

RISK-BASED PRICING A DEALER'S GUIDE TO COMPLIANCE



**PRESENTED BY
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New Risk-Based Pricing Rules



- Effective January 1, 2011. It implements section 311 of the FACT Act of 2003, which significantly amended the Fair Credit Reporting Act.
- Risk-based pricing refers to use of consumer report in setting or adjusting price or other terms of credit to reflect risk of nonpayment.
- Applies only to consumer credit transactions; not business or consumer lease transactions.

Risk-Based Pricing Notices



- Intended to “complement” the adverse action notice requirement.
- Intended to improve the accuracy of credit reports by alerting consumers to the existence of negative information in their credit reports so that they have an opportunity to correct errors.

When Notice is Required



- Notice is required when, “based in whole or in part on the consumer report, credit is offered to a consumer on material terms materially less favorable than the most favorable terms available to a substantial proportion of consumers...”
- Model Forms = Safe harbor Provisions

Who Provides the Notice?



- “The final rules apply to the person to whom the obligation is initially payable (also referred to as the “original creditor”).”
- The parties involved in the credit extension may determine by contract which party will send the Notice.

Dealer's Responsibility



- Typically the dealer's use of a consumer report is to determine which third-party financing source is likely to purchase the retail installment sales contract and at what 'buy rate.'
- Dealer's set the annual percentage rate based in part on the 'buy rate.'
- Such conduct fits squarely within the description of risk-based pricing and, therefore, dealers that are original creditors in a three-party financing transaction must provide Risk-Based Pricing Notices to consumers.

Who Gets the Notice?



To determine which credit-approved customers must be provided the Risk-Based Pricing Notice, creditors may use either of the following methods:

- Credit Score Proxy Method
- Tiered Pricing Method

Certain Exceptions Apply



An original creditor is not required to provide the Model Risk-Based Pricing Notice if the consumer:

- Applies for and receives specific credit terms.
- Receives an adverse action notice.
- Receives a prescreened solicitation/firm offer of credit.
- Does not have a credit score *and is provided with the applicable notice.*

Exception Notice



- The Rule also allows for an “Exception Notice” that creditors may issue in lieu of a Risk Based Pricing Notice.
- Exception Notices must be provided to **ALL** customers.
- Provided after the credit score has been obtained, but at or before the time the customer becomes contractually obligated.

Contents of Exception Notice



The Credit Score Disclosure Exception Notice includes:

- The credit score and the name of the credit reporting agency or other entity that provided the credit score.
- The date on which the credit score was created.
- Certain statements that are intended to educate the consumer about credit reports, credit scores, and how the consumer may obtain a free annual credit report.
- A range of possible credit scores with a bar graph or statement indicating how the consumer's score compares to other consumer scores.
 - ✦ If dealers use a bar graph to comply with this disclosure requirement, they may use a bar graph prepared by the consumer reporting agency (CRA) or other person from which they obtained the credit score.

Model Form: Credit Score Disclosure Exception Notice



YOUR CREDIT SCORE AND THE PRICE YOU PAY FOR CREDIT

Customer Name: _____ Date: _____

Address: _____

Vehicle Description: _____

Your Credit Score	
Your credit score	_____
Source: _____	Date: _____

Understanding Your Credit Score	
What you should know about credit scores	<p>Your credit score is a number that reflects the information in your credit report.</p> <p>Your credit report is a record of your credit history. It includes information about whether you pay your bills on time and how much you owe to creditors.</p> <p>Your credit score can change, depending on how your credit history changes.</p>
How we use your credit score	Your credit score can affect whether you can get a loan and how much you will have to pay for that loan.
The range of scores	<p>Scores range from a low of _____ to a high of _____.</p> <p>Generally, the higher your score, the more likely you are to be offered better credit terms.</p>
How your score compares to the scores of other consumers	You credit score ranks higher than _____ % of U.S. consumers.

Checking Your Credit Report	
What id there are mistakes in your credit report?	<p>You have the right to dispute any inaccurate information in your credit report. If you find mistakes on your credit report, contact the consumer reporting agency.</p> <p>It is a good idea to check your credit reports to make sure the information it contains is accurate.</p>
How can you obtain a copy of your credit report?	<p>Under federal law, you have the right to obtain a free copy of your credit report from each of the nationwide consumer reporting agencies once a year.</p> <p>To order your free annual credit report—</p> <p><i>By telephone:</i> Call toll-free: 1-877-322-8228</p> <p><i>On the web:</i> Visit www.annualcreditreport.com</p> <p><i>By mail:</i> Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commissions web site at http://www.ftc.gov/bcp/edu/resources/forms/requestform/final.pdf) to:</p> <p>Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281</p>
How can you get more information?	For more information about credit reports and your rights under federal law, visit the Federal Reserve Board's web site at www.federalreserve.gov , or the Federal Trade Commission's web site at www.ftc.gov .

Exception Notice: When Credit Scores are Unavailable



If a credit score cannot be obtained for a particular consumer because it is unavailable from the CRA (or other entity from which the dealer regularly obtains credit scores), the dealer may:

- Obtain a credit score for that consumer from another CRA or other entity (not required) and provide the Credit Score Disclosure Exception Notice; or
- The dealer may provide the consumer with the No Credit Score Exception Notice.

Model Form: No Credit Score Available



CREDIT SCORES AND THE PRICE YOU PAY FOR CREDIT

Customer Name: _____ Date: _____

Address: _____

Vehicle Description: _____

Your Credit Score	
Your credit score	Your credit score is not available from _____, which is a consumer reporting agency, because they may not have enough information about your credit history to calculate a score.
What you should know about credit scores	<p>A credit score is a number that reflects the information in a credit report.</p> <p>A credit report is a record of your credit history. It includes information about whether you pay your bills on time and how much you owe to creditors.</p> <p>A credit score can change, depending on how a consumer's credit history changes.</p>
Why credit scores are important	<p>Credit scores are important because consumers who have higher credit scores generally will get more favorable credit terms.</p> <p>Not having a credit score can affect whether you can get a loan and how much you will have to pay for that loan.</p>
Checking Your Credit Report	
What id there are mistakes in your credit report?	<p>You have the right to dispute any inaccurate information in your credit report. If you find mistakes on your credit report, contact the consumer reporting agency.</p> <p>It is a good idea to check your credit reports to make sure the information it contains is accurate.</p>
How can you obtain a copy of your credit report?	<p>Under federal law, you have the right to obtain a free copy of your credit report from each of the nationwide consumer reporting agencies once a year.</p> <p>To order your free annual credit report—</p> <p><i>By telephone:</i> Call toll-free: 1-877-322-8228</p> <p><i>On the web:</i> Visit www.annualcreditreport.com</p> <p><i>By mail:</i> Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commissions web site at http://www.ftc.gov/bcp/edu/resources/forms/requestformfinal.pdf) to:</p> <p>Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281</p>
How can you get more information?	For more information about credit reports and your rights under federal law, visit the Federal Reserve Board's web site at www.federalreserve.gov , or the Federal Trade Commission's web site at www.ftc.gov .

The No Credit Score Exception Notice provides certain general information about credit reports and credit scores but does not include the consumer's credit score or the information that puts it in context (i.e. the bar graph).

General Requirements



- All Model Forms under this Rule, including the Exception Notices, must be:
 - Clear and conspicuous;
 - Provided to the consumer in a written format that the consumer may keep; and
 - Segregated from other information provided to the consumer during the transaction.
- A consumer is only entitled to one notice per request for credit.

General Requirements



- Under the requirements for the Exception Notices, in credit transactions involving two or more consumers, each consumer must be provided with a separate notice – regardless of whether they have the same address.
 - Each separate notice must contain only the credit score(s) of the consumer to whom the notice is provided and may not contain the credit score(s) of the other consumer(s).

General Requirements



- A person may change the forms by rearranging the format or by making technical modifications to the language.
- Changes cannot materially affect the substance, clarity, comprehensibility, or meaningful sequence of the forms.
- Acceptable changes include, but are not limited to:
 - Corrections/updates to telephone numbers, addresses, or Web sites as necessary.
 - Addition of a graphic or icon, such as a logo.
 - Alteration of shading or colors contained in the model forms.
 - Preprinting a list of CRAs and using checkboxes to differentiate.

General Requirements



- **Unacceptable changes to the model forms include:**
 - Providing model forms on register receipts or interspersed with other disclosures.
 - Eliminating empty lines and extra spaces between sentences within the same section.

Failure to Comply



- There is no federal private right of action for violations of this Rule.
- The Rule is subject to administrative enforcement, however.

A full copy of the Rule is available on the FTC's website at:

www.ftc.gov/os/2009/12/R411009riskbasedpricingform.pdf

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