



Federal Statutes and Regulations Applicable to the Pawn Industry



National Pawnbrokers Association®

INTRODUCTION

The NPA is the national voice of the pawn industry on both the federal and grassroots levels. We proactively monitor all federal statutes and regulations to keep pawnbrokers informed of their compliance responsibilities.

The NPA is committed to representing the pawn industry before Congress and federal regulatory agencies. We inform and educate consumer groups, research firms, media and others about the easily accessed, non-recourse financial services our industry makes available to the general public.

This piece showcases the efforts being made behind the scenes by our Government Relations Committee (GRC). The information provided will help ensure you're up to date on the latest statutes and regulations.

1. Internal Revenue Service Form 8300

Cash transaction reporting by persons engaged in trades or business is required when an individual makes a payment in cash or in cash plus a monetary instrument that exceeds \$10,000 or makes a series of payments in cash or in cash plus monetary instruments that qualify as being “related” under the rules described below. Pawnbrokers report on IRS Form 8300 instead of FinCEN “Cash Transaction Report” Form 105.

- “Related transactions” include payments of cash or of cash plus one or more monetary instrument(s), such as cashier’s checks, bank drafts, traveler’s checks and money orders, that in total exceed \$10,000 if the transactions:
 1. Occur within a single 24-hour period;
 2. Occur over the course of 12 months when a customer renews or extends a pawn by making payments of interest and allowable fees, and then redeems the collateral that (a) served as security for this series of pawns and (b) remained in the pawnbroker’s possession over that 12-month period. (IRS refers to such transactions as a series of loans over a rolling calendar year when the original loan is never fully repaid where interest and/or principal payments are made.) This 12-month rule applies whether the same pawn ticket number is used or a new one is issued, because the pawnbroker ‘knows or has reason to know’ that each payment is one of a series of transactions.
 3. Multiple purchases by a customer using cash and/or monetary instruments equaling more than \$10,000 within a 24-hour period are considered “related”.
- Pawnbrokers must file Form 8300 within 15 days of their receipt from any customer of monetary instruments or cash plus payments that when combined total more than \$10,000 (Cash IN) whether that total was met in one, two, or more “related transactions.”
- Pawnbrokers must send one annual notice to each customer whose transactions triggered Form 8300 reporting by January 31 of the following year of your filing any Form 8300.
- The IRS does not require reporting for “Cash OUT”-- that is, cash you give the customer as proceeds of a pawn or purchase transaction with the customer.



Visit [IRS.gov](https://www.irs.gov)
or scan QR code

2. Truth in Lending Act and “Regulation Z”

Require disclosure of credit terms in consumer credit transactions. TILA and Regulation Z ensure all terms are disclosed to consumers in a prescribed format on the pawn ticket, including:

1. APR (Annual Percentage Rate)
2. Amount Financed
3. Total Amount Due
4. Total Number of Payments
5. Dollar Amount the Credit Will Cost the Customer

Pawnbrokers must make TILA-required disclosures even if they also give consumers MLA regulation disclosures as described in the Military Lending Act (MLA).



Visit mla.dmdc.osd.mil
or scan QR code

3. Military Lending Act and MLA Regulation

Limit all interest and other charges for consumer credit transactions to a Military Annual Percentage Rate (MAPR) of 36% for “covered borrowers,” defined as active-duty service members, spouses, and certain dependents. DoD’s MLA Regulation disclosures must be given to “covered borrowers” in addition to TILA- required disclosures.

- Failure to comply may result in a court declaring a transaction “void” in a lawsuit by the borrower or the CFPB, which has primary enforcement authority over the MLA. State attorneys general also can enforce the MLA and Regulation.
- The DoD Regulation provides a means for pawnbrokers to acquire a “safe harbor” from private and agency liability by submitting customers’ names, dates of birth, and social security numbers to the DMDC (Defense Manpower Data Center) website, mla.dmdc.osd.mil to receive a “verified certificate” that the pawnbroker must retain, a process known as a “covered-borrower check.”
- The DoD Regulation also permits creditors to design and apply their own methods of determining which consumers are “covered borrowers” through what DoD calls an *Optional Identification of Covered Borrower*. Creditors’ optional methods do not qualify for the Regulation’s “safe harbor” protections from private lawsuits or agency enforcement actions.

4. U.S. Office of Foreign Assets Control’s “Specially Designated Nationals” (SDN) Regulations

Prohibits any “U.S. person” from doing business with persons and organizations on OFAC’s SDN list and provides for their prosecution and, if found guilty, can be subject to substantial fines.

- Pawnbrokers must verify that the customer is not on the SDN list prior to completing a transaction. Many pawn software programs have the SDN list built in; or pawnbrokers can access it on the OFAC website: treasury.gov/ofac/downloads/sdnlist.pdf

- When must you check the SDN list on your customer? You can check the customer on the front end, or the back end of the transaction, but the last time to check the list is prior to redemption of the collateral -- the time when the transaction is complete.



Visit treasury.gov
or scan QR code

1. Checking on the front end ensures you the customer is clear, and the pawnbrokers can proceed with the pawn transaction. If the customer is not clear, then the pawnbroker must decline to do business with them.
 2. Checking on the back end (at the time of repayment and redemption of the collateral), is permissible as long as the pawnbroker trains employees to handle an irate customer whose name or similar name is on the SDN list. If the customer’s name is on the SDN list, the pawnbroker cannot return the collateral to the customer unless and until OFAC expressly releases the property, a process that takes time. OFAC’s website offers instructions for customers in this position to seek release of their property.
- The SDN list changes frequently and a name that is the same as or similar to your customer’s name may have been added to the list.

5. FinCEN's "Precious Metals Dealers" Rule

Implements Bank Secrecy Act anti-money- laundering compliance obligations of dealers in precious metals, precious gems or stones or jewelry when the dealer's business in "precious metals, gemstones, and jewelry" exceed the \$50,000 specified threshold of activity in a given year. There are two exceptions to the \$50,000 bought & sold threshold for pawnbrokers:

1. Retail sales of foreclosed pawn collateral (not purchases) when the pawn transaction is conducted on licensed premises.
2. Retail sales of coins and jewelry, and precious metals placed on credit, or exchanged metal for metal (scrap for chain, sizing stock, etc.) with no payment received.

6. Bank Secrecy Act



"Suspicious Activity Reporting" currently is voluntary for the pawn industry unless the pawn business is required to comply with FinCEN's "Precious Metals Dealers" Rule (Described in the preceding discussion of FinCEN's Rule).

- "Suspicious Activity Reports" (SARs) communicate concerns the pawnbroker may have about customers, such as if a pawnbroker suspects that the customer is trying to "structure" one or more transactions or payments to avoid triggering a Form 8300 report by your company.
- SARs are not intended for reporting an individual's attempt to pawn stolen property.
- Do NOT notify any customer on whom you filed a SAR or divulge that information to anyone other than IRS or Treasury agents.

7. Gramm-Leach-Bliley Financial Services Modernization Act of 1999 (GLBA)'s Title V (Privacy)

Provides financial privacy rights for consumers and requires providers such as pawnbrokers to protect the privacy of "non-public personally identifiable information" obtained from consumers, subject to limited exceptions allowing disclosures.

- Pawnbrokers are required to provide customers with a privacy notice at the time of the first pawn transaction and, thereafter, anytime the pawn business changes its policy.
- If state law or a local government ordinance requires the pawn business to provide pawn transaction records that include customers' non-public personal information, to law enforcement agencies or their designated agents, the privacy policy of the pawn business should advise customers that the business may share their personal information "as required by law."

8. CFPB “Privacy” Rule (Regulation PP)

Explains and implements the provisions of GLBA’s Title V and requires provision of privacy notices at account opening and when the pawn business changes any details of its practices related to sharing consumer customers’ non-public personal information.

9. FTC “Safeguards” Rule

Explains and implements provisions of GLBA requiring safeguards for consumers’ non-public personal information that pawnbrokers collect in pawn and purchase transactions.

Pawnbrokers and other providers governed by the Safeguards Rule must establish comprehensive information security programs and must ensure that their corporate affiliates and service providers also safeguard customer information in their care. The FTC updated the Safeguards Rule in June of 2023.

10. FTC Consumer Information “Disposal” Rule

Implements the 2003 Fair and Accurate Credit Transactions Act amendments to the Fair Credit Reporting Act on disposal of consumer information that your business obtained in a “consumer report” from a consumer reporting agency or is derived from consumer reports. This rule protects consumer information in reports the pawn business may have requested on applicants for jobs, for example.

The Rule requires proper disposal of sensitive, non-public personal information the pawn business obtained or maintained by taking reasonable measures to protect it from unauthorized access or use during its disposal. Consider purchasing shredders for daily use near pawn counters and utilize the services of a shredding company for complete document disposal.

Pawnbrokers and other providers governed by the Safeguards Rule must establish comprehensive information security programs and must ensure that their corporate affiliates and service providers also safeguard customer information in their care.

11. FTC “Red Flags” Rule

Requires the development of programs and procedures to identify possible identity theft cases.

- Implementation of a written Identity Theft Prevention Program that must include reasonable policies and procedures to identify and deter identity theft in your day-to-day operations. This Program should be designed to:
 1. detect Red Flags identified by your business practices,
 2. spell out appropriate action when a breach is detected, and
 3. address how your business will determine and prevent new threats.
- Failure can result in up to a \$10,000 fine per occurrence in addition to civil litigation.

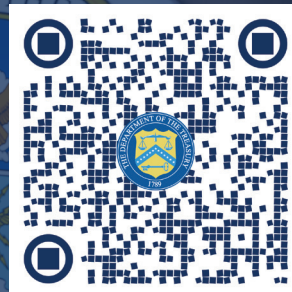
12. Equal Credit Opportunity Act and CFPB Regulation B

Prohibit discrimination in consumer credit transactions on basis of gender, age, marital status, ethnicity, national origin, religious preference, or receipt of public assistance income. The Act does NOT include the military as a “protected class.” However, a few states and a city of Chicago ordinance prohibit discrimination of active-duty service members and their spouses. Women-owned businesses enjoy some of the protections of the ECOA and Regulation B, both of which are enforced by the CFPB. The special rules for women-owned businesses are less likely to arise in pawn transactions.

13. Servicemembers Civil Relief Act of 2003

Limits interest rates and charges assessable on military personnel for credit transactions entered into prior to their active-duty status and provides specified remedies to service members. The SCRA also limits the interest rate to six percent—not to a 6% APR—only if the transaction took place BEFORE the active-duty status of the service member began. Then, during the period of the active-duty status, the maximum interest rate is 6%. If interest of more than 6% is charged or collected during the active-duty period, the creditor must refund and permanently forgive the excess. Service members are required to notify creditors and pawnbrokers that they have been called to active duty.

The Department of Defense maintains a separate DMDC-SCRA website to use for checking active-duty status. Visit scra.dmdc.osd.mil or scan the QR code.





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THE NATIONAL PAWNBROKERS ASSOCIATION DOES NOT
PROVIDE ANY FORM OF LEGAL ADVICE