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Larson, Stacie

From: DSI [lamb@dsiagency.com]
Sent: Sunday, April 06, 2003 12:26 AM
To: regcomments@fincen.treas.gov
Subject: Vehicle dealer regulations

ATTN: ANPRM – Sections 352 and 326 – Vehicle Seller Regulations.

I am a teacher in the Florida Motor Vehicle dealer training program. I am licensed with the state to conduct Motor Vehicle Dealer Training courses.
I have prepared the attached article (pdf file).

I believe that what I have written is accurate as of this time, but I have a fear of misinterpreting, over-simplifying or of under-simplifying.

Either way, I would like my interpretations taken into account.

If I am wrong in my interpretations, please tell me where I can go to get the correct answers.

Thank you for taking the time to consider my thoughts.

At the least, I would like to know if vehicle dealers must match names against the OFAC.

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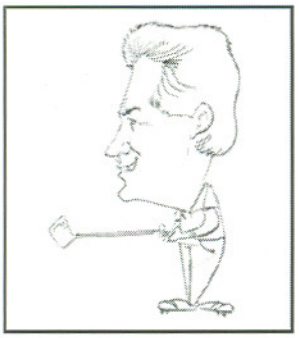
Car Dealers And The Patriot Act



Ed Lamb

There has been much said and written since the Twin Towers attack. Legislation has been enacted and fine tuned to fit situations that could lead to another such incident. One of those pieces of legislation is the "Patriot Act". Even now it is being fine tuned to offer guidelines to separate industries. The vehicle industry is one of the ones they are still working on. Until they get things finalized, we have been 'shoe-horned' into the classification of "Financial Institutions without a Federal functional regulator". That is quite a mouth full. Believe it or not, for the sake of this act, vehicle dealers, both new and used, are classified as financial institutions.. as are pawn shops, travel agencies, boat dealers and a host of other businesses.

The main reasons for the Patriot Act are to stop the laundering of money, freeze the assets and actions of certain suspicious people and organizations of people, and to impede terrorist activities. The task is too big for government alone. All of us must do our part to make this work.

We are fulfilling a big part of our responsibilities already by filing the form 8300 every time a cash payment or series of cash payments total $10,000. This has been the law for many years, and most (if not all) of us are already in compliance. In the past, you had to send a copy of the form 8300 to the Federal Government and you had to send a copy of it to the State Department of Revenue. Now a copy must also be sent to the U.S. Treasury (FinCEN). Since we seldom receive that much cash, this is not a problem to be worried about until that situation arises.

The major thrust of the Patriot Act (Section 326) is aimed at identifying and freezing the assets of suspected terrorists and their organizations. This is much more involved. First, let me assure you that the bulk of the law is aimed at banks and other Financial bodies that maintain holdings or conduct transactions with or from holdings of these suspected terrorists. A list of such suspected terrorists and terrorist organizations has been provided to us by the federal government. They have also prescribed a guideline which we should use when referencing that list.

Section 326 of the USA Patriot Act, in summary, calls for the following:

"(1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information; and (3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency."

In "plain English", this means...

All Financial Institutions must have a Policy (Customer Identification Program) detailing its Identity Verification Program.

All new accounts need to be screened against the list of suspected terrorists and terrorist organizations, as provided by the Office of Foreign Assets Control (OFAC), Department of the U.S. Treasury.

Any documents used to identify the new account holder, such as, drivers license, passport, social security card, etc, need to be verified against a third party database to determine that the identity is valid to extent reasonable and practicable.

A database of all accounts needs to be maintained that includes the account name, date of account opening, identifying information presented, and the items used to verify the identity. This information needs to be time and date stamped and maintained for 5 years following the closure of the account.

Before you get too alarmed, you are probably doing most of this already in your normal course of business. Let us look at the rules step by step to see how we stack up.

First, you probably already have an office manager or decision maker in charge. He is now in charge of any actions that might involve the government. He must set-up a procedure for others in the office to follow when dealing with customers and suspicious people.

Now here is a new one... you must verify the person's name against a list of suspects. You could buy software from someone and update it almost daily to keep it current and then you would be perfect. Or, you could go to my web site www.dsiagency.com and click on the link to "automotive sites" and then look down the page toward the bottom right and click on "free patriot search". This will do all you need for checking the list. Try it once searching on your own name, and then try it on Osama Bin Laden. You will see the difference (I hope). This service is afforded to you free by Bridger Systems. They also sell software to allow you to do this type of verification on your own system.

You already keep the documents and copies of documents that go into the making of a deal, including driver licenses, credit checks, insurance, rent receipts, light bills, etc. Now, they want you to keep them date stamped for at least 5 years. This is no biggie, just keep them in the customer's folder. Essentially, that is it for a vehicle dealer.

If you have questions on the system, please contact the FinCEN Regulatory Help Line at: 800-949-2732.

You are required to report a true hit, per the instructions. Remember, there is no action required of you other than reporting the match to FinCEN. Don't be a hero and try to be a one person Battalion. Just phone the FinCEN hotline at 1-866-556-3974. They will take it from there. They are open 24/7.

As always... I'm not a lawyer. Read the rules for yourself and draw your own conclusions. www.dsiagency.com