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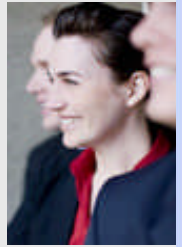
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Like a Bad Neighbor, The Bureau is There!

This is my first opportunity to write for A*QUA and I appreciate AutoStar giving me the opportunity to do so. The other night I was watching one of my favorite sitcoms; doing a bit of winding down after a long day. After my program was over, an insurance company commercial came on TV - you know the one - where the actors say their tag line, "Like a Good Neighbor [Insurance Co.] is There!" and the genie-like insurance agent magically pops up to take care of all their problems. That spot got me thinking - no, not about the insurance company - about the new Consumer Financial Protection Bureau, the new regulator of buy here pay here dealers. I thought of the Bureau being the opposite of that "good neighbor" and their new tag line - "Like a Bad Neighbor, the Bureau is There." However, unlike that bad neighbor you have in your neighborhood that never picks up after his dog and sits on his couch in his garage with his drinking buddies watching Springer on the TV while he pounds down a few cold ones, this bad neighbor Bureau doesn't have to physically be in your neighborhood to give you a bad time.

So, why did this big bad neighbor, the Bureau, move in? Well, the Dodd-Frank Act says they can. The Dodd-Frank Act provided an exclusion for auto dealers from the Bureau's oversight, but only for those dealers that are predominantly engaged in the sale and servicing, or leasing, of motor vehicles and who routinely assign retail installment sales contracts or leases to unaffiliated third parties. That means if you're extending credit directly to the consumer for the purchase of a vehicle, and your contract is not routinely assigned to an unaffiliated third party finance or leasing source, then the Bureau has the power to exercise its rule-making, supervisory and enforcement authority over you.

On the rule-making front (of your lawn), the Bureau can use the existing federal rules that it inherited from the other federal agencies, or create any new rules that would impact on your operations. Much like the bad neighbor who doesn't clean up

“ *The compliance game changed tremendously when the Bureau moved into town; they don't have to physically stop by your shop and gather information; they're getting information from all these new channels that it will keep and store in its databases until they're ready to act.* ”

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and demanding restitution to an aggrieved consumer.

Unlike that bad neighbor you have down the street who stops by to grab a few cold ones in your fridge, how likely is it that the Bureau will actually stop by and visit your shop like a state regulator would? Compliance has changed a lot the past decade and the Bureau is the newest, baddest neighbor to move in on your block, and is not constrained by old technologies. They've put a number of initiatives, databases, and systems in place where they can appear almost magically like a genie to give you a bad time. I'll discuss a few of their initiatives below.

In December 2011, the Bureau announced it would be soliciting information from whistleblowers and other knowledgeable sources about potential violators of Federal consumer financial laws. The Bureau welcomes information from current or former employees of potential violators, contractors, vendors and competitor companies. A competitor that feels "unfairly undercut" might just contact the Bureau about you - as might a former employee with an ax to grind. In addition, earlier this year the Bureau, Department of Defense, Federal Trade Commission and the New York Attorney General jointly announced the development of a database to combat consumer financial frauds directed at military members, veterans and their families. The Repeat Offenders Against Military (ROAM) Database tracks completed enforcement actions against companies and individuals who repeatedly and supposedly "scam" military personnel. This database lays the foundation for similar databases designed to target specific industries, such as BPHH dealers.

Finally, the Bureau recently launched a complaint portal on their website that gives consumers the ability to complain to the Bureau about auto loans. The complaint portal also asks the consumer if he/she believes the issue involves discrimination. The Bureau claims it's only accepting vehicle loan complaints for banks and that nonbank complaints are being referred to the Federal Trade Commission's Consumer Sentinel Network, but it's only a matter of time before that changes.

The Bureau has spent a tremendous amount of time, effort and money in developing databases to take in information about you from all sources - whistleblowers, competitors, consumers and state attorneys general. The Bureau has several ways to get the information it wants, from letters demanding information about you and your business, to whistleblowers, disgruntled employees, competitors and consumer complaints. The compliance game changed tremendously when the Bureau moved into town; they don't have to physically stop by your shop and gather information; they're getting information from all these new channels that it will keep and store in its databases until they're ready to act. With some compliance self-assessments, good customer service and a thorough consumer complaint process, maybe you can avoid having the bad neighbor genie pop up next door to you.



Eric L. Johnson is a Director and Shareholder with **Phillips Murrah P.C.** in Oklahoma City, where he practices automotive finance law, banking and consumer financial services law. Prior to pursuing his legal career, he spent many years working in various departments for his family's car dealership. This article is provided for informational purposes and is not intended nor should it be taken as legal advice.



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