



Red Flags Compliance Mandatory by May 1st, 2009

Car and light truck dealers must create a written identity theft prevention program by May 1st, 2009. The requirement stems from Federal legislation passed in 2003 (FACTA). Resulting regulations of the Federal Trade Commission FACTA's reach is extensive. All types of creditors must create identity theft programs including "banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies." Even though not specifically covered, commercial truck dealers are required to assess their operations and decide if an identity theft program is needed.

Each creditor's identity theft program must include reasonable policies and procedures to:

- Decide which covered transactions are likely targets of identity thieves. For most automobile dealers, these are consumer installment sales and consumer leases.
- Create a list of "Red Flags" which could indicate that an identity thief is targeting the creditor. For example, a dealers' list might include, "Photo on driver's license or other ID doesn't look like the customer."
- There is no point in having a list of Red Flags if no one is watching for them. Therefore, the FTC regulations require creditors to create procedures to "detect" the flags on their lists. Carrying forward our example, one detection method might be, "Ask for a photo ID and compare photo with customer."
- If a Red Flag is detected, the program must direct how to respond. For example, the response may involve a supervisor and to halt the process of a sale unless the Red Flag can be resolved.
- Train employees about the list of Red Flags, how to detect them and how to respond.
- Update the program as necessary.
- Involve the Board of Directors and senior management for approval and administer the program.

The Federal Trade Commission recognizes the disparity of identity theft risk and the availability of administrative resources between the country's largest and smallest creditors. Even though both Wells Fargo Bank and i.e. Dick's MacKenzie Ford are covered by identical regulations, they are not expected to create similar written identity theft programs. FTC regulations provide that the written identity theft program may be "appropriate to the size and complexity of the financial institution or creditor and the nature and scope of its activities."

There are multiple resources trying to help dealers comply. Aside from the vendors, the National Dealers Association (NADA) published a 90-page comprehensive compliance guide called a "Dealer Guide to the FTC Red Flags and Address Discrepancy Rules." If you're a NADA member, it should be in your store now. In addition, OADA has created a "bare bones" minimum model program that can work for many Oregon dealers. It's available for download at www.OADA.biz.