

Model Program

*The draft that appears on the next three pages was prepared by OADA as a guidance model written administrative procedure for FTC Red Flags compliance. **It is a model only.** It will not work for all dealerships.*

The model makes the following assumptions about dealer practice:

- Dealership assigns all of its motor vehicle installment and lease paper.
The dealership is not a “buy-here pay-here” operation.*
- Dealership does not offer consumer open accounts for parts or service.
All payments are by cash, check or credit card.*
- If a dealership has business open accounts for parts or service, a determination has been made that there is little likelihood of identity theft
on these accounts.*
- The dealership does not hire outside companies to examine identification documents and sign out customers on installment sales or lease paper.*

If the dealership has a Board of Directors, the Program must be approved by the Board. There should be a “minute” in the corporate records reflecting this approval. The Program must be approved and in place by May 1st, 2009.

A real person at the level of senior management should be named as the Program Manager. That person has many responsibilities in the way of reporting, training, updating the Program and determining new Red Flags. The Model Program provides as much flexibility and informality in discharging these responsibilities as the FTC rules allow. However, the ongoing duties do exist. The program should be reviewed periodically.

Again, this is a “bare bones” minimum model Program that will not work for many dealerships. Read it carefully and see if it can work for

your dealership. It may well need modifications to match your dealership's practices and corporate culture.

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Red Flags Identity Theft Prevention Program

Dealership Name

Identity theft is a serious national problem faced by consumers and businesses alike. Both are potential victims and can suffer serious financial harm at the hands of identity thieves. To combat this very real threat, this dealership maintains strong policies and procedures designed to minimize the risk.

This document creates a Red Flags Identity Theft Prevention Program designed to comply with rules issued by the Federal Trade Commission and reflects the dealership's good faith efforts to reduce the potential for identity theft. This document and the Program it creates is an administrative policy only. It does not create a warranty, representation, or contractual obligation in favor of any person or group.

Approval and Management

This Red Flags Identity Theft Program was approved by the dealership board of directors - or if none - by the dealership's senior management.

The designated Program Manager who is a senior manager at the dealership and charged with overall Program management and administration is

Transactions at Risk

Program Manager Name

The dealership reviewed its transactions and determined that among those subject to the Federal Trade Commission rule, there is a reasonably foreseeable risk of identity thieves targeting only its consumer motor vehicle installment sales and lease transactions.

Relevant Red Flags

"Red Flags" are indicators of potential identity theft. Their presence does not necessarily mean that identity theft has occurred. However, they may not be ignored and must be resolved before a consumer credit or lease transaction can be completed.

It may not be possible to look for every Red Flag in all consumer credit or lease transactions. For example, a number of the Red Flags listed below pertain to information and alerts obtained from a consumer credit reporting agency. Our dealership may not always obtain such a report.

The Program Manager is responsible for monitoring the list of Red Flags and periodically updating it. The dealership has identified the following Red Flags as currently relevant to our consumer credit and lease transactions.

- Identification documents provided by the customer appear to be altered or forged.
- The photograph or physical description shown on an identification document does not match the customer's appearance.
- A credit application appears to be altered or forged.
- A customer fails to provide all required personal identifying information on a credit application or in response to notification that the application is incomplete.
- A consumer reporting agency provides a Fraud or Active Duty Alert.
- A consumer reporting agency provides a Credit Freeze Notice.
- A consumer reporting agency provides an Address Discrepancy Notice.
- Personal identifying information provided by the customer is inconsistent when compared against other information sources used by the dealership. For example, the address on the credit application does not match any address in the consumer report.
- Customer provides inconsistent personal identifying information. For example, the credit application states that the customer owns his home but the residence address reflects an apartment number.
- Dealership is notified by a customer, financial institution, identity theft victim, law enforcement authority, or other person that a person posing as a credit or lease customer is really an identity thief.
- A customer requests to execute a motor vehicle installment sales contract or lease and take delivery of the vehicle off site at a location other than the dealership's facility.
- A co-buyer or co-lessee is included in the vehicle credit sale or lease but is not present at the dealership facility to sign the installment contract or lease.

Detecting Red Flags

Before entering into a consumer installment sales contract or lease, the dealership:

- Obtains, inspects, and photocopies the customer's current driver's license or other government issued photo identification.
- Examines the identification document for signs of alteration or forgery.
- Compares the photo and physical appearance information on the identification with the customer's in-person appearance.
- Obtains the customer's complete signed credit application.
- Reviews the credit application for completeness and indications of alteration or forgery.
- If the dealership obtains a consumer credit report on the customer:

- Compares the address information on the identification document with the information provided in the consumer credit report.
- Checks for a Fraud or Active Duty Alert.
- Checks for Credit Freeze Notice.
- Checks for an Address Discrepancy Notice.
- Reviews the report for inconsistencies with the credit application.
- Assumes that the installment sales contract or lease will be signed and delivery will occur on-site at dealership's facility. Be alert to any effort by the customer to request or steer the transaction toward having the co-buyer or co-lessee sign documents off-site.

Responding to Red Flags

Detection of a Red Flag does not necessarily mean identity theft is involved. If a dealership employee detects one or more Red Flags as a customer enters into an installment sales or lease transaction, the employee shall notify his or her manager.

If the Red Flag is a Fraud or Active Duty Alert, do not proceed with the transaction until both of the following steps have been satisfactorily completed:

- Contact the customer using the telephone number or other means of contact stated in the Alert, if any, and obtain authorization to proceed with opening the account.
- Take all reasonable steps to verify the customer's identity and that the transaction will not result in identity theft.

For all other Red Flags including a Notice of Address Discrepancy appearing on a consumer report, the employee and manager will investigate the Red Flag by obtaining additional information from the customer or third parties.

Unless a determination can be made after reasonable investigation that there is no reasonably foreseeable risk of identity theft, the dealership will not enter into an installment sales contract or lease with the customer.

Training

Dealership personnel will receive training, as necessary, to effectively implement the Program. The training will include, at a minimum:

- Distributing a copy of this Program to all employees having duties that may involve using consumer reports or closing retail installment sales or leases.
- Describing to these employees the policies and procedures set forth in the Program.
- Emphasizing the importance the dealership places on complying with the Program and ultimately preventing identity theft.

Reports and Periodic Updates

The Program Manager is responsible for ongoing reports to senior management and the dealership board of directors. The reports should address:

- The overall effectiveness of the Red Flags policies and procedures.
- Significant incidents involving identity theft and the dealership's response.
- Recommendations for improving the Red Flags Program.

These reports should be made continually on an ad hoc basis – but at least annually. Unless otherwise directed, the reports may be made orally or in writing.

The Program Manager is responsible to review, assess and update the Program periodically as necessary based on new regulatory guidance, the dealership's experience with identity theft, new identity theft schemes, new identity theft detection methods and potential new dealership transactions covered by the Federal Trade Commission identity