

Finance & Insurance Q&A: Legal expert: Compliance won't happen overnight

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Question & Answer

Tom Hudson says dealerships need to look at their operations closely.

Dealers should waste no time in complying with the federal Safeguards Rule, which protects consumers from identity theft. Legal expert Tom Hudson told Automotive News Staff Reporter Donna Harris that dealers are more interested in selling cars, but that they need to be aware that this may just be the beginning of even tighter privacy rules.

Hudson is a senior partner with Hudson Cook, a Linthicum, Md., law firm that helped develop a guide to compliance for the National Automobile Dealers Association. Here are excerpts of that conversation.

Could you explain the Safeguards Rule that went into effect last week?

The Safeguards Rule is designed to require dealers to adequately protect customer information. It's different from the privacy rules that require dealers to give out copies of their privacy policies.

This rule requires dealers to set forth how they are going to keep information safe.

How long does it take to comply with the requirements?

Realistically, it would probably take a dealership several weeks to gather information needed to compile an adequate program.

How many dealers have complied with the rule?

Based on discussions we have had with dealers, very few have.

Why not?

Legal compliance tends to take a back seat at many dealerships. They are busy selling cars.

What can dealers do to bring themselves up to date?

There is a NADA management guide, A Dealer Guide to Safeguarding Customer Information, available for \$25 for members and \$50 for non-members.

What is the most difficult part of complying with the Safeguards Rule?

Possibly the most difficult part is going through an internal investigation and determining what information the dealership maintains (that needs to be protected).

Why is compliance difficult?

Dealerships can be complicated businesses. There are a lot of places within the dealership where information is stored and a lot of dealership employees who have access to that information.

What are the basic requirements of a safeguards program?

There are five elements:

1. Designate an employee to coordinate the information security program.
2. Identify internal and external risks to the security, confidentiality and integrity of consumer information that could result in its unauthorized disclosure, misuse, alteration or destruction, or other compromise. Assess the sufficiency of any safeguards you have in place.
3. Design and implement safeguards to control the risks and regularly audit those safeguards.
4. Oversee service providers (such as outside computer maintenance help) to make sure they are capable of maintaining safeguards and bind them to maintain safeguards as part of their contract.
5. Evaluate and make adjustments to operations in light of audits.