



# THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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## Prepare for FTC's New Safeguards Rule

This past October, the Federal Trade Commission (“FTC”) announced final amendments to the Safeguards Rule of the Gramm-Leach-Bliley Act. Although the amendments will not become effective until October 27, 2022, the new requirements are likely to be costly and so it is imperative that dealers begin to prepare. Many dealers will want to add services to their existing data security vendor agreements or put such a vendor in place if you do not already have one. It is also important to consult legal counsel for specific guidance regarding proper compliance.

As you are likely aware, motor vehicle dealers are considered “non-banking financial institutions” by the FTC and are therefore subject to the Safeguards Rule. The new amendments to the FTC Safeguards Rule require non-banking financial institutions like dealerships to implement a comprehensive security system to keep customer information safe. Any and all sensitive consumer data that you collect must be protected.

According to attorneys [Paul R. Norman and Sarah J. Horner](#), the amendments to the FTC Safeguards Rule impose more specific requirements on motor vehicle dealers as follows:

- (1) address specific topics in risk assessments and produce a written report about those assessments;
- (2) include particular issues in a safeguarding plan, such as encryption, secure development practices, multi-factor authentication, and information disposal procedures (among others);
- (3) adopt measures for one qualified individual to oversee the effectiveness of the safeguarding plan, employee training, and services from external providers; and (4) provide periodic reports to certain boards of directors and governing bodies.

The annual costs of compliance may be substantial. According to a study by the National Automobile Dealers Association (NADA), dealerships may incur upwards of \$276,000 in additional costs each year. NADA has produced a helpful guide for dealers that members can download [here](#).

## Updates from NADA

The update below was prepared by WANADA's NADA Director Geoff Pohanka as part of a regular series to keep the membership informed about what is happening on the national stage and within the halls of NADA. WANADA thanks Mr. Pohanka, currently NADA's Vice-Chairman, for these regular insights and his continued efforts on behalf of all dealers.



Geoff Pohanka

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Fellow Dealers,

Earlier this month, I participated in a virtual update for NADA Board members. 2022 Chairman Mike Alford and NADA President and CEO Mike Stanton are committed to ensuring good communication between NADA and its member-dealers. And a big part of that is keeping the Board briefed on key issues throughout the year so we can share that information with the dealers we represent. This most recent Board update occurred at roughly the midpoint between the March Board meeting, and the upcoming June Board meeting in California.

The three main topics covered in this update were: efforts to secure LIFO relief; regulation of dealer-assisted financing and F&I products; and the launch of the brand-new [nada.org](http://nada.org) website.

### Efforts to Secure LIFO Relief

- Despite broad bipartisan congressional support for the Treasury Department to use its existing authority to allow LIFO relief to businesses if a “major foreign trade interruption” makes inventory replacement difficult, Treasury has declined as it believes it needs additional legislative authority. As such, NADA's efforts have shifted to securing LIFO relief through legislation that can pass both chambers and be signed by the President.
- On April 4, Reps. Dan Kildee (D-Mich.) and Jodey Arrington (R-Texas) introduced the “Supply Chain Disruptions Relief Act” ([H.R. 7382](https://www.congress.gov/bills/117/7382)) which explicitly provides Treasury such legislative authority. On April 28, Sens. Sherrod Brown (D-Ohio) and Tim Scott (R-S.C.) introduced S. 4105, a Senate companion bill. Cosponsors need to be added to the bill to demonstrate bipartisan support, and NADA is working with Directors, ATAEs and dealers in a targeted fashion to secure additional cosponsors.
- The [92 House Members and 52 Senators](#) who signed [letters](#) to Treasury Secretary Janet Yellen supporting LIFO relief for dealers are excellent prospects for potential cosponsors. Stand-alone tax bills are rarely enacted, so generating significant numbers of cosponsors is necessary to encourage Congressional leadership to attach the bill to a broader legislative package that is likely to pass.

## Regulation of Dealer-Assisted Financing and F&I Products

- A recent major consent order underscores the FTC’s intention to hold dealer leadership—as well as the dealership entities themselves—responsible for alleged unlawful behavior, and it further highlights the need for dealers to conduct robust training on and oversight of all aspects of their sale and finance operations.
- As part of the terms of the settlement, the dealership group must establish a comprehensive fair lending program that, among other components, requires the dealership in retail installment sale contracts involving dealer participation to (i) establish a standard dealer participation rate (SDPR) below a certain threshold that will be charged to all consumers, and (ii) only deviate below the SDPR for certain defined reasons that are recorded and approved by the dealership’s fair credit compliance officer. This program is very similar to the optional [NADA/NAMAD/AIADA Fair Credit Compliance Policy and Program](#).
- As a reminder, NADA offers multiple products to assist dealers in this area, including the optional [NADA/NAMAD/AIADA Fair Credit Compliance Policy and Program](#) referenced above and the optional [NADA/NAMAD/AIADA Model Dealership Voluntary Protection Products Policy](#), which provides guidance and a policy template to help promote compliance with the selection, sale, and administration of VPPs that are offered to consumers. Dealers should carefully review these products with an attorney who is familiar with federal, state, and local law governing fair credit and VPPs as well as their dealership operations to determine appropriate compliance measures to adopt for their dealership.

## The Launch of the Brand-New NADA.org Website

- Just last week, NADA completed the launch of its new flagship website ([nada.org](http://nada.org)), featuring a one-stop auto retail news hub for the dealership community ([nadaheadlines.org](http://nadaheadlines.org)).
- This is not your average trade association site. It will be updated around the clock with news and content spanning education, public policy, videos, blog posts and graphics showcasing all the work that we all do on a day-to-day basis.
- NADA’s vision is to have [NADA Headlines](http://NADAHeadlines) be the homepage for every dealer principal and dealership employee in the United States – a hub where everyone who works in and around auto retail can get everything they need to effectively run their dealerships or departments; including breaking news, best practices, education and more.
- Please bookmark [www.NADAheadlines.org](http://www.NADAheadlines.org) as a favorite in the browser of your choice and join our community by returning often.

NADA’s next full Board meeting is scheduled for June 7-8, and I look forward to providing you with another update following that meeting.

Sincerely, NADA Director Geoff Pohanka

## Register for VADA's 2022 Legal & Legislative Update

Two weeks ago, WANADA partnered with MADA on a Maryland-focused advertising compliance seminar. In a market characterized by supply-chain shortages and additional markups on MSRPs, however, advertising compliance concerns are not limited to one side of the Potomac. Our friends at the Virginia Auto Dealers Association (VADA) are hosting a webinar via Zoom on May 26 at 9:30 a.m. Register [here](#) if you have not done so already. Topics will include Virginia's warranty/recall bill, fixes to Virginia's Overtime Wage Act, and FTC compliance updates in addition to advertising compliance. All of these matters are very important to the successful operation of your dealership in the Commonwealth, so WANADA encourages all of our Virginia dealers to attend.

## WANADA Launches New Tag & Title Program

WANADA has partnered with Maria's Tag & Title to offer our members a great solution for your titling needs. Whether you are short on title agents or need assistance with out-of-state transactions, Maria's is here to help. They can process title transactions for DC, Maryland, Virginia, Pennsylvania, Delaware, West Virginia, North Carolina and soon will add New York to the list. Dealers can outsource as much or as little as they like. After enrolling, WANADA members will pay \$75/transaction, which is a significant savings from other third-party vendors.

To enroll your dealership, email [mariastagntitle@gmail.com](mailto:mariastagntitle@gmail.com) and copy Joe Koch ([jk@wanada.org](mailto:jk@wanada.org)) to enroll. You can also peruse their document library at <https://www.mariastagntitle.com/wanada/>. Contact Joe Koch at 202-821-5824 or [jk@wanada.org](mailto:jk@wanada.org) if you have any additional questions.

## O'Donnell Attends NAACP Dinner

On Sunday, May 15, 2022, WANADA President & CEO John O'Donnell attended the annual Freedom Fund Dinner, hosted by the Montgomery County branch of the National Association for the Advancement of Colored People. Joined by members of the Montgomery County political and dealer community, the dinner was aimed at preserving and advancing the political voice, community health, and civil rights for people of color in the county. WANADA applauds the efforts of the NAACP for their efforts in advancing these important initiatives nationwide and all around the Beltway.



Pictured (from left): John O'Donnell, Rob Smith (Fitzgerald Auto Malls), John McCarthy (State's Attorney for Montgomery County), and George Sydnor (Fitzgerald Auto Malls).

## The 2022 WANADA Open Is Right Around the Corner!

The WANADA Open will be returning to Trump National Golf Club in Sterling, VA on **June 6, 2022** after an imminently successful outing in 2021. The tournament is currently sold out, but any members interested in sponsorships can email Bob Storin at [rs@wanada.org](mailto:rs@wanada.org).



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