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What compliance looks like: FACT Act

by Gil Van Over

Last week I covered the government's initial thrust to help deter identity theft when the Gramm Leach Bliley Act was passed in 1999. In December 2003, Congress amended the Fair Credit Reporting Act and expanded it to include additional identity theft deterrents. The new act, the Fair and Accurate Credit Transactions Act (FACT Act), includes some new provisions that auto dealers are required to observe.

The FACT Act established or enhanced:

- Three types of fraud alerts
- An address discrepancy notification by credit reporting agencies
- Truncation requirements for credit card and debit card numbers

Additionally, the FTC created the Disposal Rule as a result of one section.

Fraud Alerts

Section 112 of the FACT Act became effective December 1, 2004, and requires credit reporting agencies, at the request of a consumer, to include a fraud alert notice in the consumer file and to provide this alert status to anyone that obtains the consumer's credit report. The types of alerts are:

Initial Alert – to be maintained for at least 90 days unless the consumer requests that it be removed.

Extended Alert – Upon the request of a consumer who has been the victim of identity fraud, the fraud alert can be extended for seven years beginning on the date of such request.

Active Duty Alert – an active duty military consumer may request that this type of alert be included in their credit file and is effective for 12 months.

When you pull a credit report on a customer and that credit report contains an Initial Alert, Active Duty Alert or an Extended Alert, you may want to take additional steps to ensure the identity of the consumer, including a phone call to the number provided in the credit report, or additional documentation to prove the customer's identity, such as an electric bill with the customer's name and address, a work or school ID with picture. In the case of an Extended Alert, only the method set out in the alert may be used to contact the consumer.

Notice of Discrepancy in Address

Effective December 1, 2004, if a request for a credit report contains an address that "substantially differs" from the address in credit reporting agencies file for the consumer, the reporting agency is required to include a notification of that discrepancy in the credit report. Users of credit reports are to have procedures to assure that it knows the identity of the applicant.

Truncation of Credit Card and Debit Card Numbers

Another FACT Act section requires that if a credit card or debit card is used at the dealership, only the last five digits of the card number or the expiration date may be printed on the customer's receipt. You may want to take a look at your credit card receipts to ensure the card number is truncated.

FTC Disposal Rule

The Disposal Rule requires dealers to dispose of customer's personal information to prevent "unauthorized access to or use of the information." For information reduced to paper, shredding the documents is the most economical means of complying with the Rule. But note that the FTC requires that shredded documents be shredded in a manner "so that the information cannot be read or reconstructed." Ribbon shredders are not likely sufficient. Those shredders reduce paper to narrow strips that can, in fact, be taped back together. If you intend to shred documents, you may want to consider the use of crosscut shredders. These shredders reduce paper to confetti.

Next up – Equal Credit Opportunity Act

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