



BY LISA GLADSTONE

# Don't finance what you don't own!

## *Understanding Your Indirect Lender Agreements*

There's a possibility you are violating your "indirect" lender agreements, and you don't even realize it! Many boat dealers are shocked to discover that they should not utilize their indirect lenders for sales of brokered or consignment boats. In fact, indirect lenders often consider that practice an outright violation of the legal agreement signed by the dealer.

Indirect lending agreements typically require the dealer to own the boat that is being financed. The boat can be new or pre-owned from a trade-in, but the dealer must have ownership of the title. Dealers sometimes miss this clause in their lender agreements because it gets lost in the "legalese" of the document.

Bank of the West considers a brokered or consignment boat a refinance deal because the dealer does not have legal title to the boat. Matthew Mead, Vice President of Sales & Marketing Administration for Bank of the West, explains that a retail installment sales contract documents a sale—not a "direct" loan. "When a dealer 'refinances' (brokered or consignment boats fall into this category) a boat the dealer did not sell, the dealer cannot honestly document the transaction using a sales contract. Placing such a contract with a financing source will breach the dealer's fundamental representation and warranty that the paper being sold represents a bona fide transaction." Mead further explains that in some states you may actually be breaking the law if you attempt to finance brokered or consignment boats through an indirect lender.

A representative with Bank of America also says that their Retail Agreement with the dealer prohibits financing of consignment units. Simply put—all financing should be for new boats or trade-ins only that are actually owned by the dealership. If the dealer buys the boat from an outside source and has clear ownership of the title, the boat can be financed through Bank of America's indirect lending program when the dealer sells it.

If you sell brokered or consignment boats, your F&I professional should have some direct lending relationships that will enable you to provide financing for these boats and possibly earn a little backend

profit as well. If you employ a professionally trained, in-house F&I manager, ask that person how your dealership is handling brokered or consignment boats and suggest that he or she contact an F&I outsource company about this type of financing. You may discover that an F&I outsource company offers several advantages over loan brokers for financing brokered or consignment boats—or even your high-end boats (\$50,000 and above). Better control of the sale and additional profit from sales of service agreements are just a few of those advantages.

Attempting to finance a brokered or consignment boat through an indirect lending source could cost you a valuable lender relationship, or even worse—you could be buying back a contract! Why take that risk when you have other options available? If you have questions about compliance with your indirect lending agreements, it's wise to take another careful look at those agreements or contact your F&I professional for clarification.

---

*Lisa Gladstone is president & CEO of Priority One Financial Services in St. Petersburg, Florida. Priority One is an F&I outsource company that has been serving the marine industry since 1987.*