RVDA

The National RV Dealers Association
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Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve Board
Federal Deposit Insurance Corporation
Office of Thrift Supervision
National Credit Union Administration
Federal Trade Commission

September 18, 2006

Re: Comments of the National RV Dealer's Association (RVDA)

OCC Docket Number 06-07, RIN 1557-AC87
FRB Docket Number R-1255
FDIC RIN 3064-AD00
OTS No. 2006-19, RIN 1550-AC04
NCUA Proposed Rule 717
FTC Project No. R611019, RIN 3084-AA94

Ladies and Gentleman,

The National RV Dealers Association ("RVDA"), on behalf of its RV dealer members submits these comments in response to the above listed agencies Interagency Notice of Proposed Rulemaking: Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003.

The National RV Dealers Association is the only national association dedicated to advancing the RV retailer's best interests through education, member services, industry leadership, and market expansion programs that promote the increased sale and use of RVs and that enhance the positive image of the RV experience. RVDA is comprised of over eleven hundred dealership members and several hundred after market suppliers who sell and service recreational vehicles. RVDA dealer members sell approximately 90 percent of the new motorhomes and 80 percent of new towable RVs retailed each year. According to the most recent 2002 US Business census, RV dealers in the United States had sales of roughly $15 billion, with an annual payroll $1.25 billion employing nearly 36,000 employees. RV dealers are the starting point for the dreams of millions of Americans who enjoy a lifestyle of vacationing and traveling on the road, with unique access to our nation's scenic byways and national parks.

COMMENTS OF RVDA

RVDA has concerns with the impact the interagency proposed "Red Flag" Regulations and Guidelines will affect RV dealers. The proposed rule suggests 31 red flags and requires each financial institution to implement a written Identity Theft Protection Program, and to conduct a risk assessment to determine which red flags are relevant to its business.

The Red Flag Program must address financial, operational, compliance, reputation, and litigation risks including policies and procedures to: 1) identify Red Flags; 2) Verify the identity of the persons opening the accounts; 3) Detect Red Flags; 4) Assess whether a Red Flag evidences a risk of identity theft; 5) Mitigate the risk of identity theft using a risk-based approach; 6) Train staff to implement the Program; and 7) Oversee service provider arrangements including an independent assessment of any third party fraud or identity theft detection programs that are use by the institution to determine if the programs meet the requirements of the Red Flag Regulations and Red Flag Guidelines.

First, we find that the requirements are unclear. The proposed rule lists criteria upon which RV dealers may use to build a compliance program to protect against third party identity theft. In the absence of clear and understandable guidelines, the default safe harbor for a business is to take the strictest interpretation possible so they will not run afoul of the rules. This will create a huge burden on small businesses to analyze and respond to all the proposed Red Flag criteria and guidelines.

Second, RV dealers are already under a great burden to comply with the Privacy and Safeguards Rules. This is yet one more federal policy that has to be written, managed, implemented and monitored. The proposed regulations require each financial institution to implement a written Identity Theft Protection Program. Small businesses are already overburdened financially and resource wise in their efforts to comply with existing federal rules and policies that protect customer information.

Third, agency analysis of the Burden on businesses is flawed and understated. The proposed rules are lengthy, and very burdensome to read. Dealership employees, who are not well versed in federal regulatory notices and final rules, may spend weeks trying to understand this new compliance burden. Dealership employees will be required to read through and become acquainted with these new requirements, conduct a risk assessment, determine which red flags are applicable to its business, develop procedures to protect against the identified risks, and review and modify its third party contracts. It also requires the creditor's Board of Directors to approve the written program and oversee its development, implementation and maintenance. In addition, staff employees who are responsible for implementing the program must report to the Board or senior management at least annually regarding the company's compliance. This cannot be understood and performed in a few hours; instead, it will be several weeks to implement such a program.

Fourth, RV dealers have never had to develop Customer Identification Programs (under section 326 of the USA Patriot Act), and therefore do not have that as a basis upon which to build a compliance program. Under the CIP regulation, a vehicle dealership is not considered a "financial institution" for purposes of the Bank Secrecy Act. This is a new burden on dealerships. The FTC time estimates for development of a written Identity Theft Protection Program is patently inaccurate.

Fifth, F&I personnel at dealerships will have to become financial fraud accountants. Rather than reviewing a checklist of items needed to put the deal together, the F&I employee will need to spend valuable time analyzing these documents beyond what is customary and usual for an application. The F&I personnel will need to put each credit application, each applicant, each identification document, and the dealerships entire prior financial dealings and numerous other interactions with a customer to extreme scrutiny.

Sixth, RVDA believes that dealerships already use common sense to identify and prevent acts of identity theft. If a dealer erroneously delivers a vehicle to an identity thief, many of the financing agreements between the banks and dealership permit the bank to charge the amount back against the dealer. With some RVs costing hundreds of thousands of dollars, it just takes one of these for the dealer to be out of business. RV dealers already have a vested interest in verifying the identity of the individual, and this additional written Identity Theft Protection Program is simply form over substance.

CONCLUSION

RVDA believes there should be a lot of flexibility in developing and crafting an identity theft prevention program. Especially when many of the small businesses covered under this rule as "financial institutions" are extremely small businesses. The agencies should avoid a one size fits all policy. RVDA urges the agencies to consider less rigid requirements.

RVDA appreciates this opportunity to comment on this rulemaking to help educate the various agencies on how their overly inclusive definition of "financial institutions" affects small business owners. It is shocking for RV dealers to face yet another regulatory burden that is primarily intended to cover banking institutions, yet paints "mom and pop" owned businesses with the same regulatory compliance burdens. Please do not hesitate to contact me if I can be of further assistance. My direct line number is 703-591-7130 x114.

Respectfully submitted,

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