who may have been required to post a letter of credit, compared with claims made against more established dealers who would not have been required to do so.

Letters of credit pose real hardships to new businesses, tying up much needed capital at a crucial stage of development, and represents more needless red tape.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding the requirement for increased use of letters of credit. Accordingly, OMVIC, in consultation with the Compensation Fund's Board of Trustees, will review and amend the current letters of credit policy as required. The revised policy would apply to motor vehicle dealers (new applicants) whose dealer class permits them to interact with consumers. OMVIC, in consultation with the Compensation Fund's Board of Trustees, will review and consider the appropriate time frame required to maintain a letter of credit with OMVIC.

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.

UCDA

We support this in principle. Of course, the devil is in the details, i.e. what material is taught, will testing be implemented and what happens if a registrant fails, what are the costs and how will the courses be delivered. We could support the notion that all registrants should be required to attend mandatory education sessions; however, we do not believe that testing is required. Given UCDA's current involvement in dealer education, we believe that we should be consulted in course development and implementation.

Any discussion about mandating and developing continuing education will require extensive consultation with stakeholders and educators and will require legislative changes.

OMVIC RESPONSE OMVIC agrees and supports the Auditor General's recommendation. OMVIC welcomes the opportunity to collaborate with the Ministry of Government and Consumer Services to develop options for the government's consideration relating to mandatory completion of continuing education for all registrants.

MINISTRY RESPONSE The Ministry of Government and Consumer Services will collaborate with the Ontario Motor Vehicle Industry Council (OMVIC) to develop options related to mandatory completion of continuing education for all registrants, and undertake appropriate consultations in respect of those options. This recommendation would require developing potential regulatory proposals for the government's consideration. Should the government choose to move forward with this recommendation, changes would be implemented accordingly

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

UCDA supports this recommendation. Some applications that have been brought to our attention have taken many months to approve or reject. We believe that decisions on whether to approve an application for registration or propose to refuse can and should be made within no more than two or three weeks in almost all circumstances. We would be pleased to share our previous submissions to the Ministry in respect of this issue.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation and will leverage relationships with stakeholder groups to solicit their feedback in respect to a revision of the application for new registrants to simplify and clarify the process, including clarifying the specific supporting documents that are required to be provided. This will include engagement with the Used Car Dealers Association of Ontario (UCDA) and Trillium Automobile Dealers Association (TADA). In addition, OMVIC is developing a new system that will include built-in controls to prevent incomplete applications from being submitted. The system is scheduled to be launched by early 2022. OMVIC believes that the implementation of its new system will result in greater efficiency in the processing of applications while decreasing the follow-ups required for incomplete applications. Upon implementation of the new system, OMVIC will conduct a workload study to determine appropriate staffing levels to ensure the processing of applications within the targeted time frame.

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

• 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;

• 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; and

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

UCDA supports this recommendation and OMVIC's response to it.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding the need to inspect dealers based on their risk of non-compliance. OMVIC is developing a new risk assessment methodology that will see dealers assigned a risk level of low, medium or high. Under this new methodology, low-risk dealers will be inspected once every four to five years, while high-risk dealers will be inspected every one to two years. The new methodology will include criteria to determine/assess the level of risk. The risk assessment methodology, inspection frequency and scheduling functionalities will be built into OMVIC's new system. The new system will also reassess each dealer's risk level on an ongoing basis. Inspectors will access this information to schedule their inspections, and management will monitor to ensure inspections are taking place on time. Appropriate controls will be developed and included in new operational policies and/ or procedures. OMVIC is currently reviewing the workload of the inspection team, and will continue to do so, in light of the Auditor General's recommendation. Preliminary findings suggest the need for an additional manager and additional inspectors. Further workload analysis will be undertaken to determine where, in addition to the Niagara

Region, additional inspectors may be required. The addition of a second inspections manager will increase the level of accountability and oversight of front-line inspections staff, which is specifically intended to help address the types of concerns identified during the audit.

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; and

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

UCDA supports this recommendation and OMVIC's response to it.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding the need to carry out dealer inspections in an effective, efficient and consistent manner. In the fall of 2020, OMVIC conducted a comprehensive review of the current inspection process and identified a series of issues that needed to be addressed, including inspection scope, frequency/volume of inspections, lack of consistency, lack of oversight/review processes, and the need for operational policies and/ or procedures.

Early in 2021, OMVIC initiated a process to address these issues through the formation of various project teams intended to raise the overall quality and consistency of our inspections through the development of new policies and/or procedures. Included in this work is the development of a quality assurance process, including increased management review and possibly peer review processes. OMVIC's intention is to develop better controls to achieve a more consistent outcome and hire an additional manager to help oversee this geographically dispersed team. OMVIC will undertake to rotate inspectors in geographic areas (such as the Greater Toronto Area) where it is feasible to do so.

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.

UCDA supports this recommendation and OMVIC's response to it.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding the importance of follow-up inspections of dealers when non-compliance is detected. In July 2021, OMVIC put in place a Dealer Support Team that is intended to be the point of contact for dealers when they have compliance related inquiries. The team will work closely with OMVIC's Inspections Team to address non-compliance issues from an advisory/collaborative approach. OMVIC is also in the process of establishing a new Policy Team, which will be responsible for developing compliance-related guidance documents and tools to better support the dealer community in achieving compliance. This team will work closely with the Inspections and Dealer Support teams by conducting research and analysis, developing new compliance-related tools, and providing compliance-related advice and guidance. OMVIC will develop a new process, supported by appropriate policies and/or procedures, to set out how inspection follow-ups will take place. This new process will set out the circumstances or conditions when a follow-up inspection will occur, or whether it is more appropriate to refer the matter to the Dealer Support Team for outreach, advice or guidance. This new process will help inspectors understand the circumstances when their follow-up is required, or whether it is more appropriate for the Dealer Support Team to take up the matter. In addition, controls will be put in place to ensure that follow-up inspections are performed in accordance with this new process to facilitate a more consistent inspections outcome

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.

UCDA wonders if this recommendation might lead people to question the role of consumer groups in MVDA enforcement, as their agenda is often commercial in nature, and not entirely altruistic. We agree with OMVIC's response to the recommendation and would encourage OMVIC, in consultation with both dealer and consumer stakeholders, to perform its own information gathering and, where appropriate, undertake enforcement actions based on the information gathered, in accordance with the legal principles to which such investigations would be subject.

OMVIC RESPONSE OMVIC understands the Auditor General's recommendation regarding the use of information gathered by consumer associations. OMVIC will be ceasing its practice of utilizing consumer associations to conduct mystery shopping of dealers for all-in-pricing advertising. Instead, OMVIC will reallocate funding to its Enforcement Team to hire additional staff who will be dedicated to the mystery shopping program. OMVIC also plans to expand the mystery shopping program to cover more dealerships on an annual basis.

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

UCDA supports this recommendation and agrees with OMVIC's response.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding the need for investigations to be carried out in an effective, efficient and timely manner. OMVIC launched a new initiative to develop operational policies and procedures for the Investigations Team. By the end of 2021, OMVIC will have in place policies and procedures to cover topics such as initiation and closure of investigations, prioritization of investigations, multijurisdictional investigations and related charges, and search warrants. In addition, functionality will be built into OMVIC's new system to better manage open investigations through regular reporting. The goal is to have a comprehensive set of controls to guide our investigations, and cover such topics as timeliness, review and processes to facilitate corrective action. OMVIC is also working on an initiative to improve the overall quality of the Investigation Teams' court briefs.

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; and

• 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.

UCDA supports the first recommendation.

However, we do not support the Auditor General's recommendation that OMVIC should be given legislative authority to compel dealers to provide restitution to consumers and we are surprised that OMVIC agrees with the recommendation:

1. Providing this authority to OMVIC would require the creation of an adjudicative process that currently does not exist, a process that will be costly to establish and maintain.

2. Molding OMVIC into an adjudicator will compromise its current role because of a possible appearance of bias and may lead dealers to question the fairness of the process. It will also add to dealer costs, as they will undoubtedly require legal counsel for proceedings that are commenced pursuant to this recommendation. Consumers with access to a process that will not impose any expense on their part will not hesitate to pursue even the most frivolous claims as they will bear no consequences if their claims are unsuccessful. In order to discourage frivolous claims, therefore, OMVIC would have to be given the power to award costs.
3. We also question OMVIC's level of expertise in assuming the role of adjudicator. As the Ministry suggests in its response, this would be a significant change from the accepted role of a regulator, transforming it from a regulatory and enforcement agency into an adjudicator of civil disputes. In essence, OMVIC would become a court of law, subject to rules of civil procedure and natural justice, just as civil courts are. It follows that a meaningful route of appeal would also have to exist. An OMVIC civil adjudication process would by its very nature become costly and complicated, as registrants would be entitled to legal representation to challenge any civil restitution orders made by OMVIC. OMVIC's response to this recommendation is overly simplistic and ignores the significant ramifications of any such changes.
4. Finally, the Compensation Fund process provides a remedy for consumers; this recommendation is not needed.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. OMVIC will develop a method to record in its systems an initial assessment of any potential compliance issues for each complaint that is escalated and forwarded for review. OMVIC will conduct a review of the Motor Vehicle Dealers Act, 2002 to identify what amendments can be made to the legislation that would compel motor vehicle dealers to provide restitution to consumers upon a breach of the act. Proposed amendments will be submitted to the Ministry of Government and Consumer Services for consideration.

MINISTRY RESPONSE Providing a regulator, such as the Ontario Motor Vehicle Industry Council (OMVIC), with the ability to compel registrants to provide restitution to consumers would represent a significant change from its current role. It would require OMVIC to become an adjudicator of civil disputes. This recommendation would require developing potential legislative and regulatory proposals for the government's consideration, which would involve consultations with the public and motor vehicle sector to assess impacts, costs and timing. The Ministry of Government and Consumer Services will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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; and

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

UCDA supports this recommendation. OMVIC's handling of complaints has been inconsistent at both the consumer and dealer levels.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. In early 2021, the Consumer Support management team, which handles complaints, recognized that this was an area of weakness and began reviewing the way in which Consumer Support Team members referred files for administrative review. Management is working with team members to create a framework and criteria for referring files for further review. This is an ongoing process that forms a portion of both management's and the team's annual performance goals, and is expected to be completed in the coming months. In developing the framework, the Consumer Support Team will consider criteria such as the nature of the complaint, any documentation or other evidence in support of the complaint, any possible contraventions of all applicable legislation, as well as the complaint and enforcement history of the dealership. OMVIC's

Consumer Support Team will be directly involved in the development of the framework, which will enhance their understanding of what is expected of them when deciding whether to refer a complaint file for further review. In addition to this, once the framework is completed the team will meet to review the implementation plan. Team management will provide team members with materials such as guidelines for file referrals. Management will also perform internal reviews to ensure the criteria and framework are being applied appropriately and consistently.

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.

UCDA supports this recommendation.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. OMVIC's Consumer Support Team, which is responsible for handling complaints, will review the current workload for all its team members. Currently there is no manager for the department that handles complaints; OMVIC will consider putting a manager in place to increase efficiency, effectiveness and accountability. It is expected that additional front-line staff will be required. The workload review will examine the work completed by the different team members along with the increased complexity of the work to determine how many staff members may be required to support the work of the Consumer Support Team in order to implement the Auditor General's recommendations.

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; and

• 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.

The UCDA's position is that the categories for Compensation Fund claims are already broad enough, and indeed, we have previously raised concerns with OMVIC about its propensity to apply the rules too broadly. To give Trustees the kind of broad discretion proposed here is extremely arbitrary. Like OMVIC itself, the Fund is not an adjudicatory body, and if it is to be made such a body, capable of making legal determinations of fact and law, registrants who are the subject of a claim made to the Fund, must be given the opportunity to provide a response to the claim, thus adding cost and time to the process. We would be pleased to provide the Ministry with some examples of the concerns we have raised with OMVIC and the Compensation Fund on this issue previously.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. OMVIC will review the consumer complaints that were identified as ineligible for compensation and will consider whether additional eligibility criteria are required, in consultation with the Compensation Fund's Board of Trustees. Upon completion of the review, OMVIC, in consultation with the Ministry of Government and Consumer Services, will assess additional criteria for eligibility for compensation, including a discretionary provision to ensure more complete eligibility.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) will collaborate with the Ontario Motor Vehicle Industry Council (OMVIC) to develop options for expanding eligibility under the Motor Vehicle Dealers Compensation Fund (the Fund). This recommendation would require developing potential regulatory proposals for the government's consideration, which would involve consultations with the public and the motor vehicle sector to assess impacts. The Ministry will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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.

The UCDA finds this proposal unworkable for many reasons. The Fund is entirely financed by levies paid by registered dealers. It is a fundamental aspect of the Fund's very existence that it should provide compensation where appropriate to consumers who have purchased from a registered dealer and have a legitimate claim that such a dealer either will not, or cannot, honour. The Fund was never intended to benefit consumers who do not buy from registered dealers; nor should it. It has been the benchmark that distinguished dealers from illegal curbside sellers. Take that away and you take away a major reason to obtain a dealer registration in the first place. Consumers who choose to purchase from private sellers do so at their own risk – and they should understand that the protection offered by the Fund comes from purchasing vehicles from registered dealers. Moreover, the costs that would be added to the Fund would increase to the point that dealer contributions would skyrocket. Finally, compensation for the actions of illegal sellers was never the purpose for which the Fund was designed. No other compensation fund in Canada that we are aware of, from the Law Society of Ontario, to the real estate or travel industries funds, compensates consumers in this manner.

OMVIC RESPONSE OMVIC appreciates the Auditor General's recommendation. OMVIC will work with the Compensation Fund's Board of Trustees and the Ministry of Government and Consumer Services to consider and review the implications of such a change to the operation of the Compensation Fund, to OMVIC, to registrants and to consumers in Ontario. As legislative and regulatory changes are required, OMVIC will support the Ministry of Government and Consumer Services as it develops options for the government's consideration.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) will collaborate with the Ontario Motor Vehicle Industry Council (OMVIC) to develop options for expanding eligibility under the Motor Vehicle Dealers Compensation Fund (the Fund). This recommendation would require developing potential legislative and regulatory proposals for the government's consideration, which would involve consultations with the public and the motor vehicle sector, including current registrants, to assess impacts. The Ministry will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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; and
- 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.

The UCDA observes that this idea, through full disclosure made by registered dealers pursuant to the MVDA, already occurs in sales and lease transactions in Ontario. The Used Vehicle Information Package, which is frankly of questionable value for private buyers, was mandated in the early 1990s to enable consumers to have at least some helpful information and knowledge when purchasing privately, because they were otherwise unprotected. That is not the case for consumers purchasing from registered dealers.

OMVIC RESPONSE OMVIC accepts this recommendation and will work with the Ministry of Government and Consumer Services to propose regulatory changes for the government's consideration to require an information package to be provided to consumers by motor vehicle dealers. In collaboration with its contracted marketing agency, OMVIC launched a new campaign in September 2021 that utilizes a fresh and more targeted approach to engaging consumers across new media. In addition, as of July 2021, OMVIC has been working on the development of a marketing plan that will complement OMVIC's annual consumer awareness campaigns. It includes new strategies to guide the efforts of OMVIC employees to enhance awareness of car-buying rights that are still not generally known, as well as OMVIC's role and its services available to the public. The marketing plan will include a focus on identified high-risk issues for consumers and areas of high non-compliance among dealers. It will also include key performance indicators to track and trend our progress toward our marketing objectives.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees that consumer awareness is important and that prospective consumers of motor vehicles would benefit from more information about the Ontario Motor Vehicle Industry Council (OMVIC) and the protections for consumers under the Motor Vehicle Dealers Act, 2002. The Ministry will collaborate with OMVIC as it develops an information package for motor vehicle purchasers. The Ministry will develop options for requiring dealers to provide the information package to consumers. This recommendation would require developing potential legislative or regulatory proposals for the government's consideration, which would involve consultations with the public and the motor vehicle sector to assess impacts. Should the government choose to move forward with this recommendation, changes would be implemented accordingly

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.

The UCDA opposes this recommendation. The notion of cooling off periods has been considered and discarded time and time again over the years. The idea is not new, but it also does not work. Aside from the very real commercial chaos this would cause, it will only serve to further confuse consumers who should be entering into a contract for a vehicle like they would for any expensive item. That is, they should not enter into a contract unless they truly want to purchase the vehicle. The reason the Ministry wanted SALES FINAL in large bold font on all bills of sale and lease agreements was to alert the buyer to the serious nature of the contract they were entering into. Just as when one buys a house, or any big-ticket item, dealers often ask for and take deposits to secure a buyer's commitment for the same reason. Once again, should this notion see the light of day, the very purpose of entering into a written and signed contract would seem quaint.

In an era where remote online sales are becoming more common, we do understand that consumers would be better protected if they had some kind of cancellation or refund policy. However, we feel that the marketplace has already provided that remedy in that most "on-line" dealers offer such a policy, sometimes for a period of up to 7 days. As more dealers and consumers engage in this type of transaction, it will be a necessity for dealers to offer something similar in order to attract customers in a highly competitive marketplace. We believe it is the marketplace that should be allowed to govern here.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. OMVIC agrees to work with the Ministry of Government and Consumer Services as required on options for the government's consideration to implement a cooling-off period for all vehicle transactions in Ontario between consumers and dealers.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) will review best practices in other jurisdictions and develop options for the government's consideration. This recommendation would require developing potential legislative or regulatory proposals, which would involve consultations with the public and motor vehicle sector to assess impacts. The Ministry will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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;

• 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.

The UCDA questions the prudence and practicality of this recommendation. There is more to financing than the applicable interest rate, though it usually receives the most attention from consumers and dealers alike. Other provisions, such as the term of the agreement, the amount of any down payment, whether payments are monthly, bi-weekly or even weekly, etc. are also issues to be considered when purchasing a vehicle. Dealers, when they also act as the lender, already provide full cost of credit disclosure to purchasers and lessees as required by the *Consumer Protection Act*. When third parties, like banks, are the lender, they meet those written disclosure obligations as well. Any further obligations over and above this, that would single out dealers for special further obligations, should involve consultation with industry and consumer stakeholders.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation and will ensure that this issue is incorporated in the annual marketing plan on an ongoing basis to ensure an increased awareness of dealer responsibilities and consumer risks regarding interest rates. The marketing plan will include key performance indicators to track and trend our progress toward marketing objectives. OMVIC will prepare a submission for proposed regulatory changes for consideration by the Ministry of Government and Consumer Services that will require dealers to disclose to consumers all the financing options received by the dealer for the consumer. If regulatory changes are implemented that require dealers to disclose all financing options to consumers, OMVIC would incorporate a new step into its inspection process to verify dealer disclosure of all financing offers. In addition, the Dealer Support Team would work with the Communications Team to expand efforts to better educate consumers about vehicle financing.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees that consumers of motor vehicles would benefit from greater awareness of the financing options available when buying or leasing a motor vehicle. The Ministry will collaborate with the Ontario Motor Vehicle Industry Council (OMVIC) to develop options to require motor vehicle dealers to disclose to consumers all the financing options the dealer has received in response to the consumer's credit application. This recommendation would require developing potential regulatory proposals for the government's consideration, which would involve consultations with the public and the motor vehicle sector to assess impacts. The Ministry will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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

UCDA supports this recommendation.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation and supports the need for progressive enforcement action in relation to all in-price advertising. OMVIC's plan is to expand the mystery shopping program to cover more dealerships on an annual basis. OMVIC will take appropriate/progressive enforcement action when non-compliance is observed and will send "pass" letters when dealers are found to be compliant. OMVIC will consider the feasibility of implementing a new process to identify dealers for inclusion in the mystery shopping program through the complaints process. OMVIC will review the scope of its dealer inspection program and incorporate a new step to examine all-in-price advertising. OMVIC will also develop better educational supports for dealers about all-in-pricing advertising requirements. Educating consumers about the all-in-price advertising requirement will also be incorporated into OMVIC's annual marketing plan on an ongoing basis to enhance our existing efforts. The marketing plan will include key performance indicators to track and trend our progress toward our marketing objectives.

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

UCDA supports this recommendation.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation regarding improvements to its consumer protection operations in the areas of enforcement, consumer support and registration. OMVIC will complete a workload study in 2022 for the Inspection Team. OMVIC will also undertake workload studies of the Registration Department and the Consumer Support Department, which handles complaints, to determine the optimum staffing levels for these departments to address dealer registration and consumer complaints in a timely manner. OMVIC will also develop a strategy to increase the effectiveness and efficiency of its enforcement, consumer support and registration departments. The strategy will include the development of operational policies and procedures, new functionality in OMVIC's new information system to better manage workflow, increased oversight and accountability mechanisms, improved reporting structures, and additional training for front-line staff. Overall, the aim of the strategy will be to develop better controls to achieve a more consist□ent outcome from the operational teams. These measures are intended to address the types of concerns identified during this audit and improve OMVIC's ability to protect consumers.

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

The UCDA does not agree with this proposal. The Compensation Fund is funded directly by dealers as per the MVDA. This arrangement has worked well for more than 35 years. There are provisions in the Act that allow for levies to be collected from dealers should the Fund fall below a prescribed amount. This has never been necessary and currently the Fund is nowhere near this threshold. However, if it were, registered dealers would absolutely ensure that the Fund was topped up. Monies held by OMVIC should be used to fulfill its mandate as regulator; i.e. education, registration, mediation and enforcement and should not be linked to providing money for the Fund.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. In collaboration with the Compensation Fund's Board of Trustees, OMVIC agrees to review the existing regulations and will develop a regulatory change proposal for consideration by the Ministry of Government and Consumer Services to permit OMVIC to transfer funding from its general surplus to the Compensation Fund. Further, OMVIC will work with the Compensation Fund's Board of Trustees and the OMVIC Board of Directors to develop a policy to engage actuarial services every three years (or as needed), to ensure the continuing financial sustainability of the Compensation Fund.

MINISTRY RESPONSE The administrative authority model is based on the principle of cost recovery, and issues respecting fiscal surpluses must be carefully considered within this context.

The Ministry of Government and Consumer Services (Ministry) will need to assess the feasibility of an option allowing the Ontario Motor Vehicle Industry Council (OMVIC) to transfer surplus funds to the Motor Vehicle Dealers Compensation Fund (Fund). The assessment will include compliance with the funding principles applicable to OMVIC and the Fund. Based on this assessment, the Ministry may need to develop potential legislative and regulatory amendments for the government's consideration, which would involve consultations with the public and the motor vehicle sector to assess impacts. The Ministry will develop proposals for the government's consideration, which will be informed by the Auditor General's recommendations. The Ministry will also work with OMVIC to update the administrative agreement between the Minister and OMVIC. Through the agreement, the Ministry would establish a future requirement for OMVIC to implement a policy to conduct actuarial studies at regular time intervals, and to share the results with the Ministry.

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.

UCDA would support the elimination of the transaction fee. Consumers were never meant to fund OMVIC and should not be doing so in our view. UCDA disagreed with the idea of transaction fees being passed along to purchasers of motor vehicles and we continue to believe that such fees should not be borne by consumers when they purchase vehicles. Having said that we understand why dealers would wish to do so and are not suggesting that the practice should be prohibited. The better solution is to eliminate the fee.

OMVIC has the resources to ensure that dealers remit accurate fees for each motor vehicle transaction. It can easily conduct the necessary audits to determine if dealers are remitting the requisite fees to OMVIC. We would be surprised if OMVIC is not currently conducting periodic audits, and we support it if in fact it is.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation. OMVIC will work with the Ministry of Government and Consumer Services to facilitate the development and execution of an information-sharing agreement with the Ministry of Transportation in order to obtain motor vehicle records related to dealer transactions If an information-sharing agreement with MTO is developed, OMVIC will create a plan to ensure the accuracy of vehicle transactions reported by individual motor vehicle dealers. OMVIC will review the scope of its dealer inspection program and incorporate a new step to compare the number of vehicle transactions self-reported by a dealer to the dealer's financial records. OMVIC will also take steps to collect unpaid fees from motor vehicle dealers that have underreported vehicle transactions.

MINISTRY RESPONSE The Ministry of Government and Consumer Services welcomes the opportunity to facilitate a dialogue on a potential information-sharing agreement between the Ministry of Transportation and the Ontario Motor Vehicle Industry Council. MINISTRY OF TRANSPORTATION RESPONSE The Ministry of Transportation will work collaboratively with the Ministry of Government and Consumer Services and the Ontario Motor Vehicle Industry Council to explore a potential data sharing agreement.

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.

This proposal is a solution looking for a problem. The UCDA has heard concerns about money laundering in the motor vehicle sales industry for years, and yet no one has offered a single example of an Ontario dealership being used in this fashion. It is not necessary. It is the Federal government's responsibility, through FINTRAC, to identify sectors that raise concerns about money laundering. To date, despite the issue being raised over the past twenty years or more by OMVIC staff, FINTRAC apparently does not consider that the motor vehicle sales industry is a serious enough risk for money laundering activities such that it should be included in its reporting requirements. OMVIC and the Ontario government should allow FINTRAC to be the judge of whether it should include motor vehicle sales in Ontario as part of its large cash transaction reporting requirements. We urge the government not to wade into this area unless and until it is asked to do so by FINTRAC.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation about identifying/reducing the risk of money laundering through dealers, and will collaborate with the Ministry of Government and Consumer Services to work with the federal government to introduce a requirement for dealers to report cash transactions over a certain threshold to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). If implemented, OMVIC will work with FINTRAC to establish appropriate verification/inspection processes.

MINISTRY RESPONSE The Ministry of Government and Consumer Services will collaborate with the Ontario Motor Vehicle Industry Council to engage with the federal government on the possibility of the federal government requiring registered motor vehicle dealers to report cash transactions over $10,000 to the Financial Transactions and Reports Analysis Centre of Canada.

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.

UCDA supports this recommendation.

OMVIC RESPONSE OMVIC agrees with the Auditor General's recommendation and will make all results from the annual consumer awareness survey publicly available on our website and highlight areas for improvement. The results of our annual survey will also inform the development of objectives for the annual marketing plan to ensure we are addressing areas of low consumer awareness. OMVIC also agrees that public reporting must be accurate, complete and consistent. Therefore, we will ensure that terms such as completed inspections and site visits are defined clearly in our policies and procedures, and we will ensure these activities are reported separately. Finally, OMVIC will develop a strategy to identify, capture and report on staff time spent on reviewing registration applications, including performing necessary follow-ups and collecting missing information.

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.

The UCDA disagrees with this recommendation. OMVIC, along with other Delegated Administrative Authorities (DAAs), was established with a mandate to operate as a self-managed non-government regulatory body; that is, to be overseen by government, but not as part of government. While the composition of the board can be changed by the Minister under the current regulations, the industry should continue to occupy at least half the positions on the board. The knowledge of the industry and experience of these board members has been, and should continue to be, utilized to help OMVIC staff, who may have limited or no industry knowledge or experience, to help them better understand the industry they are regulating.

As for terms for board members, these already exist. Each elected industry board member sits for three years. During this time, they gain further insight and understanding of OMVIC's role and board policy-making functions. Knowledge and experience could not be used to enhance a board member's contribution to the board if board members were restricted from standing for a second, third or subsequent, three-year term.

Dealer directors are elected by OMVIC members (dealers). This democratic process should not be interfered with lightly. Limiting the number of times a director is permitted to stand for election also raises a practical concern: the absence of qualified candidates in the industry who wish to participate in elections. On several occasions, returning directors have been acclaimed to their positions. In the past, there have been occasions where a board position remained vacant because a director chose not to stand for re-election. In those instances, the board operated with less than the full contingent of directors established in OMVIC's by-laws. It should be up to OMVIC members to decide whether an individual should be on the board through the election process.

OMVIC RESPONSE OMVIC's by laws establish the composition, terms of office and qualifications for elected Board members. Therefore, any amendment regarding term limits, representation or selection criteria would require approval by the membership (motor vehicle dealer registrants) at a properly constituted meeting. The administrative agreement between OMVIC and the Minister also requires that OMVIC obtain the Minister's prior agreement to any changes to the bylaws or resolutions respecting Board composition, selection criteria and process and term of office of its members. In consultation with the Ministry of Government and Consumer Services, OMVIC agrees to reassess term limits, the proportion of industry representatives and its selection criteria in comparison to other delegated authorities, and to recommend to its membership that it approve any amendments agreed upon.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees that good governance is important and should be based on best practices. The Ministry appreciates the response from the Ontario Motor Vehicle Industry Council (OMVIC) to this recommendation and will work with OMVIC to ensure this recommendation is addressed. As required under the administrative agreement, the Ministry will review the proposals it receives from OMVIC for changes to its by-laws and develop options as necessary to address the recommendation. Currently, under the Safety and Consumer Statutes Administration Act, 1996, the Minister may establish competency criteria for members of the Board of Directors and establish rules about the nomination of board members, the appointment or election process, the length of their terms and whether they may be reappointed or re-elected.

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.

UCDA supports this recommendation.

OMVIC RESPONSE The Ontario Motor Vehicle Industry Council (OMVIC) and the Compensation Fund's Board of Trustees agree to establish and follow protocols to ensure that the procurement of third-party services is transparent and best suits the needs of OMVIC and the Compensation Fund. OMVIC and the Compensation Fund's Board of Trustees also agree to review and revise their Codes of Conduct and Conflict of Interest Policies and guidelines to ensure that they are clear and effectively address requirements in the event of actual and perceived conflicts of interest.

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.

UCDA takes no position on this, but as in our response to Recommendation 24, we point out the practical difficulty of finding qualified individuals who wish to sit on the board. This applies equally to both the Compensation Fund's board of trustees and OMVIC's board of directors.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees that the Board of Trustees' independence in managing the Motor Vehicle Dealer Compensation Fund is important. The Ministry will work with the Ontario Motor Vehicle Industry Council (OMVIC) to update the administrative agreement and will examine how the Board of Trustees' role could be clarified within the administrative agreement. The Ministry will develop options for potential regulatory amendments with respect to appointments to the Board of Trustees for the government's consideration, which will be informed by the Auditor General's recommendations. Should the government choose to move forward with this recommendation, changes would be implemented accordingly.

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

UCDA takes no position on this recommendation.

OMVIC RESPONSE OMVIC understands the recommendation of the Auditor General regarding alignment with the Ontario Travel, Meal and Hospitality Expenses Directive. OMVIC will conduct a review of its existing Travel, Meal and Hospitality Policy relative to the Ontario government's Travel, Meal and Hospitality Expenses Directive. This analysis will allow OMVIC to determine the appropriate reimbursable meal rates, and ensure that such rates are also in alignment with OMVIC's responsibilities under its administrative agreement with the Minister of Government and Consumer Services. OMVIC agrees that, in accordance with its Administrative Agreement, its Travel and Meal Expense Policy must adhere to the spirit of the Ontario Public Service Travel, Meal and Hospitality Expenses Directive. OMVIC will review its policy with the Ministry of Government and Consumer Services, including the reimbursement of alcoholic beverages and discretion on meal rates, and update it to ensure it aligns with the spirit of the Ontario Public Service Directive. OMVIC agrees with the Auditor General's recommendation and will endeavour to use OMVIC's boardroom for Board of Director, committee and Compensation Fund's Board of Trustee meetings, when it is appropriate to do so. Beginning in 2019, OMVIC changed many of its traditional in-person committee and Board meetings to virtual meetings, and since March 2020 with the onset of the COVID-19 pandemic, all meetings have been held virtually. The adoption of virtual meeting formats has resulted in savings. Some in□person meetings may involve audiences of greater than 20 people and may therefore require an external venue to allow for appropriate physical distancing and participant engagement.

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.

UCDA recently met with the Minister and stressed our support for Ministry supervision of OMVIC. We agree with the recommendation that the Ministry should efficiently and effectively provide oversight of OMVIC's programs and activities.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees that it can improve in its oversight function of the Ontario Motor Vehicle Industry Council (OMVIC). Approaches for improving the Ministry's oversight function will be informed by the Auditor General's recommendations. In addition, the Ministry will work with OMVIC to update the administrative agreement and will examine incorporating into the administrative agreement a report back on fee changes made by OMVIC.

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.

The UCDA supports this recommendation and Ministry supervision of OMVIC.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) will work with the Ontario Motor Vehicle Industry Council to update the administrative agreement. The Ministry will examine how a protocol to exercise its authority to conduct a review when serious complaints arise can be incorporated within the administrative agreement.

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.

The UCDA supports this recommendation and Ministry supervision of OMVIC.

MINISTRY RESPONSE The Ministry of Government and Consumer Services (Ministry) agrees with this recommendation and will work with the Ontario Motor Vehicle Industry Council (OMVIC) to revise the indicators the Ministry uses to monitor OMVIC's performance.