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## **What Compliance Looks Like: Best Practices – FACT Act Alerts**

*by Gil Van Over*

This year's columns have been dedicated to describing this whole thing called compliance. We are now in the process of describing best practices that, if implemented, are designed to help reduce exposure to litigation and regulatory inquiries. Today's topic is FACT Act alerts.

### **Federal Requirement**

The Fair and Accurate Credit Transactions Act (FACT Act) extended the Fair Credit Reporting Act and added some identity theft deterrent requirements on dealers.

Foremost among these additions is the consumer's right to add an identity theft deterrent alert to his or her credit bureau report. These alerts can take differing styles, and there are different types of alerts. Essentially, they all say the same thing: "My identity may have been compromised. Verify I am me before extending credit."

### **Dealer's Requirement**

Whenever an alert is on a consumer's credit report, the dealer must have a process in place documenting that the extra step was taken to confirm the consumer's identity in accordance with the instructions in the alert.

Sometimes we see alerts in a credit report with no documentation that the Sales or F&I Manager ever saw anything other than the credit score.

### **Risk**

Successfully litigated identity theft cases against car dealers are being settled for about 100 big ones. Giving an ID thief a car is bad business. The meth heads that make up the majority of ID thieves have no conscience.

### **Documentation Process**

Act in accordance with the instructions in the alert. If the alert instructs you to call the consumer at the home phone number, call the number. If the consumer is truly at the dealership, she can't be at home to take your call.

If the consumer did not list a cell number to call him at, and you are not able to reach him at any of the numbers listed, approach the consumer. Ask him if he has ever had his ID compromised. If the true consumer is in front of you, he will acknowledge same.

However, if she is an ID thief, she will quickly make an exit and leave your dealership.

If you have an attempted ID theft occurrence, you should report it to your local police and try to reach the consumer. After all, your dealership's inquiry is now on the credit bureau file. You need to document that you took appropriate steps once you learned of the attempted theft.

A simple note of what the manager did to confirm the identity, along with the manager's signature

and date, is all that is required to document the alert was acted on. If the consumer is in front of you, have him or her sign the credit report next to the FACT alert.

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