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Keep or destroy credit report?

by Gil Van Over

You routinely run a credit report on consumers who are looking to purchase a vehicle from your dealership. If stolen, this credit report may be worth more on the street than a pre-paid card for a tank of gas. So you've made a decision to properly dispose of credit reports once the deal is funded. Smart move? Maybe. Maybe not.

Keep it

Both the Safeguards Rule and the Red Flags Rule are regulatory efforts to limit the spread of identity theft. Dealers are taking their responsibilities seriously, implementing processes to comply with the rules.

One process some dealers are taking to safeguard consumers' personal, non-public information is to dispose of the information in accordance with the Disposal Rule. Basically, this means dealers are shredding or burning certain documents that contain information that identity thieves want, as long as the document is not a document that is required to be retained by law.

Example – keep credit applications as required by the Equal Credit Opportunity Act or strongly suggested by the FACT Act.

Example – dispose of credit reports, which have no specific retention requirement.

The thinking is that if the document containing personal, non-public information is not retained, the dealer does not have to safeguard it.

Dispose of it

While there are no specific requirements to keep credit reports in files, there may be information on the credit report that confirms a dealer's compliance with other regulatory requirements.

Example – OFAC. Some dealers use this optional service from credit reporting agencies to fulfill their requirement to check the list on every customer. If this is your process, and you dispose of the credit report, how are you documenting that you checked the OFAC list?

Example – FACT Act alert. Consumers who have had their identity compromised are able to add an alert to their credit reports which is intended to put creditors on notice that the lender may be dealing with an identity thief. The credit reporting agencies are required to provide this service at no cost and must include these alerts to anyone who pulls a credit report. Just like the OFAC issue, how do you document three years from now that you took the appropriate action on any transaction that had an alert in the credit report?

Example – Red Flags Rule. This new requirement, currently in effect and mandatory by November 1, 2008, mandates that dealers review the credit report for more than the credit score. If certain Red Flags are evident when comparing the information in the credit report to other information provided by the consumer, you are required to document what you did to reconcile the differences. If you have disposed of the credit report, how do you prove to a regulator or a judge four years from now that you complied with the Rule?

There is not a wrong or right answer to this issue. If you dispose of the credit report as part of your Safeguards program, you must have other processes in place to prove your compliance with OFAC, FACT Act and the Red Flags Rule. If you retain the credit report to prove your

compliance with these three requirements, you must have a strong Safeguards program in place to properly safeguard your customers' personal, non-public information.

The decision, is your.

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