

Dealer Advisory

May 15, 2020



Trouble viewing this message? [View as Webpage](#)

We have made it to yet another Friday! Rather than sending a regular Friday Fast Facts, this advisory will be a little bit COVID-19, and a little bit general business information.

Checklists for Recovering from the COVID-19 Crisis

Checklists for Changes, from Charapp & Weiss LLP

As everyone works toward a better tomorrow, each is learning lessons and taking steps to improve. While everyone should be pulling together, some may seek to take advantage of the crisis to the detriment of your dealership.

Auto dealer attorneys Charapp & Weiss, LLP have some checklists to help as you face COVID-19 challenges from suppliers and in your marketing.

Franchise Agreements

A franchised dealer regularly receives agreements, supplements, revisions, plans, objectives, and many other types of documents from its franchisor. It may be as simple as a new program to enhance customer awareness of dealership compliance with virus prevention standards. Or it may be an agreement that fundamentally changes some aspects of the dealer sales and service agreement. When you receive a document from your franchisor, here is a checklist you can use to consider it.

- What is the purpose? Does the agreement make clear the franchisor's obligations and the dealer's obligations?
- Is it consistent with the existing dealer sales and service agreement? Does it make a change in a fundamental provision of the DSSA?
- Is it consistent with state law? Franchisors create documents applicable to dealers in fifty states. That does not mean it complies with your state's law. Consult your state trade association or a knowledgeable dealer attorney.
- Does it make financial sense? A dealer should do a cost benefit analysis for any agreement a franchisor asks a dealer to sign.
- Can the dealership comply? A new agreement with objectives as qualifiers for a dealer makes sense only if a dealer has a good chance to meet the goals. If the goals are unreachable, why sign?
- Is the boilerplate fair? Are the standard terms appropriate? What state's law applies? Where are disputes decided? Is there a mandatory predispute arbitration agreement that is prohibited in franchise agreements under federal law?
- What is the penalty if the dealership cannot comply? Is it financial? Or is it a breach of the dealer franchise agreement justifying an attempt to terminate the dealer?

Keep reading for additional information on supplier agreements, indirect finance agreements, and federal advertising requirements.

Miscellaneous COVID-19 Updates & Reminder

NADA Publishes Guidelines for PPP Borrower Certifications

New rules from the SBA and Treasury require borrowers to certify they need the funds from

Paycheck Protection Program loans. The [analysis in the NADA Loan Certification Guide](#) provides helpful guidance for certifications dealers have made.

- In the [PPP FAQs](#), question 46 establishes a new safe harbor for borrowers who received PPP loans of less than \$2 million (and effectively removes the prior May 14, 2020, repayment deadline).
- For loans in excess of \$2 million: Borrowers will likely be audited (expected to have basis for a good-faith certification).
- If the SBA deems that a borrower's certification was not justified, the PPP loan will not be forgiven and must be repaid.

Question 47 of the PPP FAQs again extends the repayment date for this safe harbor to May 18, 2020, to give borrowers an opportunity to review and consider FAQ #46.

Dealer Conference Call with Governor Whitmer

Governor Gretchen Whitmer will join MADA and DADA for a conference call on Monday morning. This conference call is open to any **dealer principal** who would like to listen in.

Conference Call with Gov. Whitmer Monday, May 18 at 11:30 am

To participate, email Debbie Stapleton-Korn (dkorn@michiganada.org) to request the call-in information. She will email you a response **by Monday morning** with details for the call. All participants will be on mute during the call.

Developing a Plan to Reopen Your Dealership

Don't forget to check out yesterday's dealer advisory on "Developing a Plan to Reopen Your Dealership."

The governor has tasked businesses that remain open for in-person work to develop a COVID-19 preparedness and response plan. Have you created a plan for the unique needs of your dealership? See yesterday's [dealer advisory](#) for more information. And don't forget to stay current on the frequently updated [Coronavirus Toolkit](#) within the MADA website.

CDC Workplace Decision Tree

The CDC has released a new [Workplace Decision Tree](#), which is a tool to assist employers in making reopening decisions during the COVID-19 pandemic, especially to protect vulnerable workers. The CDC reminds businesses that it is also important to check with state and local health officials and other partners to determine the most appropriate actions while adjusting to meet the unique needs and circumstances of the local community.

Information About Emails from DIFS

Installment Seller License Renewals: Two Things

1) Did you receive your renewal by email?

Renewals were emailed to dealerships last week. If you did not receive a renewal please [email Jean Quinn](#).

2) Where's the unique ePayments code?

A few people mentioned they didn't have the invoice number, required to submit payment through ePayments. Please check your email from

Copy of email from DIFS

(super condensed to show you the important parts)

DIFS. Scroll to the bottom, where you should find the number and payment code.

From: DIFS-CFRenewals <DIFS-CFRenewals@michigan.gov>
Sent: Monday, May 4, 2020 3:19 PM
Subject: 2020 License Annual Renewal DEALERSHIP (IS ##)

Attached is your 2020 license annual renewal packet. *[some words...]*
NEW for 2020:

- * Renewal fees must be paid via ePayments (see instructions attached)
- * Invoices will not be provided. Your invoice number to pay your renewal fee, along with your ePayments access code, is contained in the body of this email.
- * *[more words...]*

Invoice Number:

Amount: 30.00

E-Payment Code:

Category: Renewal

Email from DIFS: Complaint Contact Update

We have heard from many dealers that they received an email from DIFScomplaints@michigan.gov requesting that they complete a complaint contact form and return it to DIFS. This information was initiated from a different section of DIFS than we generally work with (not the finance license division).

We reached out to our contacts at DIFS and confirmed that it is a legitimate email and it was not sent due to a complaint received. Every dealership should have received this email. Even if the consumer finance division already has your current contact information for license renewals, it will still be necessary to provide the complaints division with your preferred contact information.

It is just another step in the process of going electronic. The department would like to ensure they have current contact information for the dealership. If an email address is not provided, complaints will be faxed to the dealership.

If there is a consumer complaint filed against the dealership, the information provided will ensure DIFS is able to contact the proper person to expeditiously discuss and resolve the complaint.

If you have questions please email Jean Quinn at jquinn@michiganada.org.

ADM Capitol Corner



The Auto Dealers of Michigan, LLC offers [weekly updates](#) on Michigan legislative news.

- General Fund Deficit Pegged Between \$1B-\$1.4B; School Aid \$1.2B
- Whitmer Talks COVID-19 Racial Disparities During Biden Roundtable
- Dentists Are Asking That We Can All Open Wide
- Cities Facing 37.3% Revenue Loss; Local Leaders Ask Feds For Help

Public Sector Fiscal Health Afflicted by Pandemic



The Citizens Research Council recently presented a webinar on the financial future of state and local governments in Michigan. Among the issues discussed, a growing reliance on federal funding, shrinking discretionary dollars, and the long-term underfunding of the state's public health system leaves Michigan especially vulnerable to this pandemic. Michigan has a difficult road ahead – barely recovered from past recessions, governments in Michigan will once again be asked to do more with less. View the [slide deck](#), or watch the [recorded webinar](#).

Please feel free to contact DADA at (248) 643-0250 or MADA at (800) 292-1923 if you have any questions.

*This advisory has been prepared in conjunction with
Colombo & Colombo, P.C., and Abbott Nicholson, P.C.*

Michigan Automobile Dealers Association

1500 Kendale Boulevard, P.O. Box 2525

East Lansing, MI 48826-2525

www.michiganada.org

Phone (517) 351-7800

Fax (517) 351-3120

Detroit Auto Dealers Association

1900 West Big Beaver

Troy, MI 48084-3537

www.dada.org

Phone (248) 643-0250

Fax (248) 643-8788