



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: August 2015 Regulatory Update
Date: August 31, 2015

I. Consumer Financial Protection Bureau

A. Monthly Complaint Report

The CFPB issued a monthly report of complaints in its public database. As of August 1, 2015, the CFPB has handled approximately 677,200 complaints, including 26,700 complaints in July 2015. Among different types of complaints, credit reporting complaints showed the greatest month-over-month increase, up 56 percent from the previous month. During July, debt collection was the most-complained-about financial product or service.

As it pertains to the credit reporting complaints, nearly three quarters involved incorrect information on reports such as claims that a debt appearing on the report had already been paid, or was no longer due because it was beyond the applicable statute of limitations for bringing a lawsuit, belonged to another person, or was not recognized by the complainant.

II. Department of Justice

No significant updates.

III. Department of Labor

No significant updates.

IV. Environmental Protection Agency

No significant updates.

V. Federal Trade Commission

A. Commissioner Wright Resigns

Republican Commissioner Joshua D. Wright has resigned as a Commissioner to return to George Mason Law School as a professor.

B. Proposed Changes to the Privacy Rule Annual Notice

The FTC published a proposed rule change that would allow motor vehicle dealers to post their annual privacy notices online as opposed to mailing the notice to its customers if the dealer meets five conditions. First, the dealer cannot share customers' nonpublic personal information with unaffiliated third parties in a manner that would trigger the opt-out requirement under the Gramm-Leach-Bliley Act ("GLBA"). Second, the dealer must not include in its annual privacy notice an opt out under section 603(d)(2)(A)(iii) of the Fair Credit Report Act ("FCRA"). Third, if the dealer is required to provide a notice and opt-out under the Affiliate Marketing Rule, the dealer must have previously satisfied the Affiliate Marketing Rule requirements or cannot utilize the annual privacy notice as the only notice provided to consumer to notify them of that opt-out right. Fourth, the dealer has not changed the content of its privacy notice since it last provided the immediately previous privacy notice be it an initial, annual or revised notice. And finally, the dealer must use the model privacy notice.

Once those five prerequisites are met, the dealer can elect the alternative delivery method to deliver the annual notice. To comply with the alternative delivery method, as proposed by the Commission, the dealer would have to inform customers at least annually on another notice or disclosure, coupon book, or account statement, that the privacy notice has not changed, that the privacy notice is posted on the dealer's website, and that the dealer will mail the policy to the customer upon request. The policy would have to be posted on a page of the website that contains only the privacy policy without requiring any conditions to access the page (i.e. log-ins). If a customer requests the current privacy policy, the dealer would have to mail it within 10 days.

NIADA submitted comments to the FTC, which are virtually identical to comments submitted to the CFPB last fall, asking the FTC to remove the requirement to notify consumers through a statement, coupon book, etc. before the privacy notice can be posted online. The comments ask the FTC to utilize the same process outlined in H.R. 301, which passed the House of Representatives with bi-partisan support.

A copy of the comments is attached hereto.

VI. Internal Revenue Service

A. Webinar for Small Business on Tax Basics for the Self-Employed

The IRS conducted a webinar in late August geared towards tax basics for the self-employed small business. The webinar should be posted on the IRS website in the near future. That website is: <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Webinars-for-Small-Businesses-1>.

VII. National Highway Traffic Safety Administration

A. Triumph Motorcycle Settlement

NHTSA settled an enforcement action against Triumph Motorcycles Ltd. and Triumph Motorcycles (America) Ltd. for violations of Safety Act reporting requirements and failure to fully respond to communications from NHTSA. The settlement results from Triumph's September 2014 recall of more than 1,300 motorcycles for a defect that could reduce steering capability and increase the risk of a crash. In April, NHTSA began an investigation into whether Triumph had violated the requirement to report the defect in a timely manner, and into other potential violations, including failure to submit quarterly reports on recall completion rates; failure to supply copies of technical service bulletins; and failure to file early warning data reports on death and injury claims, warranty data and other information.

Triumph acknowledged deficiencies in the manner in which it collected and reported early warning data to NHTSA and several instances where Triumph was late in providing quarterly reports on safety recalls. In addition, the company failed to respond by the required deadline to a NHTSA Special Order issued as part of the investigation.

Triumph admits that it violated the Safety Act by failing to file certain quarterly reports on safety recalls in a timely manner; by failing to furnish NHTSA with copies of notices, service bulletins, and other communications sent to more than one manufacturer, distributor, dealer, owner or purchaser as required by law; and by failing to submit accurate early warning reports.

The company must pay a \$1.4 million cash penalty and must spend at least \$500,000 meeting a series of requirements to improve its safety practices. An additional \$1 million in penalties could become due if the company violates the consent order or if additional Safety Act violations emerge.

B. Additional Information on Fiat Chrysler Settlement

Fiat Chrysler provided information about the buy back process for those recalled vehicle required to be repurchased as part of the recent consent decree with NHTSA. Fiat Chrysler has mailed notices to owners affected by the settlement provisions in the consent decree.

Owners of 1993-1998 Jeep Grand Cherokee and 2002-2007 Jeep Liberty SUVs can input a VIN at www.MyJeepAuto.com, www.recalls.mopar.com, or www.safercar.gov to check eligibility. If a recall status says “open”, it is unremedied and therefore eligible for incentives. Owners of the affected Grand Cherokee vehicles may choose one of two options:

- Receive a \$100 Visa Prepaid Card for unrestricted use upon completion of recall-related service. (Customers who had their recalls completed on or after July 24, 2015, also are entitled to receive the prepaid card.)
- Trade in the vehicle and receive a \$1,000 incentive toward the purchase of a new vehicle, or a \$1,000 Visa Prepaid Card usable for parts or service at the FCA US dealership accepting the trade-in.

Owners of the affected Liberty SUVs will, on completion of the recall-related service, receive a \$100 Visa Prepaid Card for unrestricted use.

Owners of the following vehicles have different options:

- 2009 Chrysler Aspen and Dodge Durango SUVs produced from Jan. 3, 2008, through Dec. 18, 2008
- 2009-2012 Dodge Ram/Ram 1500 pickups produced from Feb. 27, 2008, through June 30, 2009; and from Dec. 1, 2009, through Oct. 20, 2011
- 2009-2011 Dodge Dakota pickups produced from Feb. 27, 2007, through June 30, 2009; and from Dec. 1, 2009, through Sept. 30, 2011
- 2008-2012 Dodge Ram/Ram 2500 and 3500 4x4 pickups
- 2008-2012 Dodge Ram/Ram 3500 4x2 Cab Chassis vehicles
- 2008 Dodge Ram/Ram Mega Cab 4x4 pickups
- 2008-2012 Dodge Ram/Ram 4500 and 5500 trucks produced from Feb. 20, 2007, through December 2012

Owners of eligible vehicles from this list may schedule service and, upon completion, receive a \$100 Visa PrePaid Card for unrestricted use. Customers who had their recalls completed on or after July 24, 2015, also are entitled to receive the prepaid card.

Alternately, customers may negotiate trade-ins on new vehicles – a program that expires at midnight, Jan. 4, 2016 – or opt for a repurchase plan that, like the prepaid card incentives, has no expiry date.

To take advantage of the trade-in offer, a customer and dealer establish a value for the trade-in vehicle, complete the purchase of a new vehicle and receive – in addition to all current

applicable incentives – a \$2,000 incentive on a Ram-brand vehicle or \$1,000 on a Chrysler, Jeep, Dodge or Fiat vehicle.

To participate in the repurchase program, owners can visit www.fcarecall.com to see a preliminary estimated value of their vehicles, according to “good” market value, plus 10%. Modification costs are excluded unless verification is provided to show the modification was part of the original purchase.

Beginning Oct. 1, 2015, customers may contact dealers to arrange for vehicle inspections. Dealers will then call a third-party administrator to complete the inspection and present a final offer to customers, who then have three options:

- Opt for the recall repair and receive a \$100 Visa Prepaid Card for unrestricted use
- Accept the repurchase offer
- Opt for the trade-in incentive, which is available through Jan. 4, 2016

VIII. National Motor Vehicle Title Information System

No significant updates.

IX. Republican Attorneys General Association

I attended the summer meeting of the Republican Attorneys General Association. I had productive discussions with several Attorneys General about the Association and various issues affecting our industry.