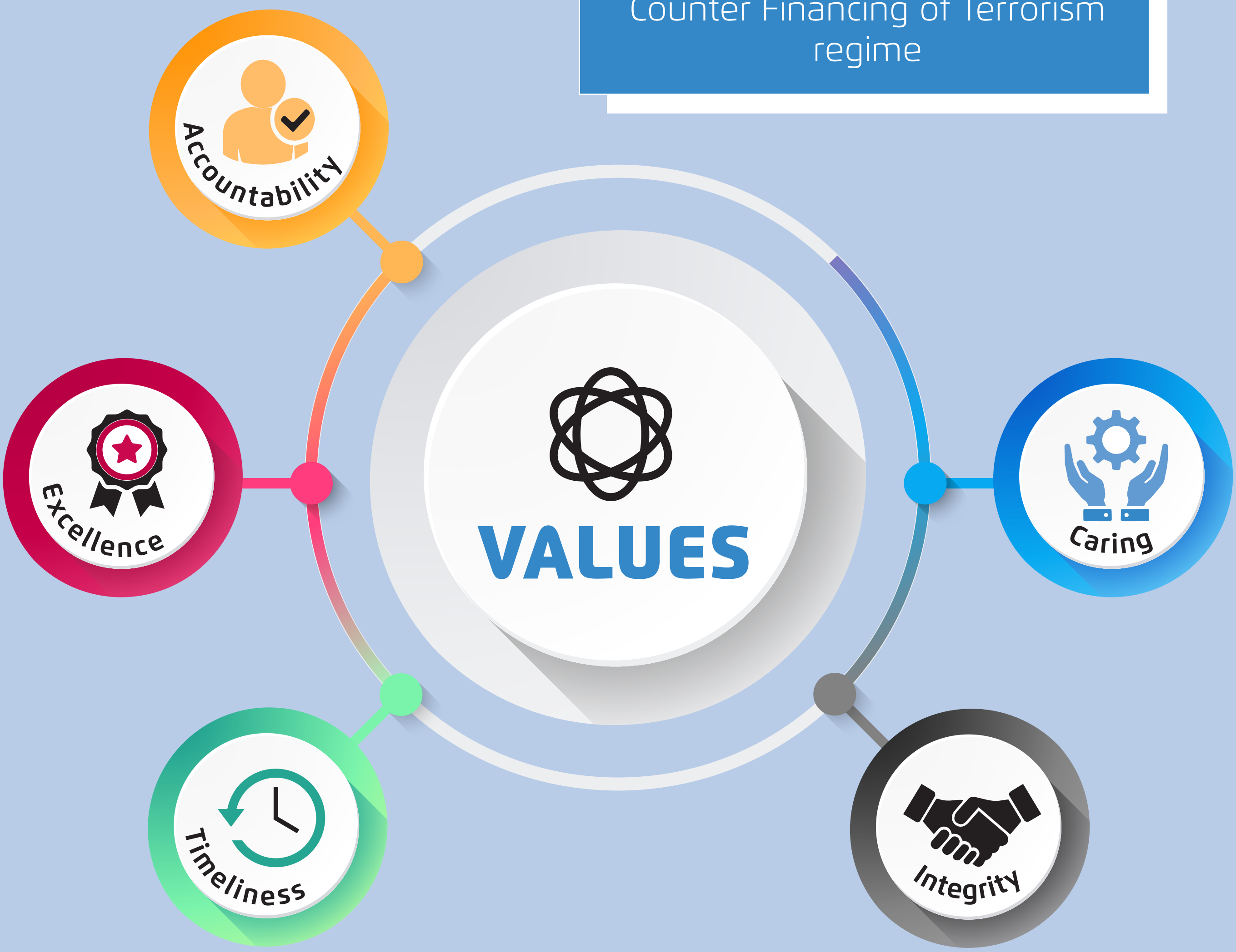
VISION

To provide unparalleled intelligence to fight financial crime in Botswana and beyond

MISSION

We protect the integrity and stability of Botswana's financial system through the effective coordination and implementation of the Anti Money Laundering and Counter Financing of Terrorism regime



Foreword

I am pleased to present the first car dealership sector risk assessment report for the period 2017-2021. The AML/CFT/CFP National Risk Assessment of 2017 showed that the car dealership sector is vulnerable to money laundering risks. This risk assessment probes further to identify and assess the AML/CFT/CFP threats and vulnerabilities faced by the sector. The FIA conducted this car dealership sector risk assessment in terms of Section 49 (1) (g) of the Financial Intelligence Act, 2022. The aim is to ensure that criminals do not use the financial system to clean dirty money and finance terrorism activities.

The risk assessment provides valuable insight on the level of risks in the sector. Understanding of the ML/TF/PF risks is the chief requirement for the establishment of an effective AML/CFT/CFP regime. The report comes at a time when Botswana is preparing for the next mutual evaluation, which is expected to be undertaken during the period 2024/2025. While we appreciate that the risks identified in this report are not static and may change overtime, the results of this risk assessment will assist in building a robust and effective money laundering regime, which is relevant to the risks identified. Weak and ineffective AML/CFT/CFP systems in a country creates a vacuum that allows criminals and those financing terrorism and proliferation to benefit from their illegal gains and to freely pursue criminal activities such as corruption, drug and human trafficking, kidnapping and other related crimes. Thus undermining the credibility of the financial system, and the economy at large.

I would like to acknowledge the contribution of members of the Working Committee and the institutions that they represent for their hard work and commitment to ensure that the report is completed on time and would also like to thank the car dealership sector for the contribution and cooperation during the assessment, which made it possible for the timely completion of the assessment.

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Bopelokgale Soko

Director General

Financial Intelligence Agency


identify
risk management
assess
evaluate
control monitor

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Acronyms

AIDC	Associated Investment Development Corporation
AML	Anti-Money Laundering
BURS	Botswana Unified Revenue Service
CDD	Customer Due Diligence
CFT	Counter Financing of Terrorism
CID	Criminal Investigations Department
CIPA	Companies and Intellectual Property Authority
CTAFD	Counter Terrorism Analysis and Fusion Division
DCEC	Directorate of Corruption and Economic Crime
DNFBP	Designated Non-Financial Businesses and Professions
DPP	Directorate of Public Prosecution
DRTS	Department of Roads, Transport and Safety
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FIA	Financial Intelligence Agency
FIUs	Financial Intelligence Units
ICPO-INTERPOL	International Criminal Police Organization-International Police
LEAs	Law Enforcement Agencies
ML	Money Laundering
NCCFI	National Coordinating Committee on Financial Intelligence
NCTC	National Counter Terrorism Committee
NRA	National Risk Assessment
PF	Proliferation Financing
SACU	Southern African Customs Union
SARPCCO	Southern African Regional Police Chiefs Cooperation Organisation
SRA	Sector Risk Assessment
STR	Suspicious Transaction Report
TF	Terrorism Financing

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Executive Summary

This Report presents results of the car dealership sector risk assessment for the period 2017 to 2021. The assessment, which focused on threats and vulnerabilities of money laundering, terrorist financing and proliferation financing, was undertaken by a team of experts drawn from different stakeholders in the country including FIA, law enforcement agencies and licensing authorities.

Motor dealers in Botswana are registered in terms of the Trade Act, 2019 and Trade Regulations, 2020 and regulated for AML/CFT/CFP compliance by the FIA. As at April 2022, the industry had 116 car dealerships, 64% of which were registered under the imported pre-owned motor dealer segment, while the remainder was registered under the specialised motor dealer segment. The majority of the imported pre-owned motor dealers were situated in the Mogoditshane and Francistown areas.

The FIA conducted the car dealership sector risk assessment in terms of Section 49 (1) (g) of the FI Act, in order to identify, assess and understand the ML/TF/PF risks associated with the car dealership sector in Botswana. The assessment builds on the findings of the country's National Risk Assessment (NRA) of 2017, which rated the car dealership sector as medium-high for vulnerability to ML. The results of the assessment will inform the development and implementation of appropriate supervisory interventions that are commensurate to the nature and level of the risks identified. The car dealership sector will use the results to inform their compliance regime while other sectors will use the findings as a basis for their risk management strategies towards the car dealership business.

Car dealerships were found to be highly vulnerable to ML risks emanating from predicate offences. The number of predicate offences during the period under review was 150, with a corresponding value of P64, 492, 924.13. Predicate offences that posed high ML threat in the sector were "false declaration", "tax evasion", "stealing by Agent", "stealing by person employed in the Public Service" and "abuse of office". The assessment found that the illegal proceeds obtained from these predicate offences were mainly used to purchase vehicles. As a result, the overall rating for ML threat was medium-high.

The money laundering vulnerability of the sector was assessed to be medium-high, with the main vulnerabilities identified as low integrity of business/staff for the imported pre-owned motor dealers, ineffectiveness of suspicious transaction monitoring and reporting, weak entry controls, AML/CFT/CFP limited knowledge of business/staff, and ineffectiveness of compliance functions. Although the final vulnerability of both motor dealer categories was assessed to be medium-high, the imported pre-owned market segment was assessed to be more vulnerable to money laundering due to higher ratings on key inherent vulnerability factors.

The terrorism financing threat and vulnerability were both rated as low resulting to a low overall rating for terrorism financing risk. The rating was based on the absence of TF related cases in the car dealership sector and the strength of the controls that Botswana has adopted to detect and counter TF.

Proliferation financing risk was rated medium-low considering the absence of positive matches on the implementation of United Nations Security Council Resolutions (UNSCRs) and the unsatisfactory implementation of such by motor dealers during the period under review.

The ML/TF/PF risk assessment findings are summarised below:

Risk	Threat	Vulnerability	Overall
Money laundering risk	Medium-High	Medium-High	**Medium-High**
Terrorism financing risk	Low	Low	**Low**
Proliferation financing risk	Low	Medium	**Medium-Low**

The sector risk assessment also revealed that motor dealers conducted a significant number of cross border transactions as almost all the vehicles were imports (as Botswana does not manufacture vehicles). New vehicles were mostly imported from South Africa and imported pre-owned vehicles were mainly from Japan, Singapore and the United Kingdom. Vehicles were found to be consistently amongst the top ten imported goods into the country. However, motor dealers had deficiencies including inadequate record keeping, undervaluation of declared motor vehicles and falsified invoices used to declare motor vehicles. This exacerbated money laundering threats in relation to tax related offenses.

In order to close the identified gaps, there is need for stakeholders to collaborate and implement the recommended actions.

1.0 INTRODUCTION

1.1 Background

1.1.1 The FIA was established by Financial Intelligence Act (FI Act) 2009[1], and continued under Section 4 of the Financial Intelligence Act, 2022 as the lead agency for the prevention, detection and deterrence of money laundering, terrorism financing and proliferation financing. The FI Act, gives the Agency supervisory responsibility over reporting entities with no designated AML/CFT/CFP Supervisor, including car dealerships.

1.1.2 This risk assessment was conducted in line with Section 49 (1) (g) of the FI Act, which requires supervisory authorities to identify, assess and understand international and domestic money laundering, terrorism financing and proliferation financing risks in their sectors. The mutual evaluation conducted by Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) in 2017, found that the imported pre-owned market segment had potential links to organised crime and high-cash intensive transactions, which exposed the segment to commingling of funds and other crimes inherent with cross-border businesses.[2] The findings of this risk assessment will assist in creating an understanding of the ML/TF/PF risks of the sector and to build appropriate controls and regulatory interventions.

1.1.3 A car dealership in terms of the FI Act has the same meaning as a motor dealer, as defined in the Trade Regulations, 2020. The two terms are used interchangeably throughout the Report.

1.2 Objectives

This ML/TF/PF risk assessment of the car dealership sector is intended to:

(i) identify, assess and understand money laundering, terrorism financing and proliferation financing vulnerability of the car dealership sector; and

(ii) develop an action plan to strengthen AML/CFT/CFP compliance in the sector, improve regulation and supervision in the car dealership sector.

1.3 Scope and Methodology

The assessment employed the World Bank NRA methodology (World Bank Tool). The risk assessment covered a five-year review period from 2017 to 2021. Below is a list of data sources used in the assessment:

(i) questionnaires,
(ii) government/stakeholder records,
(iii) focus group meetings,
(iv) typologies and trends reports.

[1] This FI Act of 2009, as amended in 2018 and 2019, was repealed in 2022, in an effort to align it with the Financial Action Task Force (FATF) 40 Recommendations.

[2] Mutual Evaluation Report of Botswana, 2017, page 24

1.4 Working Committee

The risk assessment was conducted by a Working Committee led by the Financial Intelligence Agency, and consisting of officers from;

(i) Ministry of Investment, Trade and Industry,
(ii) Gaborone City Council,
(iii) Mogoditshane Sub-District Council,
(iv) Department of Road Transport and Safety,
(v) Department of Immigration,
(vi) Botswana Police Service,
(vii) Directorate of Intelligence and Security Service,
(viii) Directorate on Corruption and Economic Crime,
(ix) Botswana Unified Revenue Service,
(x) Companies and Intellectual Property Authority,
(xi) Botswana Used Motor Dealers Association, and
(xii) Associated Investment Development Corporation Pty Ltd.

2.0 OVERVIEW OF THE CAR DEALERSHIP SECTOR IN BOTSWANA

2.1 Motor dealership businesses are registered in terms of the Trade Act, 2019 and Trade Regulations, 2020. The Regulations categorise motor vehicle registration certificates into two: the Specialised Motor Dealers (SMD) and the Imported pre-owned Motor Dealers (IPMD). SMD business registration certificate is issued to a dealership which sells new and local pre-owned motor vehicles, new and local pre-owned earth moving equipment, new and local pre-owned heavy duty machinery, new and local pre-owned tractors, new and local pre-owned motor cycles, and new spare parts[3], while the IPMD business registration certificate is issued to dealerships which deal with imported pre-owned motor vehicles, imported pre-owned earth moving equipment, imported pre-owned heavy duty machinery, imported pre-owned tractors, imported pre-owned motor cycles, and new and used spare parts[4].

2.2 As at July 2020, there were 87 registered car dealerships nationwide, constituting of 68 IPMDs and 19 SMDs. In addition, there were three car dealerships associations to which most of the dealerships were affiliated to, namely:

(i) Associated Investment Development Corporation,
(ii) Botswana Used Motor Dealers Association,
(iii) Botswana Nigerian Business Association.

Table 1 below depicts the number of vehicles, per category, registered with the Department of Roads, Transport and Safety (DRTS) for the period under review. As indicated in Table 1, the number of registered vehicles increased from 53,111 cars in 2017 to 67,389 cars in 2019. The number of imported pre-owned motor vehicles registered were significantly higher than specialised motor vehicles even though the numbers has been decreasing since 2020.

Table 1: Number of Vehicles Registered with the DRTS, 2017-2021

Type of Motor Vehicle	2017	2018	2019	2020	2021	Total
Specialised Motor Vehicles	8449	9048	10192	8644	8364	44697
Imported Pre-Owned Motor Vehicles	44662	46205	57197	33060	35290	216414
Total	**53111**	**55253**	**67389**	**43934**	**43654**	**261111**

[3] As defined under the Trade Regulations, 2020, regulation 2
[4] As defined under the Trade Regulations, 2020, regulation 2

3.0 MONEY LAUNDERING THREAT ASSESSMENT

This Section assesses the money laundering threat and covers three areas; Threat Assessment, Typology Data Collection and Cross Border Threat Assessment.

3.1 Threat Assessment of Predicate Offences

The threat assessment was based on the analysis of predicate offences relating to the car dealership sector as indicated in Table 2. The number of predicate offences reported by LEAs during the review period were 150, translating to P64, 492, 924.13. The predicate offences are discussed hereunder:

Table 2: Predicate Offences and Proceeds Involved (2017 – 2021)

Period Reviewed	2017	2018	2019	2020	2021	Total Number Offences	Total Proceeds Involved (BWP)
Predicate Offence Types							
False Declaration (Undervaluation & Fiscal fraud)	12	16	5	83	4	120	28,670,757.17
Smuggling			1			1	110,000.00
Tax Evasion	1	1	1			3	12,197,269.21
Stealing by Agents					1	1	P1,372,000.00
Office Breaking & Theft						1	64,920.00
Stealing by servant			1	7	1	9	1,685,000.00
Stealing by person employed in public service			1	1		2	260,000.00
Unlawful possession of dagga		1				1	377,000.00
Obtaining by false pretences	3		2	1	1	7	9,572,483.18
Robbery			1			1	77,200.00
Cyber Fraud		1				1	40,000.00
Corruption by or of Public Officer			1		1	2	895 ,100.00
Abuse of Public Office	1					1	9,122,194.57
Possession of suspected stolen property			1			1	49,000.00
Total	17	19	14	92	8	150	64,492,924.13

3.1.1 False Declaration

False declaration involves supplying of false information in a tax declaration form with an intent to avoid payment of customs duty or tariffs. According to the BURS, the most common predicate offences relating to false declaration during the period under review were undervaluation (where an importer declares an amount below the value of the imported goods) and fiscal fraud (where an importer falsifies invoices to reduce tax liability).

During the period under review, BURS reported, 120 cases of false declaration involving 4074 vehicles, imported by 78 motor dealers. Total amount of tax revenue recovered from the cases amounted to P28, 214,822.55. These included cases of both undervaluation and fiscal fraud. Table 3 and 4 below provides an illustration of undervaluation and fiscal fraud cases respectively.

3.1.1.1 Undervaluation

The Customs Act, 2018 obliges an importer to declare goods for customs purposes upon entry into Botswana. The transaction value of the goods declared provides the basis for calculating customs duty and value added tax (VAT) payable on the goods imported, where applicable.

Out of the 78 car dealerships reported above, a sample of five car dealerships which undervalued 820 vehicles was drawn to demonstrate the tax revenue that could have been lost had the BURS not intervened. The sample information is presented in Table 3 below:

Table 3: Total Additional Taxes Recovered from Motor Dealers

Motor Dealer	Number of Vehicles Impounded	Additional Assessment Customs Duty (BWP)	Additional Assessment VAT (BWP)	Total Additional Assessment (BWP)
A	70	689,719.19	413,831.51	1,103,550.70
B	100	519,486.40	311,704.78	831,191.18
C	133	571,863.15	388,506.69	960,369.84
D	168	928,819.98	595,681.19	1,524,501.17
E	349	1,621,771.14	1,051,556.36	2,673,327.50
Total	820	4,331,659.86	2,761,280.53	7,092,940.39

Source: BURS (2019-2020)

3.1.1.2 Fiscal Fraud

Fiscal fraud is where a person falsifies invoices to reduce their tax liability. In terms of the Customs Act, tax clearance can only be done by registered Clearing Agents who are regulated by BURS. During the period 2019-2020 BURS reported cases of fiscal fraud, where clearing agents aided taxpayers to reduce their tax liability by using forged invoices to declare motor vehicles. Table 4 below shows revenue lost due to fiscal fraud committed by Clearing Agents.

Table 4: Taxes Lost Due to Fiscal Fraud

Make of the Car	Declared Amount (USD)	Established Transaction Value (USD)	Variance (USD)	Variance (BWP)	Amount Of Duty & VAT Lost (BWP)
Volvo S60	1,692.00	6,370.00	4,678.00	51,391.47	17,446.90
Jaguar XJ	1,534.00	12,968.00	11,434.00	120,915.56	43,303.72
Audi Q 5	680.00	6,875.00	6,195.00	72,224.48	25,556.21
Toyota Dyna	1,900.00	5,094.00	3,194	34,983.56	21,943.92
Mercedes Benz	1,733.00	6,400.00	4,667	51,117.18	18,913.36
Total	7, 539.00	37, 707.00	30, 168.00	330, 632.25	127,164.11

Source: BURS

Considering the number of false declaration occurrences (120 cases) and the potential loss of revenue, the offense was rated high to money laundering threat.

3.1.2 Smuggling

Smuggling is an act of importing or exporting goods secretly without declaration and payment of duties. Smuggling is prohibited in terms of Section 96 of the Customs Act, and attracts a fine not exceeding P1 000 000.00 or to imprisonment for a term not exceeding ten years, or to treble the value of the goods in respect of such offence, whichever is greater. Furthermore, the goods and the container in respect of which the offence is committed shall be liable to forfeiture.

During the period under review, there were no reported cases of smuggled vehicles in Botswana. However, one case reported indicated that one of the motor dealers smuggled goods (batteries and other car accessories) by hiding them in the imported vehicles.

Consequently, the money laundering threat posed by car smuggling was rated **low.**

3.1.3 Tax Evasion

Tax evasion is defined as the use of illegal methods by tax-payers to evade or under-pay their tax liability. In terms of Sections 123 to 128 of the Income Tax Act, tax evasion is a criminal offence attracting a fine of P4, 000 and imprisonment term of two years.

There were three reported cases of tax evasion during the review period, with revenue lost amounting to P12 197 269.21. The ML threats resulting from tax evasion was rated **high** considering the significant amount of revenue lost.

3.1.4 Theft

According to Section 264 of the Penal Code, *"any person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person other than the general or special owner thereof, anything capable of being stolen, is said to steal that thing".* The related offences are as follows:

3.1.4.1 Stealing by Agents

During the period under review, one case of stealing by agents, where proceeds of crime were used to buy motor vehicles were reported to Botswana Police. The total value of the vehicles recovered and seized amounted to P1, 372,000.00. The offense is criminalised under Section 279 (b) of the Penal Code and the offender is liable to imprisonment for a term not exceeding seven years.

Stealing by agent was rated **high** as a threat to money laundering considering the significant amount of proceeds of crime involved.

3.1.4.2 Possession of Suspected Stolen Property

Section 318 of the Penal Code defines a person suspected of possessing, carrying or conveying stolen property as "Any person who is found by a peace officer to be in possession of, or carrying or conveying in any manner, anything which is reasonably suspected of having been stolen or unlawfully obtained and he is unable to give a suitable account as to how he came by it is guilty of an offence".

The offender may be sentenced to imprisonment or charged a penalty as determined under Section 33 of the Penal Code. Only one case of possession of suspected stolen property, amounting to P49 000 was reported during the period under review.

This offense was rated **low** for ML threat considering proceeds of crime involved and the low number of cases reported.

3.1.4.3 Stealing by Person Employed in the Public Service

Section 276 of the Penal Code criminalises an act of stealing by person employed in the public service. The Section states that *"if the offender is a person employed in the public service and the thing stolen is the property of the state or came into possession of the offender by virtue of his employment, he is liable to imprisonment for a term not exceeding seven (7) years".*

Two cases of "stealing by person employed in the public service" were recorded during the period under review. Out of the total proceeds of P4 402 232.20, an amount of P260 000.00 was used to purchase vehicles in the sector.

ML threat emanating from stealing by person employed in the public service was rated **high** considering the significant amount of proceeds of crime involved.

3.1.4.4 Stealing by Servant

Section 277 of the Penal Code criminalises stealing by servant with imprisonment for a term not exceeding 7 years. Eight cases of "stealing by Servant", amounting to P1 250 000.00 were reported during the period under review. The generated proceeds were used to purchase motor vehicles from various garages. The vehicles were recovered and seized by the Police.

Therefore, stealing by servant was rated **medium** for ML threat considering the amount involved and **low** number of cases.

3.1.4.5 Office Breaking and Theft

Section 302 of the Penal Code defines "office breaking and theft". The offence attracts imprisonment for a term not exceeding seven years, with corporal punishment. Only one case, of office breaking and theft was reported during the period under review. The total value of vehicles purchased was P64, 920.00.

Office breaking and theft was rated **low** for ML threat considering the amount involved and low number of cases.

3.1.4.6 Robbery

Section 292 of the Penal Code criminalises robbery with imprisonment of a term not exceeding 20 years with corporal punishment. Only one case of robbery was reported to Botswana Police for the period under review where the proceeds were used to purchase vehicles from two different motor dealers. The total value of the vehicles bought amounted to P77, 200.00.

ML threat emanating from robbery was rated as **low** considering the number of cases and insignificant amounts of money involved.

3.1.4.7 Obtaining by False Pretence

Section 308 of the Penal Code criminalises "obtaining by false pretense" with imprisonment for a term not exceeding 7 years.

Law Enforcement Agencies reported five cases of offenses related to obtaining by false pretense during the period under review with associated total proceeds of crime amounting to P11 859 420.05. An amount of P2, 723,000.00 was used to purchase vehicles locally, and the vehicles were recovered and seized by Botswana Police.

In view of the above, it was concluded that obtaining by false pretense poses **medium-high** ML threat as indicated by large proceeds of crime involved.

Based on the foregoing, it was established that theft is a significant predicate offence considering its diverse nature, the number of cases reported and the total amount of proceeds of crime involved. However motor dealers were not directly involved in theft, rather the proceeds obtained from theft were used to purchase motor vehicles, and therefore overall ML threat resulting from theft was rated **medium.**

3.1.5 Drug Trafficking

Section 5 of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 2018 states that any person who traffics narcotic drugs or psychotropic substances commits an offence and shall be liable to a fine not exceeding P 500 000 or to imprisonment of a term not exceeding 5 years or to both. During the period under review two cases of unlawful possession of dagga were reported by the Police, where the proceeds were used to purchase vehicles locally. The cars were confiscated as required by the law. The cumulative value of the vehicles amounted to P377, 000.00.

ML threat posed by Drug trafficking offense was rated **low** considering the number of cases reported and the amounts involved.

3.1.6 Cyber Fraud

In terms of Section 15 of Cyber Crime and Computer Related Crimes Act, 2018 cyber related crime attracts a fine not exceeding P300, 000.00 or an imprisonment term not exceeding 7 years or to both. One case of cyber fraud, was reported to the Police for the period under review where the proceeds were used to purchase a vehicle.

The ML threat from cyber fraud was rated **low** due to the few number of reported cases and insignificant amounts of money involved.

3.1.7 Corruption by or of Public Officer

Section 24 (1) of the Corruption and Economic Act, 2013 criminalises corruption by public officer and prescribes a term of imprisonment not exceeding 10 years or a fine not exceeding P500 000, or both. Two cases of corruption by or of public officer were reported for the period under review. Total proceeds of crime generated from the cases was P895, 100.00.

ML threat emanating from corruption by or of public officer was therefore rated **medium** due to the magnitude of the amounts involved.

3.1.8 Abuse of Public Office

Abuse of public office, where a public officer uses his position to obtain valuable consideration whether for the benefit of himself or herself or any other person is an offence in terms of Section 24A (1) of the Corruption and Economic Crime Act, 2013. The offence is punishable by a fine not exceeding P5000 or an imprisonment term not exceeding 3 years or to both. One case of abuse of Public Office in which part of the proceeds amounting to P9, 122,194.57 were used to buy motor vehicles, was reported during the period under review.

Abuse of Public Office was rated **high** for ML threat considering the magnitude of the amount involved.

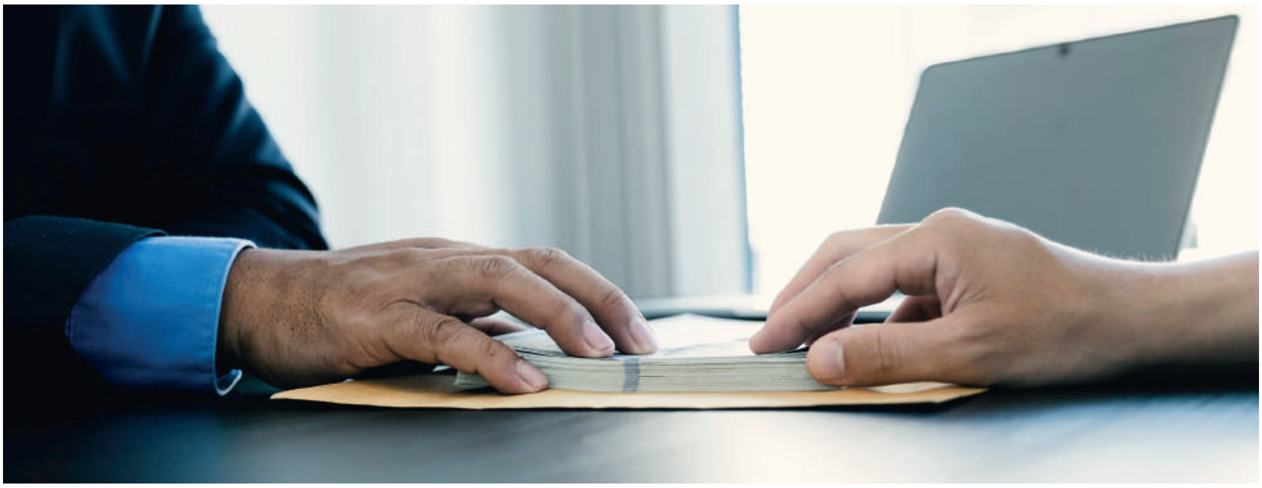


Table 5 below shows a summary of the assessed predicate offences and the corresponding money laundering threat ratings. The highest threat came from false declaration with total proceeds of P28, 670, 757.17.

As a result, the overall ML threat in the motor dealership sector was rated at **medium high.**

Table 5: Predicate Offences and ML Threat Ratings

No.	Predicate Offence	ML Threat Rating
1	False declaration	High
2	Tax evasion	High
3	Stealing by Agents	High
4	Stealing by person employed in the public service	High
5	Abuse of public office	High
6	Obtaining by false pretenses	Medium-high
7	Stealing by Servant	Medium
8	Corruption by or of public officer	Medium
9	Smuggling	Low
10	Office breaking and theft	Low
11	Drug trafficking	Low
12	Robbery	Low
13	Cyber fraud	Low
14	Possession of suspected stolen property	Low

3.2 Typology Data Collection

The objective of this sub-module is to systematically analyse trends and patterns of ML in the car dealership sector. An ongoing systematic collection of data will contribute significantly to the monitoring and future analysis of money laundering trends. During the period under review, no ML convicted cases were recorded, but rather 27 cases amounting to P26, 372, 846.77 were under investigation for ML.

In another related matter, the FIA received 32 STRs pertaining to the car dealership industry for the period of 2019 - 2021, 16 of which were rejected by the system as they were not properly developed, hence poor quality of submissions. The remaining 16 STRs were processed and the resulting financial intelligence information, on four STRs, was disseminated to the relevant law enforcement agencies.

Due to lack of convicted cases, ML threat was not rated for this variable.

3.3 Cross Border Threat Assessment

The specialised motor dealers in Botswana have economic and financial links with a number of countries including Republic of South Africa, Pakistan and Japan. While imported pre-owned motor dealers have links with Japan, Singapore and United Kingdom. These are countries of origin for the imported vehicles for the two market segments. This assessment did not establish any criminal links between dealers in Botswana and other jurisdictions.

4.0 MONEY LAUNDERING VULNERABILITY ASSESSMENT

This section examines the AML controls available in the country and the inherent vulnerability factors to assess the ML vulnerability of the car dealership sector.

4.1 AML Control Variables:

AML control variables measures the quality of the AML controls in place and their effectiveness in reducing the ML vulnerability. A higher rating means that the controls are effective in reducing the business's vulnerability, while a lower rating depicts the controls ineffectiveness. The AML controls assessment includes examination of the legal framework, supervision and regulatory oversight activities, availability and enforcement of sanctions.

4.1.1 Comprehensiveness of AML Legal Framework

In assessing this control variable, the focus was on establishing whether Botswana has comprehensive AML/CFT/CFP laws and regulations regarding AML/CFT/CFP preventive measures and AML/CFT/CFP supervision for the car dealership sector. The variable does not assess the implementation of the laws and regulations.

Botswana passed a number of AML/CFT/CFP related Laws and Regulations including the following:

i. Financial Intelligence Act, 2022 (FI Act);
ii. Financial Intelligence Regulations, 2022;
iii. Financial Intelligence (Implementation of the UNSC Resolutions) Regulations, 2022;
iv. Proceeds and Instruments of Crime Act, 2014;
v. Proceeds and Instruments of Crime (Amendment) Act, 2018;
vi. Counter-Terrorism Act, 2014;
vii. Counter-Terrorism (Amendment) Act, 2018 & 2022;
viii. Companies Act, 2013;
ix. Companies (Amendment) Act, 2018;
x. Companies (Amendment) Act, 2022;
xi. Companies Regulations, 2014;
xii. Data Protection Act, 2018;

xiii. Customs and Excise Duty Act, 2004;
xiv. Customs Act, 2018;
xv. Excise Duty Act, 2018;
xvi. Income Tax Act, 1995;
xvii. Value-Added Tax Act, 2002;
xviii. Capital Transfer Tax Act, 1985;
xix. Trade Act, 2019;
xx. Trade Regulations, 2020;
xxi. Immigration Act, 2011;
xxii. Biological and Toxin Weapons (prohibition) Act, 2018;
xxiii. Chemical Weapons (Prohibition) Act, 2018;
xxiv. Nuclear Weapons (Prohibition) Act, 2018.

These laws are expected to provide the necessary preventive measures which, if implemented effectively, would reduce ML vulnerabilities. A car dealership is subjected to the following AML/CFT/CFP obligations emanating from the aforementioned laws:

4.1.1.1 Customer Due Diligence

Customer due diligence (CDD) is the process where relevant information about the customer is collected and evaluated for any potential risk of commission of a financial offence. Sections 16, 19 and 20 of the FI Act requires car dealerships to conduct CDD for business relationships, transactions, and on-going CDD. The obligations further require third parties acting on behalf of car dealerships to conduct CDD procedures in line with the entity's risk assessment.

In addition, Sections 21- 24 of the FI Act requires car dealerships to conduct EDD measures on prominent influential persons (PIPs), beneficiaries of life insurance services and cross-border correspondent banking relationships, in accordance with their risk management systems[5]. The Act further requires specified parties to monitor transactions and business relationships for high risk businesses and those based in high risk jurisdictions. This control is meant to protect domestic and international financial system from the ML/TF/PF risks emanating from such countries.

[5] Risk management systems as defined under Section 2 of the FI Act.

4.1.1.2 Suspicious Transaction Reporting

Section 38 of the FI Act obligates specified parties, including car dealerships to report suspicious transactions by filing reports to the Financial Intelligence Agency (FIA), for any transaction which they may deem suspicious.

4.1.1.3 Internal controls, foreign branches, and subsidiaries

Section 15 of the FI Act provides for implementation of group-wide programmes for the prevention of financial offences, to be undertaken across all branches and majority owned subsidiaries of the parent company.

4.1.1.4 Record keeping

Specified parties, including motor dealers, are mandated to maintain records, obtained from CDD measures, business activities and account files, for 20 years in line with Section 31 of the FI Act. Records shall be protected to ensure that the privacy of individuals in relation to their personal data is maintained as required by the Data Protection Act, 2018.

4.1.1.5 Licensing and Supervision for AML Compliance

Section 14 of the Trade Act, 2019 and the Trade Regulations, 2020 provide a framework for trade or business registration. The section requires motor dealers to be registered for operation through issuance of a business registration certificate. This function is carried out by the Ministry of Local Government and Rural Development (MLGRD) through the Local Authorities (District and Town Councils). In addition, car dealerships are regulated and supervised for AML/CFT/CFP purposes by the FIA in accordance with Sections 2 and 49 of the FI Act.

In light of the above, the variable "Comprehensiveness of AML Legal Framework" was rated **1.0 (Excellent).**

4.1.2 Effectiveness of Supervision/Oversight Activities

In accordance with Sections 2 and 49 of the FI Act the FIA regulates and supervises car dealerships for AML/CFT/CFP. Pursuant to the regulation and supervision mandate, FIA adopted a Risk Based Supervisory (RBS) framework in 2019 which guides implementation of supervisory efforts on a risk sensitive basis, ensuring that supervisory resources are channelled to more risky areas of the regulated sector. FIA's supervisory activities on the car dealership sector are detailed hereunder:

4.1.2.1 Examinations

FIA conducted thirty-eight (38) examinations on motor dealers during the period under review. The examinations revealed some deficiencies in the AML/CFT/CFP compliance regime of the examined motor dealers. The FIA adopted a moral suasion approach where car dealerships were given feedback on deficiencies identified during examinations, and agreed on a remedial action[6] plan that compelled them to periodically submit progress reports to the FIA.

4.1.2.2 Issuance of Guidance Notes

Section 6 (2) (d) of the FI Act, 2022, gives the Agency the authority to give guidance to a specified party, regarding the performance by the specified party of duties under the Act. Pursuant to this, during the period under review, the FIA issued the following Guidance Notes:

(i) **Risk Assessment Guidance Tool (Sep. 2019);**
The Guidance Note assisted car dealerships in conducting institutional risk assessment to enable identification, assessment and understanding of financial offence risks and subsequently implementing appropriate risk management measures.

(ii) **go-AML Suspicious Transaction Reporting Guidance Note (Jul. 2020)**
The Guidance Note provides guidance on the submission of statutory reports such as STRs and CTRs to the FIA using the go-AML system.

(iii) **Counter-Proliferation Financing Guidance Note (Sep. 2020)**
The guidance note assisted specified parties, supervised by the FIA, including car dealerships to understand their obligations in the fight against proliferation financing.

(iv) **go-AML Registration Guideline (Dec. 2020)**
Provides guidance on the internet based reporting system (go-AML system) registration process to facilitate submission of statutory reports.

[6] Section 44 (2) (b) of the FI Act,2019 allowed for a supervisory authority to enter into an agreement with a specified party to implement an action plan, to ensure compliance of the specified party's obligations under this Act.

(v) **Guidance for Specified Parties and Accountable Institutions in Detecting Terrorist Financing (Nov. 2021)**
The guidance note is intended to assist entities in developing and implementing effective, risk based compliance programs that enable adequate identification and reporting of suspicious transactions involving TF.

(vi) **Guidance Note for Detection of COVID-19 Related Crimes (Feb. 2022)**
The note is intended to alert financial institutions of fraud, corruption, and other predicate crimes pertaining to money laundering observed during the period of the COVID-19 pandemic.

4.1.2.3 Communication of list of high risk countries:

In accordance with Section 6 (2) (h) of the FI Act, 2022, during the period under review, the FIA issued notices of high risk countries to its supervised entities, including car dealerships. The information is important in facilitating entities when conducting customer due diligence.

4.1.2.4 AML/CFT/CFP Awareness Workshops

As part of its supervisory mandate, the FIA develops and implements an annual outreach plan to promote understanding of AML/CFT/CFP obligations as stipulated in the FI Act. Table 6 below shows the outreach activities undertaken in 2019 and 2020.

Table 6: AML/CFT Awareness Workshops

Workshop Date	Topics Covered	Audience
2019	AML/CFT/CFP Obligations	Car dealerships under Associated Investment Development Corporation (AIDC)
2020	ML/TF risk assessments.	Car dealers, Dealers in precious metals & Government Agencies
2020	Cascading findings of NPO, Legal Persons and Arrangements sector risk assessments.	Car dealerships
2020	go-AML reporting	Car Dealerships
2021	The implementation of the compliance programme and risk	Car Dealerships (Gaborone)
2021	Targeted Financial Sanctions	Car Dealerships
2021	Targeted Financial Sanctions	Car Dealerships (Francistown & Maun)

4.1.2.5 Other Commitments

The following were also undertaken by FIA to improve the effectiveness of supervision:

(i) Training of FIA Officers

During the period under review, the FIA trained its Officers responsible for supervision in different and relevant areas to capacitate them with necessary skills and up-to date knowledge for effective supervision. The training included professional courses and Masters Degrees.

(i) Supervisory Forum

The Botswana AML/CFT/CPF Supervisory Forum was established in October 2019, to ensure that the obligations and responsibilities as set out in Financial Intelligence Act are fulfilled consistently, efficiently and effectively. Members of the forum are supervisory authorities as listed under Schedule II of the FI Act. The forum meets on a quarterly basis and special meetings may be called as and when necessary.

Despite the availability of a comprehensive legal and regulatory framework and the Agency's efforts to carry out its supervisory responsibilities, resources to undertake effective supervision were assessed to be inadequate. There was also limited understanding of the ML/TF/PF risks associated with the sector.

In view of the above, the overall rating for "effectiveness of supervision/oversight activities" was **(medium) 0.5.**

4.1.3. Availability and Enforcement of Administrative Sanctions

In terms of Section 49 (2) (a) of the FI Act, the FIA has the authority to impose appropriate and prescribed administrative sanctions on non-compliant motor dealers. In addition, Section 49 (2) (b) of the FI Act, empowers the FIA to enter into an agreement with the regulated entity on the implementation of the remedial action plan to ensure compliance with its obligations under the Act.

Pursuant to the aforesaid, the FI Act provides for a wide range of effective, proportionate and dissuasive administrative sanctions applicable to natural or legal persons in case of non-compliance with AML/CFT/CFP laws and regulations. The administrative sanctions and corresponding penalties are provided in Table 7 below.

Table 7: Administrative Sanctions

No.	Section	Offence	Penalty
1.	13 (7) 13 (8)	a) Failure to conduct risk assessment and take appropriate measures to manage and mitigate the identified risks. b) Failure to take appropriate measures by an entity to ensure that its services are not used to commit or facilitate the commission of a financial offence.	a) A fine not exceeding P1 million as may be imposed by a supervisory authority. b) A fine not exceeding P1 million as may be imposed by a supervisory authority.
2.	14 (4)	Failure to implement programmes to counter the risk of commission of a financial offence.	A fine not exceeding P5 million as may be imposed by a supervisory authority.
3.	16 (4)	Failure to conduct customer due diligence.	A fine of P1 million as may be imposed by a supervisory authority.

4.	**17 (4)**	Failure to conduct customer due diligence (where the third party fails to perform duties imposed on a third party).	Specified party liable to a fine not exceeding P1 million as may be imposed by a supervisory authority.
5	**18 (2)**	Failure to comply with the provisions of the section.	A specified party that fails to comply with the provisions of this section is liable to an administrative fine not exceeding P1 million as may be imposed by a supervisory authority.
6.	**19 (3)**	Failure to conduct on-going customer due diligence.	A fine not exceeding P1, 5 million as may be imposed by a supervisory authority.
7.	**20 (8)**	Failure to Identify Customers	A fine not exceeding P1 million as may be imposed by a supervisory authority.
8.	**21 (2)**	Failure to conduct enhanced due diligence.	A fine not exceeding P1,5 million as may be imposed by a supervisory authority.
9.	**25 (2)**	Establishing and maintaining anonymous accounts or accounts in fictitious names.	a) A fine not exceeding P10 million; b) Suspension or revocation of licence as the case may be; or c) Both penalties as may be imposed by a supervisory authority.
10.	**27 (3)**	Establishing or maintaining a business relationship with a terrorist or a member of terrorist group.	a) A fine not exceeding P20 million; b) Suspension or revocation of licence as the case may be; or c) Both penalties as may be imposed by a supervisory authority.
11.	**29 (2)**	Failure to monitor a complex, unusual and high risk transaction.	A fine not exceeding P1, 5 million as may be imposed by a supervisory authority.
12.	**35 (1)**	Failure to keep records.	A fine not exceeding P500 000 as may be imposed by a supervisory authority.
13.	**38 (6)**	Failure to report a suspicious transaction.	(a) A fine not exceeding P5 million as may be imposed by a supervisory authority. (b) A suspension or revocation of licence as the case may be or; (c) Both penalties provided at (a) and (b).
14.	**39 (2)**	Failure to report cash transactions above the prescribed limit.	A fine not exceeding P1 million as may be imposed by a supervisory authority.
15.	**46(1)**	Failure to make a report by a supervised entity as per Part VI of the Act.	a) A fine not exceeding P5 million; b) Suspension or revocation of licence or registration as the case may be; or c) Both penalties as may be imposed by the supervisory authority.
16.	**63(3)(d)**	Violation of Regulations made under the FI Act, where a penalty is not provided.	A fine not exceeding P100 000 as may be imposed by a supervisory authority.

During the period under review, FIA conducted onsite inspections on 38 car dealerships and found that mostly, car dealerships were in contravention of the AML/CFT requirements. That notwithstanding, FIA did not impose any administrative sanctions on the concerned car dealerships, or on any individual members of management or officers for AML/CFT violations. Instead, the Agency adopted a moral suasion approach and directed the examined entities to implement remedial actions to address the identified deficiencies.

The variable was therefore rated **(high)** at **0.7.**

4.1.4 Availability and Enforcement of Criminal Sanctions

The FI Act, 2022 establishes criminal offences and prescribes penalties ranging from 3 to 20 years imprisonment, and fines up to P 5 million. Table 8 below provides violations and corresponding criminal penalties prescribed in the Act.

Table 8: Criminal Sanctions

No.	Section	AML/CFT Obligation	Penalty
1	20 (7)	False identification documents	A fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.
2	25 (3)	Authorizing the establishment or maintenance of anonymous accounts	A fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.
3	35 (2)	Offences relating to records	A fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.
4	36 (5)	Non-compliance with examination requests	A fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.
5	46 (2)	Offences relating to reporting	A fine not exceeding P3 million or to imprisonment for a term not exceeding 20 years or to both.
6	46 (4)	Offences relating to reporting	A fine not exceeding P2 million or to imprisonment for a term not exceeding 15 years or to both.
7	48	Offences for non-compliance by members of senior management	A fine not exceeding P250 000 or to imprisonment for a term not exceeding 5 years or to both.

8	**50**	Failure to prevent criminals from holding controlling interest	A fine not exceeding P250 000 or to imprisonment for a term not exceeding 5 years or to both.
9	**52 (4)**	Refusal to supply information	A fine not exceeding P1 million or to imprisonment for a term not exceeding 10 years or to both.
10	**58 (3)**	Confidentiality by Director General and Agency officers	A fine not exceeding P50 000 or to imprisonment for a term not exceeding 3 years or to both.
11	**59 (2)**	Confidentiality by third parties	A fine not exceeding P 1 million or to imprisonment for a term not exceeding 5 years or to both.
12	**63 (3) (a) (b) (c)**	Violation of Regulations made under the FI Act, where a penalty is not provided.	A fine not exceeding P100 000 or to imprisonment for a term not exceeding 5 years or to both.

Moreover, the Counter-Terrorism Act, 2014 provides for measures on preventing and countering acts of terror, including the financing of terrorism. Section 5 of the Counter Terrorism (Amendment) Act of 2018, criminalises financing of terrorism, which attracts a life time imprisonment or a fine of P5 000 000.00 or to both. In addition, money laundering is criminalised under Section 47 of the Proceeds and Instruments of Crime Act, 2014 (PICA), with a penalty of a fine not exceeding P20 million, or an imprisonment term not exceeding 20 years, or both.

Based on information from LEAs, there was no record of convictions and criminal enforcement actions against car dealerships for the period under review.

This variable was rated **(medium)** at **0.5**

4.1.5 Availability and Effectiveness of Entry Controls

Car dealers are registered in terms of The Trade Act, 2019 and Trade Regulations, 2020.

Schedule 1, Form 2 of the Trade Regulations, 2020 sets out the registration requirements as listed below:

a) proof of company incorporation and the latest form of annual return (where applicable;
b) proof of availability of premises (written undertaking lease in lieu of agreement or title deed);
c) certified copy of passport for non-citizens and identity card for citizen;
d) non-refundable licence application fee of 200, and
e) payment of appropriate business registration certificate fee, upon approval.

Following the amendment of the Trade Act, it was established that a satisfactory environmental health inspection report for the premises and a zoning report were no longer pre-requisites to obtain a business registration certificate. Dropping a zoning report from the requirements was assessed to reduce the strength of entry controls since zoning provided an oversight role in land conflicts and utilisation within the commercial neighbourhood.

It was established that the existing controls under the Trade Act did not require conduct of a "fit and proper" test designed to prevent criminals or their associates from being granted a business registration certificate or being the beneficial owner of a significant controlling interest or holding a significant management position in the motor dealership business.

The existing entry controls as provided by the Trade Act and its Regulations were found to be more prudential and lacking in preventing undesirable elements from entering and operating in the sector

The variable was rated **(very low) 0.2**

4.1.6 Integrity of Business/Profession Staff

Interviews were conducted in order to assess car dealerships' employees' level of awareness and understanding of their AML/CFT/CPF obligations. Questions centred on whether they did not knowingly or unknowingly collude with criminals to undermine AML/CFT/CFP controls, and any involvement of staff in incidents of integrity failure. All the interviewed motor dealers reported zero incidents.

However, drawing from the 120 false declaration incidences indicated under Annexure 1, threat assessment showed that motor dealers were directly involved in false declaration hence, the integrity of employees of motor dealer was compromised.

The variable was rated **(medium high)** at **0.6** for specialised and **(very low)** at 0.2 for imported pre-owned motor dealers.

4.1.7 AML/CFT/CFP Knowledge of Business/Profession Staff

Some of the key findings of the NRA of 2017 were; limited AML/CFT/CFP knowledge in the car dealership sector, failure to report large cash transactions and lack of employee training on AML/CFT/CFP matters.

During the period under review, the FIA conducted examinations, awareness workshops, issued guidance notes and trends reports to assess car dealerships' level of compliance and sensitised them on AML/CFT/CFP obligations.

A questionnaire was administered on the sampled car dealerships and, eighty-five percent (85%) of the respondents indicated to be aware of the FI Act and AML/CFT/CFP obligations as stipulated in the FI Act. Furthermore, 56% of these dealerships reported to have trained their employees on the compliance obligations. However, the majority of the sampled motor dealers did not provide evidence of the training provided (training programs, training materials and lists of staff trained) as requested. Lack of evidence made it difficult for the Working Committee to determine the adequacy of staff training and the appropriateness of such training on AML/CFT/CFP knowledge.

Even though responses from car dealerships indicated awareness of AML/CFT/CFP obligations, the knowledge and understanding of employees could not be ascertained due to unavailability of training programs and training materials.

The variable was rated **(medium low)** at **0.4.**

4.1.8 Effectiveness of Compliance Function (Organisation)

Section 14 (1) of the FI Act requires motor dealers to have a designated anti-money laundering and counter-financing of terrorism Compliance Officer, who should be at management level. A questionnaire was administered on the car dealerships to determine the level of compliance with the requirement.

The responses showed that 78% of dealerships had designated AML/CFT Compliance Officers. Only 69% of these, designated Compliance Officers were at management level, 25% were at non-management level, while 6% percent did not specify the rank. Designation of an AML/CFT Compliance Officer at non-managerial level was assessed to be deficient since the Officer did not have the independence to perform their AML/CFT responsibilities, including reporting of suspicious transactions.

Furthermore, 37% of the assessed motor dealers reported to have conducted an independent audit of their compliance programmes. Nevertheless, the scope and adequacy of the audit could not be assessed since the motor dealers failed to submit recent AML/CFT/CFP independent audit reports as requested by the Working Committee.

In 2020, the FIA developed and issued guiding templates to 67 dealerships with the directive for them to conduct institutional risk assessments and develop compliance programmes. Subsequently, 31 made satisfactory submissions, while 23 of the submissions were unsatisfactory considering the guidance provided. Thirteen dealerships were non-responsive. This gives an indication of the ineffectiveness of the Compliance Function in developing and implementing compliance programmes commensurate to the identified risks.

The compliance functions were assessed to be incomprehensive and lacked independent audit functions to assess the effectiveness of the compliance programmes. Furthermore, a significant number of car dealerships had not conducted ML/TF/PF risk assessment to enable the implementation of a risk-based approach.

The variable was rated **(medium low) 0.4**

4.1.9 Effectiveness of Suspicious Transaction Monitoring and Reporting

Section 32 of the FI Act requires specified parties, including car dealerships, to maintain records of customer due diligence information and transaction records for 20 years. The assessment found that 36% of the respondents maintained records both manually and electronically; 3% electronically, 58% manually, while 3% did not specify the manner of keeping records.

Furthermore, it was established that only 10% of the respondents kept records for 20 years as required by the FI Act, 10% kept records indefinitely, while 51% did not specify their retention period and 29% kept records below the prescribed records retention period. Records retention of less than the prescribed period weakens the effectiveness of suspicious transaction monitoring systems. Similarly, manual record keeping is also not effective for AML/CFT/CFP screening and monitoring as it is labour intensive and time-consuming. This created a limitation for motor dealers and their employees to identify suspicious transactions for investigations and subsequent reporting to the FIA. The table below shows the number of STRs filed by motor dealers for the period under review:

Table 9: STRs Filed by Motor Dealers

Year	No. of STRs Processed	Total Amount (BWP)	No. of STRs Rejected	Total Amount (BWP)
2019	5	1 550 892.15	-	-
2020	3	1 778 000.00	3	1 028 000.00
2021	8	3 015 983.04	13	1 496 012.50
Total	**16**	**6 344 875.19**	**16**	**2 524 012.50**

Despite the fact that motor dealers have been made aware of their AML/CFT/CFP obligations, including reporting of suspicious transactions, half of the 32 STRs filed by car dealerships during the period under review were rejected by the system because they were poorly developed. The high rejection rate implies poor quality of submissions by motor dealers.

The low numbers of STRs filed with the FIA could be linked to lack of adequate and appropriate AML/CFT/CFP-monitoring and information systems. These facilitate the monitoring of clients' transactions against clients' profiles, perform effective screening of prominent influential persons (PIPs), identify and record all complex, unusual large transactions, hence inability to identify and report STRs.

The AML/CFT/CFP examinations conducted on motor dealerships revealed that there were no suspicious transaction red flags and reporting procedures in place. In an effort to improve effectiveness of suspicious transactions monitoring and reporting, the FIA provided a number of interventions, including issuance of guidance notes to dealerships on registration and reporting of such transactions on the go-AML platform, and sensitisation of dealerships on their reporting obligations, including red flags and risk indicators specific to the sector, during the period under review.

Contrary to the 85% of respondents who stated that they were aware of the FI Act and their AML/CFT/CFP obligations, 71% of these respondents did not file reports with the FIA because they were not aware of their reporting obligation under the FI Act. 10% of the respondents were aware of their reporting obligations.

Motor dealers did not have mechanisms in place to ensure monitoring of transactions against clients' profiles to enable filing of suspicious transactions reports. Furthermore, majority of the car dealerships did not keep records in accordance with the FI Act.

The variable was rated **(very low) 0.2**

4.1.10 Availability and Access to Beneficial Ownership Information

The FI Act defines beneficial owner as a natural person who ultimately owns or controls a customer or a natural person on whose behalf a transaction is being conducted, including a natural person who exercises ultimate effective control over a legal person or arrangement.

Section 11 of the Companies (Amendment) Act, 2022 requires information on beneficial ownership to be publicly available. Section 27 of the same Act requires a company secretary or a resident director to be accountable to any competent authority on all basic information and beneficial ownership of the company, which should be provided within three days. However, the provision has not yet been implemented pending finalisation of the enabling Regulations and re-engineering of the Online Business Registration System (OBRS). In addition, specified parties, including motor dealers, do not have access to beneficial ownership information.

During the period under review, information on beneficial ownership was not publicly available to specified parties, including car dealerships.

This variable was rated **(medium) 0.5.**

4.1.11 Availability of Reliable Identification Infrastructure

Botswana has, under the National Registration Act, 1986 established a secure national identification system which issues identity cards for citizens (Omang) and maintains records thereof. That notwithstanding, motor dealers did not have access to the national identification system and therefore, relied on the use of duly certified copies of national identification cards for identifying their clients.

Financial transparency and customer identification are enhanced when AML/CFT/CFP regulated institutions are able to verify the authenticity of customer identity using reliable, independent source documents, data or information.

The variable was therefore rated **(high) at 0.7**

4.1.12 Availability of Independent Information Sources

Botswana has passed a Credit Information Act in 2021 to provide for the regulation of the credit reporting system, the licensing and supervision of credit bureaus and related matters. To assess this variable, the Working Committee considered the existence of Trans Union Africa, a registered credit bureau and a repository of credit information on consumers and businesses. Trans Union Africa's information is accessible to institutions (subscribers) when conducting due diligence and checking credit worthiness of their customers. The assessment established that motor dealers did not subscribe to the Trans Union Africa and as such did not have access to the database to verify credit information of their clients.

That notwithstanding, 49% of the assessed motor dealers indicated that they carried out verification of source of income using bank statements, pay slips, letter of employment. Utility bills from Water Utilities Corporation and Botswana Power Corporation were used to verify client's residential address.

Although independent and reliable sources of information were available to determine transaction patterns and commercial history of clients, the information was not easily accessible by car dealerships as they did not subscribe to the available service providers and that the information was subject to the customer's consent.

This variable was rated **(medium) at 0.5**.

Table 10 below shows the assessed AML controls with ratings ranging from "0.2" to "1"(very low - excellent) indicating the strength of AML controls. The ratings showed the main vulnerabilities identified as ineffectiveness of suspicious transaction monitoring and reporting, weak entry controls, limited AML/CFT/CFP knowledge of business/staff, and ineffectiveness of compliance functions. Low integrity of staff for imported pre-owned motor dealers was also assessed to increase the vulnerability of the sub-sector.

Table 10: AML Controls Assessment Ratings

	Specialised	Imported
INPUTS - GENERAL INPUT VARIABLES/AML CONTROLS		
Comprehensiveness of AML Legal Framework	1	1
Effectiveness of Supervision/Oversight Activities	0,5	0,5
Availability and Enforcement of Administrative Sanctions	0,7	0,7
Availability and Enforcement of Criminal Sanctions	0,5	0,5
Availability and Effectiveness of Entry Controls	0,2	0,2
Integrity of Business/ Profession Staff	0,6	0,2
AML Knowledge of Business/ Profession Staff	0,4	0,4
Effectiveness of Compliance Function (Organization)	0,4	0,4
Effectiveness of Suspicious Activity Monitoring and Reporting	0,2	0,2
Availability and Access to Beneficial Ownership information	0,5	0,5
Availability of Reliable Identification Infrastructure	0,7	0,7
Availability of Independent Information Sources	0,5	0,5

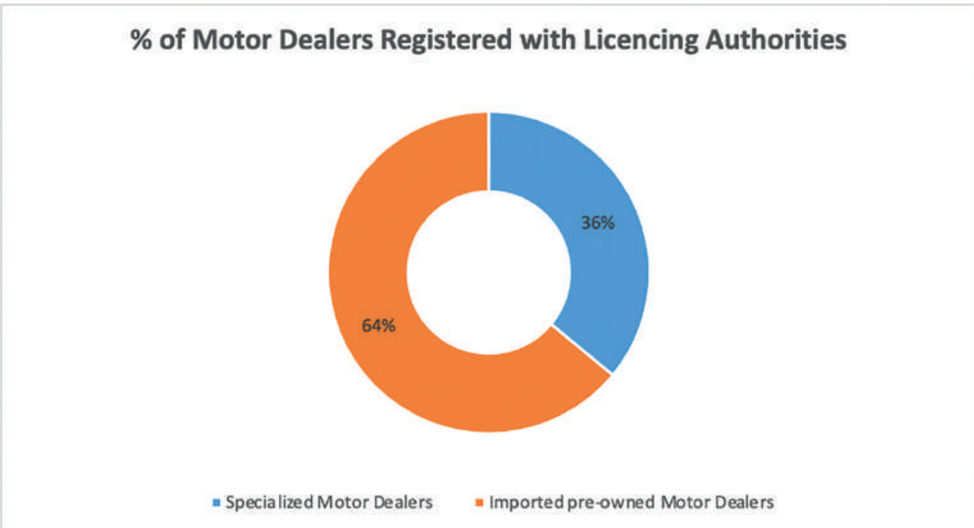
Excellent	Close to Excellent	Very High	High	Medium High	Medium	Medium Low	Low	Very Low	Close to Nothing	Does not Exist
1.0	0.9	0.8	0.7	0.6	0.5	0.4	0.3	0.2	0.1	0.0

4.2 Inherent Vulnerability Factors

4.2.1 Total Size/Volume of Motor Dealers

This variable sought to establish the total number of motor dealers in the sector, which will be indicative of the level of ML vulnerability of the sector if the relevant risks are not mitigated. As at April 2022, the total number of registered motor dealers was 116 of which 64% were imported pre-owned motor dealers, while the remaining was specialised motor dealers (Figure 1).

Figure 1: Motor Dealers Registered with Licencing Authorities



Source: Local Authorities

From the consultative meetings held with Local Authorities, it was established that there may be some car dealerships operating without a business registration certificate particularly in the imported pre-owned segment. These have created a limitation in accurately identifying the number of market players, and to adequately assess and measure the risks in the sector.

Regarding the volume of business, actual total turnover could not be established since only 31% of the assessed motor dealers provided information on annual turnover for the period under review. As a result, the significance of the motor dealerships sector to the country's economy could not be established.

In order to indicate the significance of imported vehicles to the country's total imports, the Working Committee analysed information from Criminal Investigations Department (CID) and Statistics Botswana in Tables 11 and 12 respectively.

All imported vehicles are subjected to a clearance process conducted by the Botswana Police Services as a pre-requisite for the issuance of the registration clearance to facilitate car registration by the Department of Transport, Road and Safety (DTRS).

Table 11: Comparative Yearly Statistics of Cleared Motor Vehicles

Year	2017	2018	2019	2020	2021	Total
Imports	52170	56640	70457	42935	40988	263190
Exports	4644	5374	4284	1273	1744	17319
Total	**56814**	**62014**	**74741**	**44208**	**42732**	**280509**

Source: Criminal Investigations Department

Table 11 above shows that there are more imported cars cleared for registration than exported.

Table 12: Vehicle Imports to Total Imports

Year	Total Imports Value (BWP)	Vehicle Imports Value (BWP)	Proportion of Vehicle Imports to Total Imports
2017	55,222,207,420.10	1,029,159,023.50	1.86%
2018	64,593,493,875.70	1,214,322,619.00	1.88%
2019	70,657,712,231.90	1,643,766,584.00	2.33%
2020	74,560,532,023.80	1,360,435,576.00	1.82%
2021	Information was not provided		-
Total	**265,033,945,551.50**	**5,247,683,802.50**	**1.98%**

Source: Statistics Botswana

Tables 11 and 12 above confirm that the car dealership sector grew over the years with a decline from 2020-2021, which may be attributed to covid-19 business impacts. The vehicle imports value has steadily grown at an average rate of 12% between 2017 and 2020.

This variable was rated **medium** as the working committee considered the average ratio of vehicle imports to the country's total imports to be significant. Failure to implement AML/CFT/CFT controls will result to increased vulnerability of the sector through these factors.

4.2.2 Client-Base Profile

This variable assesses whether the type of customers in the sector increases the risks of money laundering abuse. The client-base profile of a motor dealer carries higher risk if its customers fall within a category of high-risk customers, including prominent influential persons (PIPs) and customers originating from high risk countries. It was established from the analysis of the questionnaire responses that dealerships had varying knowledge and understanding of PIPs. This implied that there was a likelihood that they may be doing business with PIPs and not undertaking enhanced due diligence (EDD) as required by the law.

The assessment further established that 20% of the motor dealers had legal persons, legal arrangements, non-governmental organisations and foundations as clients. However, the dealerships did not comprehensively ascertain information on these types of customers in line with FI Regulations. This exposed dealerships to ML/TF/PF risk because they did not take reasonable steps to adequately verify the identity of the customer, determine on whose behalf the client is acting, the beneficial owner, and what business the client undertakes.

Based on the above analysis, the variable was rated **medium** for both specialised motor dealers and imported pre-owned motor dealers.

4.2.3 Level of Cash Activity

The FIA conducted examinations on 33 imported pre-owned motor dealers in September and October 2019. The examinations focused on compliance to reporting obligations, that is, filing of suspicious transaction reports and cash transactions reports. The examinations found that, most car dealerships dealings involved large cash transitions of P10, 000 or above, including the equivalent in foreign currency and that these transactions were not filed with the Agency as required by the FI Act, 2022.

As indicated in Table 13, 22 car dealerships filed a total of 1,794 CTRs with the FIA during the period under review. Another key finding, which is depicted in both Table 13 and Figure 2 is that the imported pre-owned motor dealers conducted cash transactions more than specialised motor dealers.

The low level of cash transaction reports may be attributable in part, to the low number of car dealerships registered on the go-AML system. As at December 2021, only 30 car dealerships, comprising of nine specialised and 21 imported pre-owned motor dealers had registered on the live platform, while a total of 80 motor dealers had registered on the go-AML training platform[7]; 10 specialised and 70 imported pre-owned motor dealers.

Furthermore, analysis of the motor dealers' questionnaires revealed that a significant number of dealers accepted cash as a mode of payment. Motor dealers which accepted cash as a mode of payment were analysed on the amount of threshold that they allowed as illustrated in Figure 2 below. 70% of the specialised motor dealers and 59% of the imported pre-owned set a cash threshold of "less than P10 000" as a mitigating measure of the money laundering risk exposure emanating from cash transactions. Conversely, 41% of imported pre-owned motor dealers and 30% of the specialised motor dealers were considered to have an increased risk appetite as they had set cash threshold at "above P10 000" or "no threshold" at all. This was assessed to increase money laundering vulnerability of the sector because of the nature of transactions.

[7] The training platform is used to train reporting officers on the use of the system.

Figure 2: Cash Threshold Limit per Motor Dealer Type

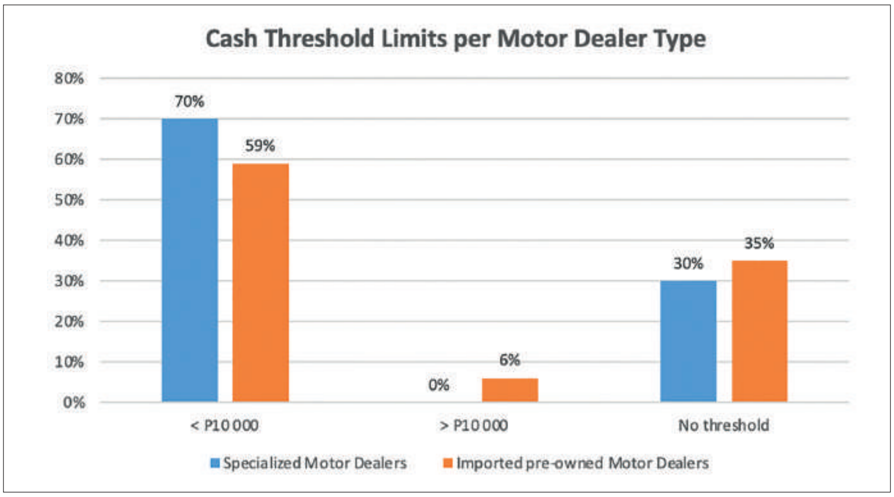


Table 13: Number of CTRs Filed by Motor Dealers

Motor Dealer Type	No. of Dealers	No. of CTRs	Total Value (BWP)
Specialized Motor Dealer	5	124	2, 684, 911.89
Imported pre-owned Motor Dealer	17	1, 670	55, 797, 588.80
Total	**22**	**1, 794**	**58, 482, 500.70**

Source: FIA

According to the FIA Trends Report of 2020[8], one of the trends observed based on the analysis of suspicious transactions was that some foreign nationals operated unregistered imported pre-owned dealerships which were highly cash-intensive and most of the transactions involved cash deposited through ATMs. In view of the above, the variable was assessed to be medium for specialised motor dealers and high for imported pre-owned motor dealers.

4.2.4 Existence of ML Typologies on the Abuse of Motor Dealers

As indicated in the preceding section, the FIA's Trends Report of December 2020, revealed that there was high cash preference for payment services in Botswana, highlighting a concern on the risks involved and the limitation of car dealerships in verifying the source of funds for these transactions.

From the focus group interviews with car dealerships, it was established that Botswana did not have restrictions on goods imported relative to the line of business, such that individuals or companies can import and trade in vehicles without a business registration certificate. This practice creates a possibility of illegal dealing in motor vehicles.

This variable was rated as **exist and significant** for both types of dealerships

4.2.5 Possible Anonymous Use of the Product

It was established that there was possibility of anonymous use of motor vehicles during the 30-day "window" between arrival of vehicles into Botswana and the time that a vehicle is cleared and registered under the custody of Clearing Agents, who also own bonded warehouses. The vulnerability could be exacerbated by inadequate storage space in bonded warehouses.

This variable was rated **available** for both the motor dealership types.

[8] Financial Intelligence Agency Trends Report, December 2020

4.2.6 Difficulty in tracing the transaction records of the business

As discussed previously under the variable "Effectiveness of Suspicious Transaction Monitoring and Reporting", 58% of the motor dealers maintained manual records. Clients' details were recorded, mainly through the customer acceptance/customer due diligence/know your customer forms, and filed. This manner of keeping records inherently presents challenges to timely access of records. However, the nature of the motor dealership business mostly involves once-off transactions and therefore does not need frequent referrals to records for due diligence monitoring.

This variable was rated **difficult/time consuming** for both specialized and imported pre-owned motor dealerships.

4.2.7 Use of the business/profession in fraud or tax evasion schemes:

As indicated under the money laundering threat assessment analysis, the motor vehicle dealership sector is prone to fraud and tax evasion. This is evidenced by the existence of false declaration offences, which was the most prevalent predicate offense committed in the sector during the period 2019/2020.

The variable was rated **exist but limited** for specialized motor dealers and **exist but significant** for imported pre-owned motor dealers.

4.2.8 Non-face-to-face use of the product of the business/profession:

Responses from the dealerships showed that most dealers did not allow non-face-to-face business transactions since purchase agreement include completion of CDD forms and test-driving of the car.

This variable was rated **not available** for both dealership types.

4.2.9 Other Inherent Vulnerability Factors

4.2.9.1 Porous Borders/Unmanned Ports of Entry

The assessment established that there was lack of capacity at ports of entry, including lack of specialized training to conduct effective search of vehicles for illicit items such as smuggled cash and drugs, lack of equipment and devices to conduct body search. This was evidenced in one of the assessed case studies, where a motor dealer imported pre-owned motor vehicles which were used to conceal and smuggle motor vehicle accessories into the country. The dealership only declared vehicles.

This variable was rated **medium-high** for ML vulnerability for both types of dealerships.

4.2.9.2 Use of Residential Plots for Commercial Use

One of the contributing factors to mushrooming of dealerships in Mogoditshane was that some motor dealers lease residential plots for commercial use. Although some dealerships applied for change of land use, some run their businesses from residential plots. This practice raises concerns relating to illegal dealers operating in residential plots, and not regulated by relevant Local Authorities and the FIA for prudential and AML/CFT purposes, respectively.

The findings were prevalent in the imported pre-owned segment, and therefore rated **high** for ML vulnerability and **does not exist** for specialised motor dealers.

4.2.9.3 Business Interests vs. Compliance Requirements:

Generally customers complained that the existing statutory AML compliance requirements were onerous, causing dealerships to end up closing deals to meet customer demands without due diligence, in the pursuit for business. The ML vulnerability emanating from conducting business without observing AML/CFT requirements was assessed to be **medium-high** for both specialized and imported pre-owned motor dealers.

4.2.9.4 Ineffective inter-agency collaboration

Collusion and undervaluation of goods by Clearing Agents was prevalent prior to clearance of goods including vehicles. Inter-agency collaboration at border posts was found to be ineffective hence a need to be improved. The assessment established a **high** ML vulnerability for the imported pre-owned segment based on the findings of the BURS Operation and **not analysed** for the specialized motor dealerships due to the lack of existing predicate offenses relating to the latter.

4.2.9.5 Personal Accounts Used for Business (PAUB)

Information from industry focus group meetings revealed that many dealerships did not have business accounts for car sales but rather facilitated through personal accounts. This raises the risk of comingling of funds and tax evasion. The variable was rated **medium-high** for imported pre-owned motor dealers and **does not exist** for specialised motor dealers.

4.2.9.6 Operating outside the registration certificate parameters

According to Section 15 (b) of the Trade Act, an entity issued with a business registration certificate is required to operate within the prescribed trade or business for which the certificate is issued. However, some motor dealers did not comply with business parameters as per the issued business registration certificate as per "Form 4" under Schedule 1 of the Trade Regulations. The non-compliance observed was linked to mixing trade incidences where some specialized motor dealers also sell imported pre-owned motor vehicles.

The variable was rated **medium** for imported pre-owned motor dealers and **does not exist** for specialised motor dealers.

Table 14 below shows the inherent vulnerability ratings for the two motor dealership types based on an assessment of the vulnerability factors above, both specialised and imported pre-owned motor dealers presented a **medium-high** vulnerability for abuse by money launderers at **0.64** and **0.73** respectively.

Table 14: Inherent Vulnerability by Motor Dealer Type

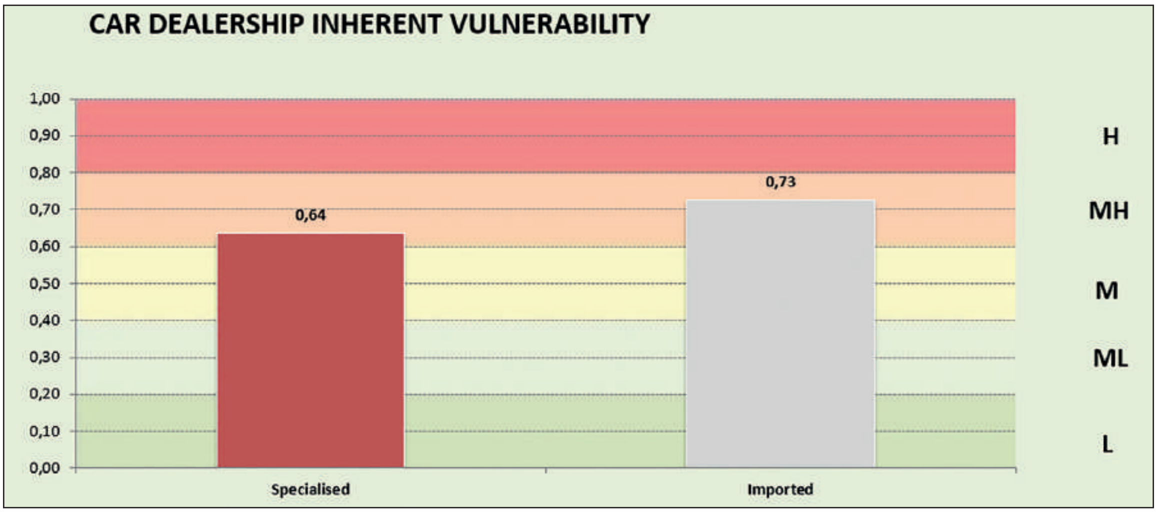


Figure 3 below shows the vulnerability map of the motor dealership sector emanating from input variables and generated intermediate variables. The map shows strong AML/CFT controls explaining a low ML/TF vulnerability area with "green) and weak AML/CFT controls explaining a high ML/TF vulnerability area with "red".

Figure 3: Vulnerability Map

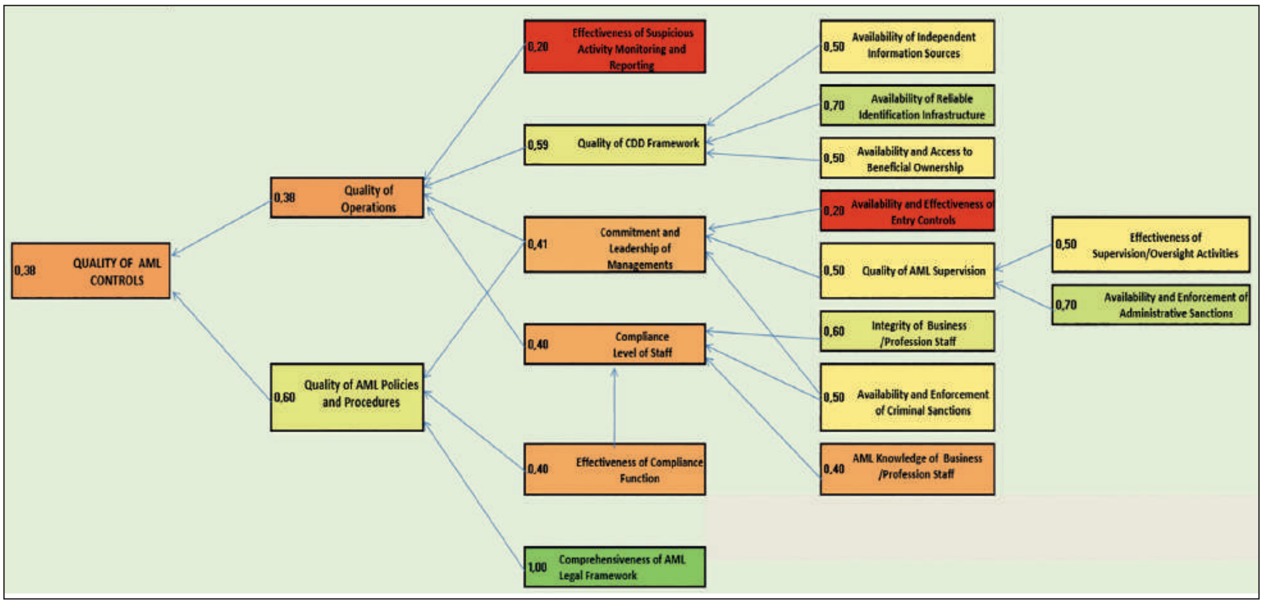
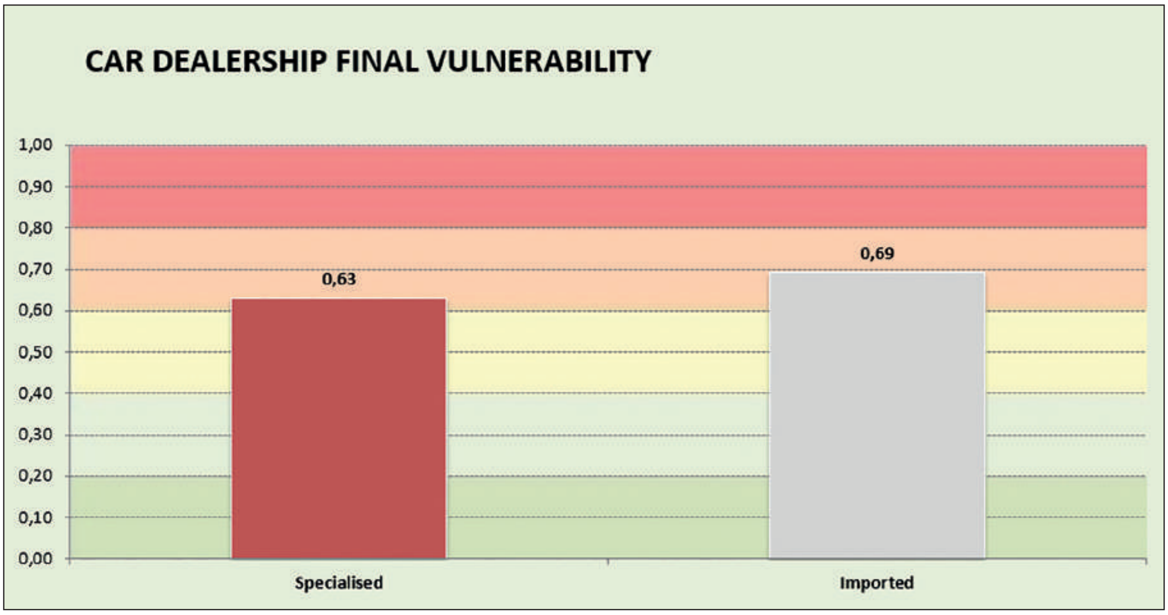


Table 15: Final Vulnerability by Motor Dealer Type



Conclusion:

Based on the overall assessment of the AML controls variables together with inherent vulnerability factors for the two market segments, both specialised motor dealers and imported pre-owned motor dealers presented a final ML/TF vulnerability of **medium-high** at **0.63** and **0.69** respectively.

The assessment generated the AML Controls Priority Ranking Table below which serves as a guiding tool on the allocation of resources and supervisory actions and/or activities. The priority ranking for AML controls is placed between a scale of “1” to “10”, with “1” given the highest priority area and “10” being the least priority area to be addressed with an objective to strengthen existing controls and subsequently minimise the ML/TF vulnerability of the sector.

Table 16: AML Controls Priority Ranking Table

PRIORITY RANKING FOR GENERAL INPUT VARIABLES/AML CONTROLS		
Comprehensiveness of AML Legal Framework		
Effectiveness of Supervision/Oversight Activities	3	4
Availability and Enforcement of Administrative Sanctions		
Availability and Enforcement of Criminal Sanctions	6	7
Availability and Effectiveness of Entry Controls	2	2
Integrity of Business/ Profession Staff	7	3
AML Knowledge of Business/ Profession Staff	1	1
Effectiveness of Compliance Function (Organization)	5	6
Effectiveness of Suspicious Activity Monitoring and Reporting	4	5
Availability and Access to Beneficial Ownership information	8	8
Availability of Reliable Identification Infrastructure		
Availability of Independent Information Sources	9	9

Table 16 depicts areas posing high ML/TF vulnerability in the order of significance with “AML Knowledge of motor dealers” and “Availability and Effectiveness of Entry Controls” as the top two for both types of motor dealers. “Effectiveness of Supervision/Oversight Activities” was ranked number three for specialised motor dealers as opposed to “Integrity of Business/ Profession Staff” for imported pre-owned motor dealers, mainly because of the identified ML threat incidents of the latter.

5.0 TERRORISM FINANCING RISK ASSESSMENT

This module sought to identify the terrorism financing threat by establishing the direction of financial flows and assessing vulnerability based on the available terrorism financing controls in the country. There is currently no consensus on the definition of terrorist financing mostly due to conceptual and intellectual divergences on the issue, (Madzima, 2009). The Counter Terrorism (Amendment) Act, 2018 defines an act of terrorism as;

> any act or omission in a outside Botswana which is intended to advance a political ideological or religious cause, or by its nature or context, may reasonably be regarded as being intended to intimidate or threaten the public or a section of the public, or compel a government or an international organisation to do or abstain from doing any act, or to adopt or abandon a particular position, and which -
>
> a) endangers or is likely to endanger the life, physical integrity or freedom of any person, any number a group of persons;
> b) causes or is likely to cause serious injury or death to any person;
> c) causes or is likely to cause damage to property, natural resources, environmental or cultural heritage;
> d) disrupts any public service, the delivery of any essential service to the public a creates a public emergency, including -
>   (i) disrupting the provision of police services, civil defence and medical services,
>   (ii) disrupting or causing damage or destroying any computer system or the provision of services directly related to communication infrastructure, banking and financial services, utilities, transportation or key infrastructure;
> e) creates a general insurrection in Botswana;
> f) involves the use of explosives or other lethal devices;
> g) involves the use of, or transportation of NBC weapons;
> h) involves the handling of, or use of radioactive or nuclear material;
> i) interferes with the operation of, damages a nuclear facility, or does anything directed against the nuclear facility, in a manner which releases a risks to release radioactive material;
> j) causes damage to a ship or vehicle, a is likely to endanger the safe navigation of a ship on inland or international waters;
> k) causes damage to a fixed platfam or is likely to endanger the safety of the fixed platform
> l) causes damage to any aircraft or aerodrome, a is intended to or is likely to cause damage to any air navigation facility a endanger the safety and lives of persons and property, affect the operations of air services or undermine the confidence of the public in the safety of civil aviation; or
> m) involves prejudice to public security or national defence; and includes -
>   (i) seizure of property, natural resources, environmental or cultural heritage,
>   (ii) hijacking of an aircraft, ship or vehicle,
>   (iii} taking of hostages,

(iv) the intentional murder or kidnap of an internationally protected person, a the execution of a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty, or

(v) any promotion, sponsorship, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organising, or procurement of any person, with the intent to commit any act referred to in paragraphs (a) to (m) (iv);

For the purposes of paragraph 1 (d) any advocacy, protest, dissent demonstration or industrial action shall not be considered as an act of terrorism if it is not intended to damage property, result in any serious bodily harm to a person or endanger a person's life, or create a risk to human health, or to public safety

(1) A person who, directly or indirectly, in whole or in part, and by any means or method -

(a) acquires property;

(b) collectsp roperty;

(c) uses property,·

(d) possesses property;

(e) owns property;

(f) provides or makes available, or invites another person to provide or make available-

(i} any property,

(ii} any financial r other service, or

(iii} economic support; or

(g) facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support,

intending that the property, financial or other service or economic support, as the case maybe, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly in whole or in

part -

(i} to commit or facilitate the commission of an act of terrorism, or

(ii} for the benefit of, or on behalf of, or at the direction of, or under the control of terrorist group

The Amendment Act further defines terrorism financing as;

Section 5 of the Counter Terrorism Act, 2014 criminalises terrorism financing with a life time imprisonment.

In terms of the FI Act, 2022, the implementation of the United Nations Security Council Resolutions is the responsibility of the National Coordinating Committee on Financial Intelligence (NCCFI). Furthermore, Section 27 of the Act prohibits the establishment or maintenance of a business relationship with a terrorist, or a member of a terrorist group.

Botswana appears to still be at a low risk for terrorism threats when it comes to the motor dealer sector with no recorded cases in the period under review. The risk profile of the Country with regards to terrorism threat has not changed since the NRA of 2017, which considered Botswana as a country that was not under imminent threat of terrorism, primarily attributed to the lack of history of terrorist attacks or any available record of attempts to launch such attacks[9].

5.1 Terrorism Financing Threat

During the period under review, there were no terrorism or terrorism financing cases recorded in relation to the car dealership sector. That notwithstanding, the Financial Action Task Force (FATF) guidance on terrorist financing risk assessment Guidance, of 2019[10], states that, "the absence of known or suspected terrorism and TF cases does not necessarily mean that a jurisdiction has a low TF risk". Jurisdictions without TF and terrorism cases will still need to consider the likelihood of terrorist funds being raised domestically (including through willing or defrauded donors), the likelihood of transfer of funds and other assets through, or out of, the country in support of terrorism, and the use of funds for reasons other than a domestic terrorist attack."

For this reason, and even though there were no TF cases relating to the car dealership sector during the period under review, Botswana is also susceptible to terrorism financing particularly because the country is a great importer of motor vehicles. According to Botswana Police Report (Serious Crime Squad Unit)[11], during the past five years from 2017 to 2021, 39 stolen vehicles from Botswana were smuggled out of the country and later intercepted in neighbouring countries including Mozambique (a country currently fighting a terror group with regions that are known as terrorist strongholds). While this had no direct link with motor dealers, the indication is that our borders may be creating a gap likely to be used by terrorists to obtain motor vehicles. The table below shows the number of intercepted stolen motor vehicles yearly in neighbouring countries.

Table 17: Number of Intercepted Stolen Motor Vehicles

	Country		
Year	**South Africa**	**Zimbabwe**	**Mozambique**
2017	10	1	0
2018	4	4	1
2019	1	1	1
2020	7	0	0
2021	7	2	0
Total	**29**	**8**	**2**

Source: Botswana Police Service, 2021

[9] National Risk Assessment 2017, page 136 paragraph 2.

[10] FATF, (2019). *Terrorist Financing Risk Assessment Guidance*, FATF,Paris, page 23

[11] Botswana Police Report on motor vehicle stolen outside Botswana - 2017-2021 (serious crime squad)

Even though there is no evidence of TF in the motor dealership sector in Botswana, internationally, other jurisdictions have identified terrorist financing links to motor dealers. According to (Esposito & Galli, 2011), in the United States of America, "more than two dozen U.S. motor dealerships were allegedly involved in an international half-billion-dollar money laundering scheme for Lebanon-based Hezbollah, a group considered a terrorist organization by the U.S. government". They further stated that, the scheme, said to have involved around USD300 million wired by Lebanese banks, "involved the purchases of used cars in the U.S. for shipment and sale abroad with funds provided by the banks, currency exchanges and associates of the Lebanon-based terrorist group".

Considering the above, the overall terrorism financing threat of the sector was rated **low.**

5.2 Terrorism Financing Vulnerability

Despite having no prior history of terrorist attacks, the following factors were assessed to potentially make Botswana more vulnerable to terrorists:

5.2.1 Quality of Legislation

Sections 3 and 5 of Counter Terrorism Act, 2014 criminalises terrorism and terrorism financing respectively. Financial Intelligence (Implementation of the United Nations Security Council Resolutions) Regulations of 2022 establishes a mechanism to identify individuals and entities that meet the criteria for domestic listing and possible United Nations designation, and gave the responsibility to oversee implementation United Nations Security Council Resolutions to the National Coordinating Committee on Financial Intelligence (NCCFI).

Despite the technical compliance, lack of TF cases made it difficult to assess the effectiveness of the legislation. As posited in an ESAAMLG Typology Report on Illicit Dealings and Smuggling of Motor Vehicles,[12] "lack of data or statistics of TF cases become an impediment in establishing or assessing both the strengths and weaknesses that might be within the jurisdiction's capacity to prosecute and apply criminal sanctions to persons that finance terrorism".

5.2.2 Quality of Intelligence

The lack of TF case data relating to the involvement of motor dealers in TF creates a challenge in determining the quality of intelligence gathering abilities in the country. However, based on the existence of a specialised unit, CTAFD, the quality of intelligence gathering is deemed adequate. This is because CTAFD was set-up with seconded officers from various stakeholders including BDF, BPS, DIS, BURS and FIA, well versed on issues of intelligence.

5.2.3 Effectiveness of TF-related Suspicious Transaction Reporting, Monitoring and Analysis

There were no TF-related STRs filed with the FIA during the period under review. The FIA through its awareness programs provided registration and training on the reporting of STRs through the go-AML platform.

[12] ESAAMLG Typology Report for on Illicit Dealings and Smuggling of Motor Vehicles, August 2012

5.2.4 Adequacy of Resources

The Counter Terrorism (Amendment) Act, 2022 provides for establishment of the Counter-Terrorism, Analysis and Fusion Division (CTAFD) under the Directorate of Intelligence and Security (DIS). The Division is responsible for conducting analysis and facilitating intelligence information for sharing and assisting law enforcement agencies in preventing, protecting against, and responding to financial offences and terrorism. The CTAFD Officers are continuously trained in various areas related to counter terrorism financing provided by various stakeholders such as United Nations Office of Counter Terrorism (UNOCT) and United States Department of Treasury.

During the period under review, the CTAFD was in the process of acquiring IT equipment for the design, supply and installation of mission critical technology infrastructure and funding for the project had been secured and was deemed adequate. The Agency further reported that the staffing level was considered to be adequate. The number of Agencies represented at the Division was increased to include Botswana Unified Revenue Service (BURS), Department of Immigration and Citizenship (DIC) and the Directorate on Corruption and Economic Crime (DCEC).

5.2.5 Effectiveness of International Cooperation

There are various platforms for international cooperation available for Law Enforcement Authorities. The Botswana Police Service is a member of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) and the International Police (Interpol), which assist in corporation and coordination in cross border investigations. For example, SARPCCO had on several occasions assisted in the repatriation of stolen vehicles from other jurisdictions. However, both platforms have never been used on matters relating to TF.

Similarly, the Directorate of Public Prosecution (DPP) has signed various agreements and entered into cooperation arrangements with counterparts in the region (South Africa, Namibia, Zimbabwe, and Mozambique) and internationally with State of Palestine. The bilateral arrangements are meant to enhance and improve cooperation between the competent authorities of the concerned States. Furthermore, there are existing international law obligations arising as a result of international treaties and conventions as well as the customs of nations, which plays an important part of promoting international cooperation.

The FIA as a member of the Egmont Group[13] has access to exchange of information with other member FIUs. The effectiveness of this in combating terrorism financing has not been tested since the FIA attained membership to the Group in July 2021. Despite the existing mechanisms, the assessment indicated that Botswana had not rendered or requested international (legal) assistance in relation to TF, through the Egmont platform.

5.2.6 Awareness and Commitment to Fight TF

Botswana has shown political commitment to fight terrorism and terrorism financing through the passing of relevant legislation as well as awareness and commitment amongst policy makers, LEAs, FIA, and DIS (CTAFD).

DPP established a National Anti-Money Laundering Task Force. The objective of the task force is to create a prosecution and law enforcement feedback-loop forum, to enhance prioritization and coordination of the ML/TF/PF cases, and to guide investigation on financial crime cases. The mechanism further tries to improve coordination and cooperation between competent authorities and the DPP. The task force forum includes LEAs, BURS and the FIA.

The FIA conducted AML/CFT/CFP examinations to assess compliance to the FI Act, AML/CFT/CFP outreach, including sensitisation on TF, and issued guidance notes to promote understanding and facilitate compliance with the FI Act on identification and reporting of suspicious terrorist financing activities.

Furthermore, Botswana developed a *National Strategy to Combat Money Laundering; Combat an Act of Terrorism, Combat Terrorism Financing; Combat Financing of Proliferation of Arms of War or Nuclear, Biological and Chemical Weapons and to Combat the Acquisition of Property from Proceeds of Any Offence (2019 – 2024),* in October 2019 as part of Government's efforts to improve the existing AML/CFT/CFP legal and institutional framework. The Strategy sets out strategic objectives for Botswana to respond to deficiencies identified in the Mutual Evaluation Report and in the NRA.

5.2.7 Geographic Factors

The Institute for Economics & Peace article, 2022[14], indicates that there is a growing impact of terrorism in the region with countries like Mozambique and Tanzania ranked as having a high impact of terrorism. The increasing level of the impact of terrorism for these regional countries exposes Botswana to the risk of terrorism and/or terrorism financing.

5.2.8 Demographic Factors

Section 10 of the Road Traffic Act Chapter 69:01[15] does not prohibit non-residents from buying and registering cars in Botswana. This may provide an avenue for non-citizens/non-residents to register and smuggle vehicles out of the country to terrorism prone countries. On another related matter, it was observed that some travellers, did not declare money or other property when entering or leaving the country, thus creating another gap that terrorists may use to finance acts of terrorism.

In view of the above, TF vulnerability of the sector was rated **low.**

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[13] Egmont Group is a global organisation that provides FIUs with a platform to securely exchange expertise and financial intelligence to combat money laundering terrorist financing and associated predicate crimes.

[14] Institute for Economics & Peace. (2022). Global Terrorism Index 2022: Measuring the Impact of Terrorism. Sydney: IEP.

[15] Road Traffic Act, section 10

5.3 Conclusion

Drawing from terrorism financing threat and vulnerability overall ratings (which were both rated low), the overall risk rating for terrorism financing was therefore assessed to be **low.**

6.0 PROLIFERATION FINANCING (PF) RISK ASSESSMENT

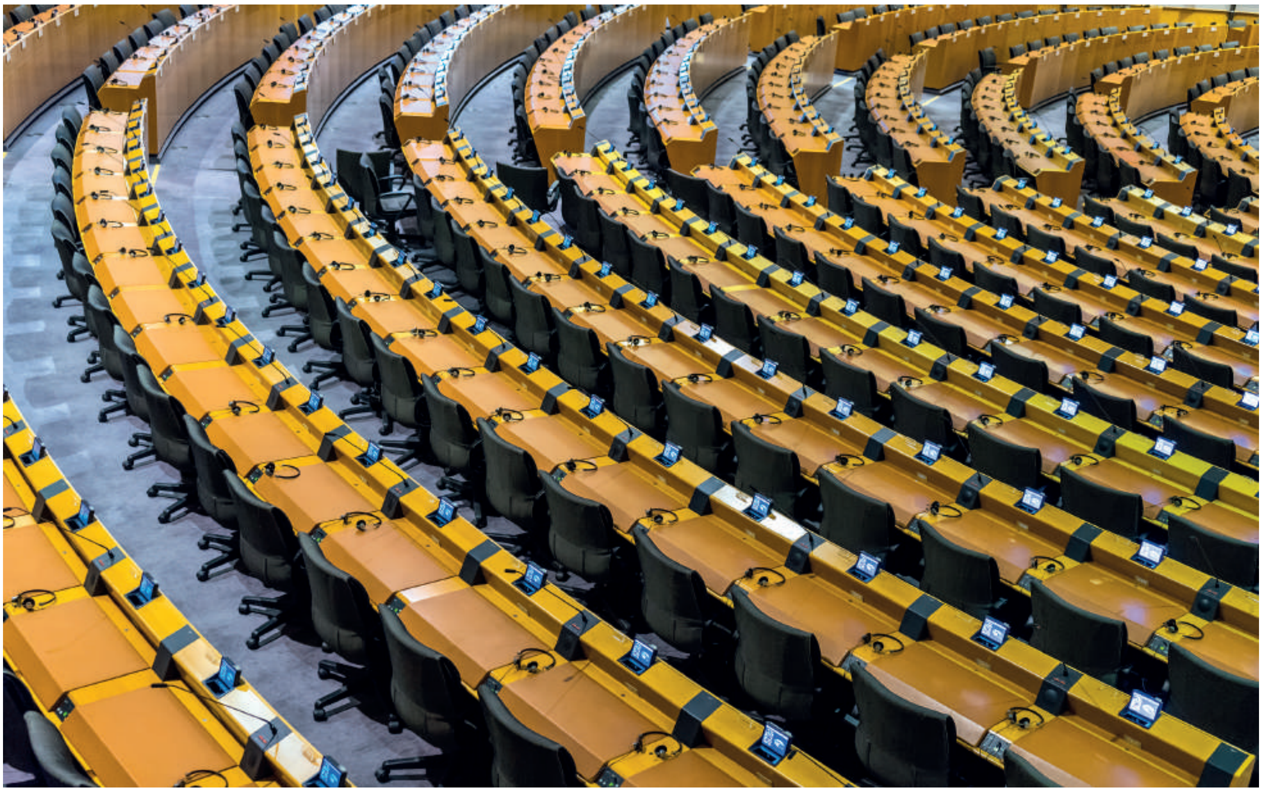
Proliferation financing risk assessment was guided by the FATF guidance on proliferation financing risk assessment and mitigation[16], which defines proliferation financing risk as strictly and only to the potential breach, non-implementation or evasion of targeted financial sanctions (TFS) obligations.

Proliferation is defined under the Counter Terrorism (Amendment) Act, 2022 as "the use, manufacture, acquisition, possession, development, export, transhipment, brokering, transportation, transfer or stockpiling of nuclear, biological and chemical (NBC) weapons and their means of delivery and related materials".

According to the FATF Guidance on Proliferation Financing Risk Assessment and Mitigation, proliferation financing (PF) is defined as "the provision of funds for the manufacture, acquisition, possession, development, export, transhipment, brokering, transport, transfer or stockpiling or use of nuclear, biological and chemical (NBC) weapons and their means of delivery and related materials".

The proliferation financing risk in the motor dealership sector was assessed as follows:

6.1 PF Threat Assessment



Following the implementation of the Counter Terrorism (Implementation of the UNSC Resolutions) Regulations of 2020[17], FIA had not received any positive matches on the circulated sanctions lists, from car dealerships, financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs).

Therefore, proliferation financing threat was assessed to be **low.**

[16] FATF (2021), Guidance on Proliferation Financing Risk assessment and Mitigation, FATF, Paris, France
[17] requires relevant stakeholders to implement UNSCRs relating to counter financing of terrorism and proliferation

6.2 PF Vulnerability Assessment

One of the duties of the National Coordinating Committee on Financial Intelligence (NCCFI), as provided for under Section 9 of the FI Act, 2022 is to oversee the implementation of the United Nations Security Council Resolutions and successor Resolutions relating to countering financing of proliferation; and any other threat to international peace and security as may be determined by the United Nations Security Council (UNSC) acting under Part VII of the United Nations Charter.

United Nations Security Council List is defined under the Financial Intelligence (Implementation of the United Nations Security Council Resolutions) Regulations, 2022 as "the list of names of persons, entities and groups designated by United Nations Security Council as persons or groups against whom member states must take action for the prevention and combating of any activity specified in the applicable Resolution".

Regulation 10 of the Financial Intelligence (Implementation of the United Nations Security Council Resolutions) Regulations provides for circulation of any changes to the United Nations Security Council List without delay to supervised entities, relevant Government agency or department, or any other person. Furthermore, Regulation 11 requires supervised entities, relevant Government agency or department, or any other person to freeze without delay, the funds or other assets of, and to ensure that no funds and other assets are made available to, and for the benefit of, any person or entity designated by the UNSC, pursuant to Security Council resolutions that relate to the prevention and disruption of the financing of proliferation of weapons of mass destruction in accordance with FATF Recommendation 7 Interpretive Note[18].

In an effort to raise awareness of PF risk, the FIA issued a "Counter-Proliferation Financing Guidance Note" in September 2020, and conducts outreach campaigns on an on-going basis. The FIA cascades updates of the UNSC sanctions lists to motor dealers without delay, however, implementation of targeted financial sanctions by motor dealers during 2020 and 2021 was assessed to be inadequate because less than half of the dealerships responded to issuance of UNSC sanctions list updates. Therefore, the FIA continually conducts on-line sensitisation workshops to non-compliant motor dealers since 2021.

Failure to implement UNSC targeted financial sanctions is an offense and attracts an administrative fine as provided for under Regulation 20 (6) (b)[19] of the Financial Intelligence (Implementation of the UNSC Resolutions) Regulations and Section 63 (3) of the FI Act[20]. Non-implementation of sanctions raises an indication of lack of customer screening by car dealerships and therefore a possibility for designated individuals and/or entities to purchase vehicles from dealerships.

The assessment also established that 58% of the interviewed motor dealers maintained records manually, and this had a negative bearing on the effectiveness of searching designated individuals and entities in the dealerships' clients' database considering the requirement to screen and report within eight hours of receipt of notice.

[18] FATF Recommendation 7 Interpretive Note

[19] "Any other applicable resolution dealing with threats to international peace and security as determined by the United Nations Security Council under Chapter VII of the United Nations Charter commits an offence and is liable to a penalty specified in section 63 of the Act". (Financial Intelligence (Implementation of the UNSC Resolutions).

[20] "Any person who contravenes the provisions of the Regulations made under this Act, where a penalty is not provided, commits an offence and is liable to such administrative fine not exceeding P100 000, as may be imposed by a supervisory authority". (FI Act).

Despite the requirement under the FI Act to conduct CDD for business relationships, transactions, including verification of beneficial owners, motor dealers did not adequately implement their CDD obligation in relation to monitoring of transactions to enable the detection of potential violations of targeted financial sanctions, including sanctions evasion. The challenge was mainly attributed to not having access to beneficial ownership information during the period under review. The Companies Act has been amended in 2022 to publicly make beneficial ownership information available. Failure to identify persons or entities acting for or on behalf of designated persons or entities, and the beneficial owner(s), was assessed to expose the motor dealership sector to the risk of proliferation financing.

The identified predicate offense incident of smuggling of car accessories, the finding that Botswana is a large importer of goods and services, including vehicles, and the absence of tight imports restrictions exposes the motor dealership sector to proliferation financing risk.

Proliferation financing vulnerability of the sector was therefore assessed to be **medium.**

6.3 Consequences of Proliferation Financing Risk

Contravention or failure to implement targeted financial sanctions in relation to proliferation financing may lead to reputational damage of the motor dealership sector and the country and punitive measures that may be imposed by the United Nations; the impact is generally significant and can be likened to that of terrorism financing.

In view of the above, proliferation financing risk was assessed to be **medium-low.**

7.0 CONCLUSION AND MAIN FINDINGS

7.1 Conclusion

The Report presents the results of sector risk assessment for the car dealership sector for the period 2017 to 2021. The assessments focused on threats and vulnerabilities of money laundering, terrorist financing and proliferation financing. The assessment was done using the World Bank Tool and the overall rating for ML threat was medium-high.

This rating was influenced by false declaration, tax evasion, stealing by Agents, stealing by persons employed by public service, and abuse of public office which were all rated high as they posed the highest threat to the ML risk in the car dealership sector. The money laundering vulnerability of the sector was also assessed as medium-high. The two ratings resulted to a medium-high overall ML risk of the car dealership sector.

The overall risk rating for terrorism financing was assessed to be low based on terrorism financing threat and vulnerability which were both rated as low. While proliferation financing risk was assessed to be medium-low considering that there has never been positive matches on the implementation of UNSCRs and the fact that failure to implement targeted financial sanctions in relation to proliferation financing has a significant impact.

7.2 Main Findings

The main findings of the sector risk assessment are detailed hereunder;

i. Entry controls were assessed to be ineffective, mainly because the licensing authorities did not have a "fit and proper" test designed to prevent criminals or their associates from being granted a business registration certificate or being the beneficial owner of a significant controlling interest in the business or holding a significant management position.

ii. Licensing Authorities were not adequately resourced to ensure quality implementation of entry controls and supervision.

iii. The licencing authorities did not require licensees to have adequate AML/CFT/CFP compliance controls in place, including compliance manuals and designation of anti-money laundering and counter financing of terrorism compliance officer since they did not implement the FI Act.

iv. Despite the existence of administrative fines in the FI Act, none were sanctioned against a dealership or member of a motor dealership's senior management in case of non-compliance with AML/CFT/CFP obligations during the period under review.

v. Licensing Authorities were not adequately resourced to ensure quality implementation of entry controls and supervision.

vi. 91% of the 22 Local Authorities which responded to the questionnaire, were found to be not aware of the FI Act and the obligations relating to motor dealers.

vii. The number of operators in the motor dealership industry could not be determined with certainty because only 22 of the 31 local authorities responded to the circulated questionnaire.

viii. Out of all the predicate offences assessed, motor dealers were directly involved in; false declaration, tax evasion and smuggling, with false declaration being the most prevalent predicate offence in the sector. This negatively affected the integrity of motor dealers and Clearing Agents and was assessed to expose the sector to money laundering and terrorism financing risks.

ix. The assessed predicate offenses were committed in Botswana and the proceeds were mainly laundered domestically. The total amount of proceeds used to purchase vehicles in Botswana and South Africa amounted to P20 365 414.57.

x. 58% of the respondents kept records manually. This was found to pose a challenge in the implementation of sanctions screening because the process required going through the customer records manually.

xi. Implementation of targeted financial sanctions by motor dealers during the period under review was assessed to be unsatisfactory.

xii. The lack of TF information posed a challenge in assessing the TF risks related to motor dealers.

xiii. Dealerships did not comprehensively ascertain information on their customers especially PIPs and legal persons, legal arrangements, NGOs and foundations, in line with the FI Regulations.

xiv. During the period under review, 50% of the filed STRs from motor dealers were rejected. This could be attributed to lack of understanding which affects the quality of STRs.

8.0 RECOMMENDATIONS

Table 18 below lists actions and supervisory activities recommended to address deficiencies identified by the sector risk assessment.

Table 18: Recommended Remedial Actions/Activities

No.	Action/Activity	Action Owner	Timeline
1	Sensitise MITI, MLGH and Local Authorities about the FI Act and AML/CFT/CFP requirements contained therein, relating to motor dealers.	FIA	March 2023
2	Draw a Memorandum of Understanding (MoU) between the licensing authorities and the Financial Intelligence Agency (FIA) to govern regulatory responsibilities.	FIA, Ministry of Trade & Industry (MTI) and Ministry of Local Government & Rural Development (MLG&RD)	March 2023
3	Revise and strengthen trade licensing policies, practices and procedures to enhance entry controls, by requiring "fit and proper" test and AML/CFT compliance programmes as conditions for licensing.	MTI, MLG&RD and Local Authorities (in collaboration with the FIA)	June 2023
4	Embark on an operation to establish active dealerships in the sector; this will also enable identification of un-registered motor dealers.	Local Authorities, FIA	May 2023
5	Ensure that Local Authorities have: (i) the ability to provide adequate licensing and regulatory oversight capabilities, and (ii) adequate resources for the increasingly expanding car dealership sector.	MITI, MLG&RD	June 2023
6	Develop and maintain database systems for licensing/registration and business monitoring inspections.	Local Authorities	December 2023
7	Designate licensing authorities as supervisory authorities under the FI Act.	Ministry of Finance (MoF), FIA, MITI and MLG&RD	April 2024
8	Conduct risk-based supervision and enforce administrative fines for non-compliance on AML/CFT/CFP obligations.	FIA	On-going
9	Develop and issue guidance notes on: i. Customer Due Diligence, ii. Suspicious Transaction Reporting, iii. Guidance on implementation of targeted financial sanctions and de-conflicting of near matches - UNSCRs	FIA	March 2023

10	Develop and implement CDD measures to enable customer screening at on-boarding stage, and transaction monitoring of existing business relationships as well as implement UNSC targeted financial sanctions screening.	Motor dealers	On-going
11	Finalise the enabling Regulations of the Companies (Amendment) Act of 2022, and the re-engineering of the Online Business Registration System (OBRS) to allow for public viewing of beneficial ownership information.	CIPA	April 2023
12	Build ML/TF/PF cases database in line with section 55 (5) of the FI Act, 2022	FIA	December 2023
13	Upscale surveillance systems and improve structural, and operational competency at border posts for effective searches and detection of concealed illicit items and other related crimes.	BURS	December 2023

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Notes