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Dealers might fall under Federal Reserve Board's Regulation E consumer rules

Though most auto dealers likely do not engage in activities covered by Regulation E, which governs activities related to electronic fund transfers, the Federal Reserve Board has identified some practices it thinks dealers could potentially engage in and is looking to see if these will be subject to the regulations. These practices include:

- Issuing access devices (*e.g.*, debit cards, personal identification numbers [PINS], payroll cards);
- Issuing or selling gift cards;
- Initiating electronic check conversions;
- Preauthorizing electronic fund transfers; or
- Operating ATMs.



Generally speaking, Regulation E applies to financial institutions, like banks, that hold consumer asset accounts (*e.g.*, checking or savings accounts). Financial institutions can also be defined, however, as a person or business that issues a device a consumer can use to access an account (*i.e.*, payroll card) or holds a payroll account itself. In addition, certain provisions of Regulation E apply directly to any “person” that engages in certain activities or transactions, regardless of whether the person is a financial institution. Examples of such transactions include:

- selling gift cards
- converting check payment to an electronic fund transfer; and
- pre-authorized electronic fund transfers.

Regulation E mandates the disclosure of terms and conditions of an electronic fund transfer service; documentation of such services by means of terminal receipts and periodic statements; limitations on consumer liability for unauthorized transfers; procedures for error resolution; certain rights related to preauthorized electronic fund transfers; restrictions on the unsolicited issuance of access devices; and record retention requirements.

Among the questions the FED is looking into as it relates to dealer activities are:

- Do auto dealers have ATMs on their premises?
- Do they lease space to third parties that operate the ATM, or are dealers ATM operators?
- Do auto dealers issue any access devices (*e.g.*, a debit card or PIN) that consumers can use to access an account (*i.e.*, checking or savings accounts), at an ATM, or use at a point-of-sale?

Under Regulation E, most “payroll cards” are considered access devices. Payroll cards work similarly to debit cards, and can be used to take money out of an ATM or used at the point of sale. Regulation E applies to any person who issues payroll cards to consumers and agrees to provide electronic fund transfer (EFT) services. Regulation E also applies if an employer holds payroll card accounts. For example, it is possible that auto dealers of sufficient size could decide to offer payroll card accounts to its employees and as a result, fall within the definition of a financial institution by virtue of holding the payroll account.

- Do auto dealers offer or issue payroll cards?
- Do auto dealers hold payroll accounts?
- Do auto dealers offer gift cards, or loyalty award certificates, or promotional cards?
- Do auto dealers sell gift cards or certificates on their premises?

An auto dealer that issues or sells a gift card would become subject to certain disclosure requirements and possibly restrictions on the card that it issues or sells.

- Do auto dealers convert consumer checks into electronic fund transfers to receive payment more quickly?
- Do auto dealers collect returned item fees by electronic fund transfers if, for example, a consumer’s check is unpaid due to insufficient funds?
- Do auto dealers offer their consumers the ability to pre-authorize transfers out of the consumer’s account (*i.e.*, authorization to permit a re-occurring debit to an account)?

A merchant that uses electronic check conversion, collects returned item fees electronically, or offers pre-authorized transfers from a consumer’s account must obtain the consumer’s prior authorization and make certain disclosures.

It is unclear at the moment if anything will come of the FED’s investigation. Stay tuned!

LA Times stories on Buy-Here-Pay-Here dealerships raise old questions/cautions

The Los Angeles Times ran a three-part series earlier this month on the Buy-Here-Pay-Here auto industry, basically focusing on the stories of certain unfortunate individuals who fell behind in their payments and the consequences that resulted. The series also included one story that focused on investor interest in the industry as a good investment opportunity because of the margins available and the fact that the major players in the industry are beginning to securitize packages of Buy-Here-Pay-Here loans similar to what happened in the housing market meltdown in 2007-2008.

We mention this only because these kinds of articles tend to bring on the oversight of state and federal officials as well as local media. Accordingly, dealers with such operations are advised to pay particular attention to all state and federal regulations that mandate the litany of car buyer disclosures and other matters related to the sale of a Buy-Here-Pay-Here used vehicle.

Special NADA section in this week's Time magazine

NADA has partnered with TIME magazine to produce a special section, "Driven by Innovation," which is available on newsstands this week. This is the ninth consecutive year that the NADA insert has appeared in TIME, which is published weekly with a U.S. audience of more than 20 million and a global audience of more than 24 million.



The 12-page section focuses on how the automobile industry is being shaped by advances in everything from clean-car technology to mobile apps. It also highlights the resiliency of the auto industry and dealers through difficult economic times, stresses the importance of consumers in the hybrid/electric car buying process and highlights the National Automobile Dealers Charitable Foundation's ongoing support of the 9/11 families.

It also features profiles on Tom Castriota, the 2011 TIME Dealer of the Year, and 2011 finalist Rick Jensen. "We couldn't be more pleased with the TIME insert. Not only does it highlight the auto industry, it specifically showcases the good work of dealers in the community," said Marcy Maguire, chairman of NADA's public affairs committee. Click [here](#) to download the NADA insert.

"QR" code marketing by fleets could be a big boost for dealers

Enterprise this week began rolling out a quick response (QR) code campaign across its vehicle fleet to get customers thinking about their next vehicle purchase. The first brand to get the QR codes is Mazda, but Enterprise says other automakers, including Toyota (for the Avalon) and Nissan (for the LEAF and NV), will also be getting QR codes.



The company hopes to expand the program to include nearly 1 million vehicles and that could prove particularly advantageous to dealers.

Enterprise is calling the program OnRamp and by scanning an OnRamp QR code, smartphone users are taken to a mobile-optimized site where they can learn more about the vehicle they are renting and also find a local dealer if they are interested in purchasing a similar car.

The QR codes are placed on key tags, as well as on the driver side window of all vehicles, "making vehicle information accessible to more than just the rental vehicle occupants," the company says.

An Enterprise renter scanning the Mazda 6 QR code will be taken to Mazda's custom built website where he/she can find information such as dealer locations, dealer inventory, vehicle pricing and vehicle specs. Additionally, the renter has the ability to request an online quote and if a quote is requested, the system will send a message to the driver's local dealer who will contact the driver.

QR codes will eventually span vehicles covered by all three major Enterprise brands — Enterprise Rent-A-Car, National Car Rental and Alamo Rent A Car.

"The program is kicking off through the Enterprise Rent-A-Car network of locations where consumers are more likely renting because their car has been in an accident or has a mechanical issue and their car is the shop," the Enterprise spokesperson explained. Enterprise has more than 5,500 car rental locations within 15 miles of 90 percent of the U.S. population.

Online vehicle searches up 37% indicating better sales ahead

Experian Automotive reports this week that online users increased vehicle make and model searches for the four weeks that ended Oct. 8 by 37 percent as compared to the same time frame two years ago. The data suggest new and used vehicle sales will continue to climb through November.

Experian found that Ford was the most-searched manufacturer during the second quarter followed by Dodge. The Blue Oval held 13 percent market share of online searches and Dodge held 8.4 percent.

Experian said the search shares for Kia, Cadillac, BMW, Volkswagen and Mazda all moved up in rank by two spots or more and that search share was directly linked to greater sales activity for the brands.

For example, Fiat saw a 72-percent increase in branded searches in the second quarter and experienced the largest percentage increase in new-vehicle registrations as it continues its launch of the Fiat 500 in the U.S.

AAA rolls out its mobile EV chargers

AAA is about to roll out the nation's first fleet of mobile electric vehicle quick chargers. The company, which serves more than 52 million motorist members, has spent three months lining up chargers, installing them on trucks and teaching its drivers how to properly charge an EV. "We'll be rolled out in six cities by the end of the year," says John Nielson, the company's national director of auto repair. "These trucks will be out on the road just like any other AAA service vehicle."



AAA will deploy one truck in each of the EV-friendly cities: Portland, Oregon; Seattle; the San Francisco Bay Area; Los Angeles; Knoxville, Tennessee; and Tampa, Florida.

The Obama administration wants 1 million on the road by 2015. As other automakers follow EVs like the Nissan Leaf and Mitsubishi i to market, AAA says the program will roll into other cities. "I think we'll see rapid expansion to other cities with electric vehicles," Nielson says. "But right now the goal is to make sure the proof of concept is durable."

Each truck will have a conventional 220-volt Level 2 charger and a 440-volt [direct current Level 3 charger](#) — the so-called "quick chargers." Although quick charging can "fill" a depleted battery in as little as 30 minutes, not all cars can handle it. The trucks have 25 kilowatt generators manufactured by Aerovironment and Green Networks Chargers.

"Our goal is to provide 15 miles of range in 10 minutes of charging," Nielson said. AAA believes that should be enough to get people to a safe place to plug in — home, a dealership or one of the 1,300-plus (and growing) public charging stations in the United States.

"Our hypothesis is that we're not going to have an out-of-energy situation because someone tried to drive from Los Angeles to Sacramento," Nielson says. "We expect that most of the people will have missed their mark by just a short distance, where they've made an extra stop and find themselves just a few miles short of their destination."

Sign up today for WANADA's Annual Meeting & Luncheon

Dec. 7, 2011

AutoNation's Mike Jackson to headline event at Mayflower Hotel



Mike Jackson

The WANADA Annual Meeting & Luncheon will be held at the Mayflower Hotel in downtown Washington, and will be headlined by AutoNation chairman, Mike Jackson.

The Annual Meeting & Luncheon will begin with a networking reception at 11:30 am, on Dec. 7, followed by lunch at Noon. The association will then hold its annual business meeting, to include a metro Washington car market update and election of new board members and officers. Mr. Jackson will speak thereafter and take questions. The program will conclude by 1:40 pm.

Seats for the luncheon are \$125 each and tables of 10 are available at a 10% discount, or \$1,125. To register, please click [HERE](#), complete the form and fax to 202-237-9090. For more information, contact Kristina Henry, 202-237-7200 or kh@wanada.org

WANADA Annual Meeting & Luncheon *at a glance*

The Renaissance Mayflower
1127 Connecticut Avenue, N.W.
Washington, DC 20036

- Networking Reception: 11:30 am
 - Lunch: 12:00 - 12:45 pm
- Business Meeting: 12:45- 1:00 pm
- Keynote presentation: 1:00- 1:40 pm
- Cost: \$125 each / \$1,125 table (10% discount)

On Veterans Day – The one and only 11-11-11 date



Veterans Day, previously known as Armistice Day, was originally observed with a moment of silence around the world during the 11th minute of the 11th hour of November 11 to honor the sacrifice of all those who died in WWI, the “war to end all wars.” Armistice, which means “a temporary cessation of the use of weapons by mutual agreement,” was the name chosen for the day to remind people that, as a matter of reality, no war will end all wars, as WWII and those that followed have shown.

Ode to a dead soldier...

No woman's whisper holds your strong heart spent
and breathless. All the silver horns that blew
while legions cheered, are still. These things are done,
but these you have: a death for monument,
and peace you died to buy, and after you,
the laughing play of children in the sun.

--Kendall Harrison, 1918