



## Metrey: Dealers should be prepared for compliance sweeps

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Paul Metrey

Dealers had a lot of regulatory changes to prepare for in 2010.

And 2011 is likely to be a busy year as well, says Paul Metrey, chief regulatory counsel for financial services, privacy and tax for the National Automobile Dealers Association. Metrey spoke with Staff Reporter [Amy Wilson](#).

**Q: Are dealers ready for the regulatory changes effective on Jan. 1?**

A: Dealers are working hard to transition to the new model privacy notice. They're working hard to get ready to begin issuing credit score disclosure exception notices under the risk-based pricing rule beginning Jan. 1. And, of course, the Red Flags Rule has been in effect since November of 2008, so really this is just a matter of revisiting their programs and making sure they're up to date.

**Do you have concerns that dealers won't be ready?**

The concern is the sheer number of the regulatory requirements of which there are hundreds at the federal level and even more at the state and local level. When you look at the cumulative impact and requirements of all of those rules and regulations, it can become overwhelming.

**How does Jan. 1, 2011, compare with most Jan. 1s? Is this an unusual number of new rules that dealers have to contend with?**

It's a large volume, but it's not unprecedented. If you look over the last decade, you will see an enormous number of new duties, particularly in the finance arena, that have affected dealers. This is just one more indicator of new regulatory burdens that are transforming how dealers have to structure their businesses.

**What are the costs to dealerships for complying with these rules?**

Very costly. The Red Flags Rule requires a number of steps just in terms of employee time and resources. That's true of some of the other requirements that took effect earlier in the decade. All of this has really resulted in a significant increase in compliance costs for dealers. This just puts additional strains on business that have had several challenging years in the current economic environment.

**Now that we're entering the enforcement phase of the Red Flags Rule, is the Federal Trade Commission going to perform compliance sweeps?**

I think dealers have to expect compliance sweeps for any number of the obligations. A number of dealers have recently reported that they are right now being investigated for compliance with what's known as the Holder in Due Course rule. And in the past, dealers have had compliance sweeps that have pertained to the FTC Safeguards Rule. So compliance sweeps are always a possibility. There are some that are going on right now. In terms of the timing and how thorough it would be, only the FTC knows. But it behooves dealers to be prepared at any particular time.

**On Red Flags compliance, is there any particular area of weakness or concern that could trip dealers up?**

I wouldn't say there are areas of weaknesses. Dealers, as they increasingly move to more electronic interactions with their customers and have transactions that are not face to face, need to ensure that their written identity theft prevention program captures those types of transactions. There are challenges when the person is not face to face with you [and you can't see whether they match the photo on the driver's license].

**What do you anticipate for the regulatory environment for dealers in 2011?**

There are some changes brought about by the comprehensive financial reform law signed by the president last July. For example, beginning next July, adverse action notices will need to have new disclosures in them.

We have our eye on a new small business reporting requirement. If a dealership gets a credit application from a small business or women-owned or minority-owned business, there is a new reporting and record retention requirement that is associated with those credit applications. In terms of when that will begin and how dealers will have to comply, that is something we'll be speaking with the Federal Reserve Board about in the coming months.

There are also a couple of proposed requirements out there. For instance, there is a proposal that the sale of products such as credit life and credit disability would have to have new disclosures that could make a consumer decide not to purchase the product. We believe the disclosures are slanted against those types of products. That is not final.

So it is possible 2011 would be as active as 2010. There are still just a lot of what-ifs that we're keeping our eyes on.

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