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The next federal regulation

by Gil Van Over

I first wrote about the Red Flags Rule in 2006. The rule became effective in 2007 with required compliance by November 1, 2008.

Now it is time to let you know about the next federal regulation coming at car dealers. And you thought the Red Flags Rule is onerous.

The next federal regulation is the Risk-Based Pricing Notice. It is required under the Fair and Accurate Credit Transactions Act of 2003, just as the Red Flags Rule was.

The Feds just issued the proposed rules last month for public comment. If the industry does not comment, and the rule is passed as written, be prepared and forewarned.

The regulation would "generally require a creditor to provide a consumer with a risk-based pricing notice when, based in whole or in part on the consumer's credit report, the creditor offers or provides credit to the consumer on terms less favorable than the terms it offers or provides to other consumers."

Good luck in defining terms less favorable and terms you offer to other consumers.

Next, the regulation mandates that a risk-based pricing notice be given to the consumer after the terms of credit have been set, but before the consumer becomes contractually obligated.

Will the Feds interpret this to mean that you will have to give consumers in qualifying transactions a notice after you decide to spot deliver a car, but before you execute a retail or lease contract?

Also, the rule makes an exception conveniently favoring the third party lenders you sell contracts to. The rule applies to the initial creditor (defined as car dealers in the typical dealer arranged financing) as the one who must provide the risk-based pricing notice. To quote from the proposed regulation, "The person to whom the obligation is initially payable must provide the risk-based pricing notice, or satisfy one of the exceptions, even if the loan is assigned to a third party or if that person is not the funding source for the loan."

These are just a few of the highlights from the proposed regulation. More to come...

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