

ATTENTION: The FTC Has Extended the deadline for Safeguards Rule Compliance

Here is what it means for your dealership

On November 15, 2022, the FTC voted 4-0 to extend the deadline to fully comply with the FTC Safeguards rule by **6 months**. The new deadline for **complete** compliance is **June 9, 2023**. That is good news for dealerships that have been scrambling to come into compliance during a labor shortage.

Here are the specific provisions that have been extended to June 9, 2023:

- **Section 314.4(a), which requires the designation of a “qualified individual” to implement, oversee, and enforce the information security program of a “financial institution”.**
- **Section 314.4(b)(1), which requires the information security program be based upon a written risk assessment that identifies various internal and external risks.**
- **Section 314.4(c)(1)– (8), which requires designing and implementing various administrative, technical, and physical safeguards, which includes various physical and technical access controls, multi-factor authentication, encryption, activity logging, and change management procedures.**
- **Section 314.4(d)(2), which includes continuous monitoring of information systems, and absent effective continuous monitoring, annual penetration testing and vulnerability scanning at least every 6 months.**
- **Section 314.4(e), which includes mandatory training and engaging qualified information security personnel to oversee the information security program.**
- **Section 314.4(f)(3), which requires periodic assessments of service providers with access to customer information.**
- **Section 314.4(h), which requires a written incident response plan.**
- **Section 314.4(i) which requires a status report (at least annually) to the Board of Directors (or equivalent governing body).**

Provisions that remain in effect for December 9, 2022 deadline.

Some provisions of the FTC Safeguards Rule remain in effect, however. For example, dealerships must still:

- **Have a written information security program.**
- **Select service providers that are capable of maintaining appropriate safeguards and contractually obligate them to protect customer information**
- **Maintain appropriate safeguards to protect consumer information.**



Moreover, the FTC has taken other enforcement actions against other businesses that are not covered under the revised FTC Safeguards Rule, using the FTC’s power granted by Section 5 of the FTC Act for prosecuting unfair and deceptive acts and practices. In some of those cases, the FTC has fined businesses under Section 5 for not using encryption, multi-factor authentication, and providing security awareness training to employees.

While the 6-month delay may feel like a reprieve, businesses that maintain consumer information without the requirements set forth in the revised FTC Safeguards Rule will remain exposed to an FTC enforcement under Section 5.