KPA

16 Rules and Regulations Your F&I Department's On the Hook For

And Who's On the Hook For You?





Dealerships operate in an increasingly complex environment of federal, state, and local oversight. There are numerous laws and regulations that govern your workforce, from broader federal regulations to policies that apply to specific jobs. Educating your workforce about key compliance issues, and getting acknowledgment that employees have received and understood this information...it's not only important, it's legally necessary.

We've gathered the 16 most important laws, rules and regulations for your dealership. Use this checklist to identify who in your dealership is responsible for your protection!

The 16 Rules and Regulations Your F&I Department's On the Hook For:

1. GLBA & Safeguards Rule Changes
2. Disposal Rule
3. Magnuson – Moss Warranty Act
4. Used-Car Rule
5. Regulation M
6. Regulation Z
7. Equal Credit Opportunity Act
8. Fair Credit Reporting Act
9. Adverse Action Notices
10. Credit Practices Rule
11. Federal Advertising Laws/ Truth-in-Advertising
12. Red Flags Rule
13. Fuel Economy Advertising for New Automobiles
14. Form 8300 and Reporting Cash Payments of Over $10,000
15. Office of Foreign Assets Control (OFAC)
16. [Proposed] Motor Vehicle Dealers Trade Regulation Rule

Graham Leach Blilely Penalties:

Civil penalties of up to $10,000 per violation for officers and directors personally liable.

For the financial institution liable, penalties of up to $100,000 per violation—criminal penalties include imprisonment for up to 5 years and fines.

1 GLBA & Safeguards Rule Changes

GLBA (Gramm-Leach-Bliley Act) came into effect in 1999. In 2021, Safeguards Rule Changes were proposed and are now due June 9, 2023.

This Act comes into play at the start of the conversation of any sale and the collection of non-public personal information (NPPI), not just at the point of financing! The Act was set up to protect the privacy of consumer information and sets the standards for privacy notices, opt-out notices, and how NPPI can be used or disclosed. Under the new rule, the collection of NPPI outside of financing is still covered (i.e., repair orders or pick tickets). The more successful your dealership is, the more you'll have to know here.

Some useful information:
https://info.kpa.io/kpa-safeguards-rule-deadline-extension

2 The Disposal Rule

It's not often the government asks businesses to "burn, pulverize, or shred" something, but in this case, your customers' sensitive information derived from consumer reports must be securely destroyed.

Check out other colorful information here:
https://www.ftc.gov/tips-advice/business-center/guidance/disposing-consumer-report-information-rule-tells-how

3 Magnuson-Moss Warranty Act

This Act hits you right at the moment of success! It requires dealerships to provide clear warranty information and be extremely clear about the integrity of your vehicles and about your commitment to correct problems when your vehicle fails in any way. Both for express and implied or "as is" warranties. The requirement also states these should be made available to review by a purchaser of a new or used car prior to contract signing.

A little dryer than The Disposal Rule, the Warranty Act details are here:
https://www.ftc.gov/enforcement/statutes/magnuson-moss-warranty-federal-trade-commission-improvements-act

4 Used-Car Rule

Are your Buyer's Guides up to snuff? Do they have the proper additional disclosures? Are they language-specific to your sales process?

Grab more information here:
https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/used-car-rule

Regulation M Penalties:

Criminal liability for willful and knowing violation is a maximum fine of $5,000 and/ or maximum imprisonment of one year.

5 Regulation M

Regulation M is set up as a part of the Truth in Lending Act, which covers exactly how your consumer leasing provisions are spelled out in your process. Are they clear? Easily understood? We've made plenty of progress, but are you keeping up?

Read Regulation M here:
https://www.sec.gov/interps/legal/mrslb9.htm

6 Regulation Z

In addition to Regulation M, Regulation Z requires you to ensure that credit terms are disclosed so consumers can compare credit terms more easily and more knowledgeably. Plain language. Specific language.

We're pretty sure you've got this covered, but if there's any question, you may be exposed.

Read more here:
https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/

7 Equal Credit Opportunity Act

This regulation prohibits practices that discriminate, and was enacted to promote the availability of credit to all credit-worthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract). Pretty sure your team is all over it.

If not, check out how the FTC describes consumers' rights when buying a car:
https://consumer.ftc.gov/articles/credit-discrimination

8 Fair Credit Reporting Act

This Act covers privacy and security around the ways your dealership protects information from, and reports information back, to Consumer Reporting Agencies. It also speaks to the proper disclosure due to the customer once credit is pulled - mostly the risk based pricing notice or credit score disclosure requirements.

Protect your dealership and customers by exploring more here:
https://files.consumerfinance.gov/f/documents/bcfp_consumer-rights-summary_2018-09.pdf

9 Adverse Action Notices

The Equal Credit Opportunity Act (ECOA) has restrictions around exactly how you report refusing credit or granting (and having people accept) credit in "a different amount or on other terms." Within 30 days of any "Adverse Action," you are required to notify your consumer, using very explicit terms, in writing.

Get more information here:
https://www.ftc.gov/tips-advice/business-center/guidance/using-consumer-reports-credit-decisions-what-know-about-adverse

Red Flags Rule:

$3,500 civil penalty for each violation. Enforcement actions by the FTC can carry penalties of up to $11,000 per violation, per day.

10 Credit Practices Rules

Do your contracts have unfair contract provisions? Do you know what's considered "unfair?" Do your co-signers clearly understand their liabilities? You're responsible for making sure they do. And are you absolutely sure when your dealership can and can't charge late fees? The Credit Practices Rule spells out your responsibilities – in detail as only the FTC can.

Learn more here:
https://www.ftc.gov/business-guidance/resources/complying-credit-practices-rule

11 Federal Advertising Laws /Truth-In-Advertising

Advertising must be non-deceptive and truthful. And any mention of financing or terms must trigger certain disclosure statements. Advertisers must have evidence to back up any claim. The burden of proof for advertising claims is on the dealer. And advertising cannot be "unfair." Unfair advertising is described as that which would "...substantially injure customers, violate established public policy, be unethical or unscrupulous."

Use this free cheat-sheet to protect your dealership from unscrupulous marketing mistakes:
https://info.kpa.io/2022-dealership-advertising-cheat-sheet

12 Red Flags Rule

Your dealership must have an identity theft program in place, as a creditor. Your dealership must implement a written identity theft prevention program designed to detect the "red flags" of identity theft in your day-to-day operations, take steps to prevent the crime, and mitigate its damage.

Want to better understand how to comply? Learn more here:
https://www.ftc.gov/tips-advice/business-center/privacy-and-security/red-flags-rule

13 Fuel Economy Advertising For New Automobiles

Basically, you can't advertise a Fuel Economy ranking for a vehicle that isn't exactly the vehicle you're selling. Nor can you advertise a Highway MPG as a City MPG. Seems simple, but we all know someone affected by the most recent, very public EPA violation scandal.

Here is a reminder of the basics:
https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fuel-economy-advertising-new-automobiles

Office of Foreign Assets Control (OFAC) Penalties:

30 years in prison, fines up to $10,000,000 against corporations, $5,000,000 against individuals and civil penalties of up to $1,000,000 per incident.

14 Form 8300 and Reporting Cash Payments Of Over $10,000

In order to protect your dealership from accusations of "money laundering" by the IRS, anyone taking a cash payment of $10,000 or more is required to file a Form 8300. Every time. And you must file Form 8300 by the 15th day after the cash payment occurs. Every time.

Protect yourselves from IRS scrutiny here: https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information

15 Office of Foreign Assets Control (OFAC)

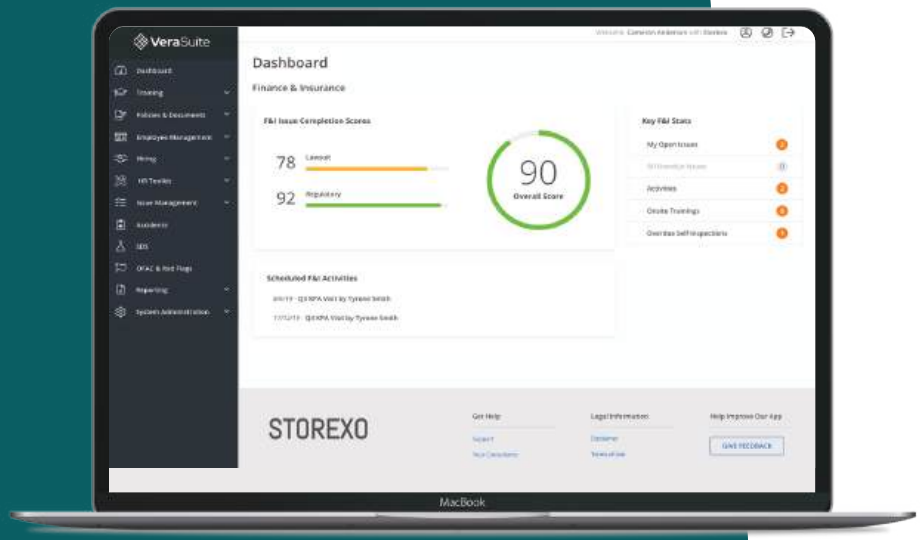
And, in support of freezing terrorists' assets, you are required to check your customers' names against the Specially Designated Nationals List (SDN List). The SDN List is comprised of "individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific."

Learn more here:
https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information

16 [Proposed] Motor Vehicle Dealers Trade Regulation Rule

The last rule we'll leave you with is a proposed rule introduced in June 2022. The proposed Motor Vehicle Dealers Trade Regulation Rule seeks to protect consumers by targeting junk fees and bait-and-switch advertising tactics. If enacted, this rule will make significant changes to the rules that automotive and RV dealerships alike must follow when it comes to their sales and financing procedures.

Learn more about the proposed rule and where it stands now here:
https://www.kpa.io/blog/dont-sleep-on-the-ftc-proposal-to-ban-junk-fees-bait-and-switch-ad-tactics



Dealerships find themselves in the FTC's and state attorney generals' crosshairs more often these days, as both have stepped up their scrutiny of consumer protection practices. Protect your dealership from regulatory fines and legal actions with KPA, the undisputed leader in F&I compliance solutions.

The pressure to stay on top of all these regulations is enormous. We know, because we've been providing protection for auto dealers for decades.

Online, onsite, and on-call resources deliver a detailed compliance program assessing risk and helping to design and implement policies, programs, and training. These work together to ensure all customer-facing personnel and programs are both accountable and effective.

KPA's F&I software and services are specifically designed for vehicle dealers including automotive, truck, RV, marine, and power sports, all of whom are looking for a verifiable compliance program. Limit liabilities and protect your dealership with KPA's compliance solutions.

Ready to take a new look at managing your risk?
Visit ***www.kpa.io/kpa-consulting/ficompliance-services***
or call ***866.356.1735****.*

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