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Happy Birthday Safeguards Rule

By Gil Van Over

"Attention all employees," the deep voice boomed over the PA system. "Attention all employees. The system password for this month is Safeguards. I repeat, the system password for this month is Safeguards."

Incredulous? Sure.

Realistic? Reportedly.

The FTC Safeguards Rule, which requires car dealers to have in place an effective program to help prevent the likelihood of identity theft, is three years old today. Unfortunately, many dealers missed the birth announcement.

A reliable source told me about the reported announcement of the system password broadcasted over the dealer's PA during a time when vendors and customers were present. While the announcement borders on the edge of believability, it illustrates just how far out of compliance some dealers are with the Safeguards Rule.

To recap, here are the five essential elements of the required program:

- Name a compliance officer
- Conduct and retain a risk assessment
- Design and implement an Information Security Program
- Provide initial and periodic ongoing employee training
- Conduct periodic audits, document variances to program and corrective actions taken

How did you do? Remember: 80 percent is a failing grade.

One risk is that the FTC is reportedly actively auditing auto dealerships for compliance to the Rule. The potential fine, like other FTC rules, is \$11,000 per day for non-compliance. So, potentially, 365 times 3 times \$11,000 is...a lot.

Another risk is that a number of states have already passed security breach laws. Most states have pending bills to enact security breach laws. Failure to have a federally mandated consumer information security program designed to prevent security breaches in place may run a dealership afoul of new state laws.

A third risk is that laxity in implementing and maintaining a consumer information security program as required by the Safeguards Rule may increase the chances of a successful identity theft from

your dealership's premises or computer system. I am aware of a six-figure settlement in a lawsuit brought against a dealership who allegedly failed to protect the consumer's personal, non-public information.

Add the risks up. It may make sense to revisit your information security program. Implement and document an initial training session for new-hires. Conduct and document another training session for present employees. Conduct and document a periodic audit and any corrective actions put into place.

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