

National Association of Dealers Counsel

Dealer 101: Operations

October 9, 2022

Presented by:

Johnnie E. Brown, Esq.
Pullin Fowler Flanagan
Brown & Poe PLLC

&

Shari S. Patish, Esq.
MileOne Autogroup



Advertising comes in many forms for an automobile dealership. They can include the following:

1. Newspapers
2. Magazines
3. Direct Mail
4. Television
5. Radio
6. Billboards
7. Internet



One of the things we have to review and appreciate is that our responsibility covers all mediums of advertising. Advertising quality and compliance can change from medium to medium, and sometimes is not easily carried over.



FTC Enforcement – FTC Act

- The FTC Act broadly prohibits unfair or deceptive acts or practices in or affecting commerce.

→ Deception

- ✓ A material representation or omission-Cost information is presumed material
- ✓ Likely to mislead
- ✓ Consumers acting reasonably under the circumstances.

→ Unfairness

- ✓ A practice that causes or is likely to cause
- ✓ Substantial injury to consumers
- ✓ That is not reasonably avoidable by consumers themselves
- ✓ And not outweighed by countervailing benefits to consumers competition.

- Flexible law that can be applied to many different situations, entities, and technologies.

Deceptive Practices

- Representations can be express or implied
 - Express claims directly represent the facts
 - Implied claims do this in an indirect or oblique manner
 - Advertisements: Look at the “net impression”
- Representations
 - Does not require showing of intent

Deceptive Practices – Disclosures

- Disclosures – to be effective
 - Clear and conspicuous to convey the information that qualifies the claim
 - Noticed and understood by consumers
- Representations
 - Can occur at any point in the sales process
 - Ads and marketing
 - Training materials
 - Greeting, as customer walks into dealership
 - Test drives
 - Point-of-sale
 - Finance or lease discussion
 - Add-ons presentation

Deceptive Practices – Disclosures

- *The 4 Ps*
 - **Prominence** – Can consumers see and read it, or hear it (caution: mouse print; rapid fire delivery)
 - **Placement** – Is it where consumers would look (caution: turned sideways on the ad)
 - **Proximity** – Is it near the claim it qualifies (caution: back of direct mail; multiple clicks away)
 - **Presentation** – Is the wording and format easy for consumers to understand (caution: jargon or technical terms; buried in fine print; multiple asterisks; grey print; loud music.

Deceptive Practices - Disclosures

- *Common Problems Encountered in Advertising*

1. Free, gift or bonus
2. “Let’s trade keys.”
3. “Liquidation Sale!”
4. “We pay off your trade no matter what you owe.”
5. This offer is not available to the general public.
6. “Special test market event.”
7. All makes and models available.
8. Lenders on site.
9. Millions of dollars in auto loans available.
10. Prices so low they cannot be advertised so as to not disturb other dealer’s business.
11. We finance your future not your past.
12. Everything must go regardless of profit or loss.
13. We have made special acquisition of vehicles for this event.
14. Your job is your credit.



TILA – CLOSED-END CREDIT ADVERTISEMENTS

- TILA and Regulation Z
 - Applies to open-end and closed-end credit
- For closed-end credit advertising – installment lending
 - Any media
 - Any advertiser (not just creditors)
 - Media is not liable
- Advertisement is broadly defined
 - A commercial message in any medium that promotes, directly or indirectly, a credit transaction.



TILA – Closed End Credit

- Actual available credit: May only advertise credit terms that actually are or will be arranged or offered by the creditor
 - Accuracy
 - Currency

**Be careful about advertising Rebates **

- Finance charges: If the advertisement shows a rate of finance charge, it must contain the “annual percentage rate” or “APR”
 - A simple interest rate may be disclosed but not more conspicuously than the APR
 - If the rate may be increased after consummation, the ad must state that fact.



TILA – CLOSED-END CREDIT

- Trigger terms: Advertisements with trigger terms must clearly and conspicuously include required information.
 - Triggers
 - Amount or percentage of down-payment
 - Amount of finance charge
 - Number of payments or length of credit
 - Amount of any payment
- Required information
 - Amount or percentage of down-payment
 - Terms of repayment – essentially: the number, amount, and timing of payments; (unit cost disclosure is okay: 48 monthly payments of \$27.83 per \$1,000 borrowed); caution: must disclose the full payment obligation
- APR

Consumer Lease Advertising (“CLA”)

- Regulation M
- For consumer lease advertising
 - Any media
 - Any advertiser (not just lessors)
 - Media is not liable
- Advertisement is broadly defined
 - A commercial message in any medium that promotes, directly or indirectly, a consumer lease transaction.

CLA – Advertisements

- Actual available leases: May only advertise lease terms that the Lessor usually and customarily leases or will lease
- Total amount due at consummation or deliver
 - Except for a periodic payment, any positive or negative reference to a charge that is part of the total amount due at consummation or delivery cannot be more prominent than the total amount due
- Third-party fees that vary by state or locality (such as taxes, license, or registration)
 - The advertisement may state the total amount due at consummation or delivery, or the payment amount, and include the fees based on a particular state or locality and explain that fact and that they vary by state or locality; or the ad may exclude the third-party fees and state that fact.



CLA – Advertisements

- Trigger terms: Ads with trigger terms must clearly and conspicuously include required information:
- Regulation M (Closed End Leases)
 - Lease advertising, like finance advertising, is all about trigger terms. If you advertise either a monthly payment or anything about the drive off (for example, cap cost reduction, security deposit, no down payment, etc., it will trigger the need for the following disclosures:
 1. A clear statement identified the transaction as a lease;
 2. The number, amounts and period of scheduled payments;
 3. The total amount due on or before delivery date; and
 4. A statement indicating whether or not a security deposit is required.

All of the above disclosures must be clear and conspicuous. Also, be aware of the “equal prominence rule.” This aspect of federal law says that if you state anything at all about any component of the drive off, such as “no down payment,” then the total amount that is due at the time of the delivery must be disclosed no less prominently than any such component.



CLA-Advertisements

- Lease rates – special rules
 - A special disclosure must be placed near the lease rate: this percentage may not measure the overall cost of financing the lease
 - Except for the above notice, the rate cannot be more prominent than any required terms in the ad
 - You cannot refer to the lease rate as “annual percentage rate, “ “annual lease rate, or equivalent term”





Example A

All Star Dealership

1234 Main Street, Hometown

2015 Typhoon 4-door Sedan

V6 • Automatic • Air Conditioning



¹ We will pay off your trade,
no matter what you owe

² ³ ⁴
1.9% Financing for 60 Months

Offer expires 1/31/15.

- ¹ This is a deceptive statement. See [Sections 36 and 37](#).
- ² Finance rate must be described as annual percentage rate. See [Section 2](#).
- ³ No disclosure of material condition to financing (on approved credit). See [Section 9](#).
- ⁴ 60 months is Regulation Z trigger term-additional disclosures required. See [Section 29](#).

EXAMPLE



Example A

All Star Dealership

1234 Main Street, Hometown

2015 Typhoon 4-door Sedan

V6 • Automatic • Air Conditioning



¹ We pay top dollar
for your trade

² **1.9% APR Financing for 60 Months**

⁴ 1.9% APR financing for 60 months on approved credit through ABC Financial Company
at \$17.48 per month per thousand financed with 10% down. Offer expires 1/31/15.

- ¹ Statement is not misleading. See [Section 36](#).
- ² Finance rate described as APR. See [Section 2](#).
- ³ Discloses financing is on approved credit, a material condition. See [Section 9](#).
- ⁴ 60 months is Regulation Z trigger term-additional information disclosed. See [Section 29](#).

EXAMPLE DOES NOT INCLUDE ADDITIONAL STATE OR LOCAL ADVERTISING REQUIREMENTS THAT MAY APPLY.



Example B

All Star Dealership

1234 Main Street, Hometown

2015 Cyclone 4-door Sedan

V6 • Automatic • Air Conditioning

New Year's Sweepstakes ¹

*Buy a car in January
for a chance to win a trip to Hawaii.
See dealership for details.*



²

³

*Price after \$4,000 down payment. Tax, title and license fees extra. Offer on approved credit. Offer expires 1/31/15.

¹ Illegal lottery. See Section 34.

² Deceptive representation of price; amount is after \$4,000 down payment as shown in fine print. See Sections 11, 28 and 37.

³ \$4,000 down is Regulation Z trigger term-additional disclosures required. See Section 29.

⁴ Deceptive statement. See Sections 9 and 37.

EXAMPLE



Example B

All Star Dealership

1234 Main Street, Hometown

2015 Cyclone 4-door Sedan

V6 • Automatic • Air Conditioning

New Year's Sweepstakes ¹

Visit us online or in person and enter to win a trip for two to Hawaii. No purchase necessary. Must be 18 or older and enter by 1/31/15. See dealership for details and official rules.



¹ Sweepstakes requires no purchase to enter, provides basic restrictions and indicates official rules are available for review. See [Section 34](#).

² Price is not after down payment. See [Section 28](#).

³ Good practice to disclose how many vehicles are available at advertised price (if limited number) and to identify them by last 6 of VIN number. See [Sections 28](#) and [39](#).

⁴ Statement not deceptive. See [Section 9](#).

Tax, title and license fees extra. Offer expires 1/31/15.

EXAMPLE DOES NOT INCLUDE ADDITIONAL STATE OR LOCAL ADVERTISING REQUIREMENTS THAT MAY APPLY.



Example D

All Star Dealership

1234 Main Street, Hometown

2015 Storm 4-door Coupe

V6 • Automatic • Air Conditioning

Factory-Authorized Sale

² Best-in-class
leg room



3 to choose from

MSRP	\$36,999
³ Dealer Discount	– \$7,000

Yours for **\$29,999**

Tax, title and license fees extra. Dealer discount includes all applicable offers. Offer expires 1/31/15.

EXAMPLE

¹ Claim of "factory-authorized sale" should only be made if factory does authorize event. See [Section 31](#).

² Claim relating to competitor vehicles should not be made without substantiation. See [Sections 8](#) and [37](#).

³ Deceptive representation if discount includes multiple manufacturer rebates (for example, college graduate, military, loyalty and conquest) that have qualifications that are unlikely to be satisfied by most buyers. See [Section 28](#).

VIN# 567890
VIN# 567891
VIN# 567892



Example D

All Star Dealership

1234 Main Street, Hometown

2015 Storm 4-door Coupe

V6 • Automatic • Air Conditioning

New Year's Sale ¹

² Spacious interior



¹ No unsubstantiated claim of "factory-authorized sale" is made. See [Section 31](#). Note that if advertised price is not a reduction for New Year's sale, problem may exist. See [Section 17](#).

² No unsubstantiated comparison claim. See [Sections 8 and 37](#).

³ Rebate is separately disclosed with any material qualifications and limitations. In this example, the \$2,000 Dealer Discount must be available to all customers. See [Section 28](#).

VIN# 567890
VIN# 567891
VIN# 567892

3 to choose from

MSRP	\$36,999
Dealer Discount	– \$2,000
Sale Price	\$34,999
³ Captive Finance Co. Rebate (requires financing through Captive Finance Co.; not all buyers will qualify)	– \$1,000

\$33,999

Tax, title and license fees extra. Offer expires 1/31/15.

EXAMPLE DOES NOT INCLUDE ADDITIONAL STATE OR LOCAL ADVERTISING REQUIREMENTS THAT MAY APPLY.



Example F

All Star Dealership

1234 Main Street, Hometown

2015 Gazelle 4-door Sedan

V6 • Automatic • Air Conditioning



VIN# 999555
VIN# 999556
VIN# 999557

3 to choose from

\$399 per month ¹

\$999 down ²

² ³

36-month lease. \$4,499 due at lease signing. Tax, title and license fees extra. Offer expires 1/31/15.

EXAMPLE

¹ Monthly payment amount is Regulation M trigger term. Additional disclosures must be made in clear and conspicuous manner. See Sections 7 and 22.

² Down payment amount that is component of amount due at lease signing must not be advertised more prominently than \$4,499. See Section 22.

³ Not disclosed that a manufacturer rebate is part of amount due at lease signing. See Section 22.



Example F

All Star Dealership

1234 Main Street, Hometown

2015 Gazelle 4-door Sedan

V6 • Automatic • Air Conditioning



VIN# 999555
VIN# 999556
VIN# 999557

3 to choose from

\$399 per month

36-MONTH CLOSED-END LEASE ON APPROVED CREDIT

1 Monthly payment amount is Regulation M trigger term. Additional disclosures must be made in clear and conspicuous manner. See Sections 7 and 22.

2 No component amount (other than monthly payment) of the total due at lease signing is shown in a more prominent manner than other components. See Section 22.

3 Good practice to disclose \$1,000 manufacturer rebate is part of amount due at lease signing; See Section 22.

4 Discloses lease is on approved credit, a material condition. See Section 22.

2 \$5,499 due at lease signing (\$4,499 out of pocket plus \$1,000 manufacturer rebate).
1 \$0 security deposit. Tax, title and license fees extra. Offer expires 1/31/15.

EXAMPLE DOES NOT INCLUDE ADDITIONAL STATE OR LOCAL ADVERTISING REQUIREMENTS THAT MAY APPLY.



Example G

All Star Dealership

1234 Main Street, Hometown

2015 Primus 4-door Wagon

V6 • Automatic • Air Conditioning

1

Great gas mileage!



2

\$0 due at lease signing

\$0 down

\$0 security deposit

\$0 first month payment

\$425 per month

2

36-month closed-end lease on approved credit. \$2,123 due at lease signing including acquisition fee. Offer expires 1/31/15.

EXAMPLE

1 Mileage claim requires clear and conspicuous disclosure of EPA-estimated city MPG number for vehicle. See [Section 19](#).

2 Deceptive representation of \$0 due at lease signing with fine-print disclosure showing \$2,123 due at lease signing, including acquisition fee. See [Section 22](#).



Example G

All Star Dealership

1234 Main Street, Hometown

2015 Primus 4-door Wagon

V6 • Automatic • Air Conditioning



Great gas mileage!
EPA-estimated 25 MPG city

3 to choose from

\$425 per month

36-month closed-end lease on approved credit. \$2,123 due at lease signing.
\$0 security deposit. Tax, title and license fees extra. Offer expires 1/31/15.

1 Good practice to disclose how many vehicles are available at advertised lease offer (if number is limited) and to identify them by last six of VIN number. See Sections 28 and 39.

2 Mileage claim includes clear and conspicuous disclosure of EPA-estimated city MPG. See Section 19.

3 No \$0 due at lease signing representation made. See Section 22.

VIN# 444555
VIN# 444556
VIN# 444557

EXAMPLE DOES NOT INCLUDE ADDITIONAL STATE OR LOCAL ADVERTISING REQUIREMENTS THAT MAY APPLY.

CONSUMER PROTECTION ISSUES

Damage Disclosure
Vehicle History Reports



CONSUMER PROTECTION

- ▣ In addition to FTC Act prohibiting unfair or deceptive acts and practices, there are state consumer protection laws
 - Civil penalties
 - Private causes of action
 - ▣ Statutory damages
 - ▣ Actual damages
 - ▣ Punitive damages
 - ▣ Attorney fees
- ▣ Most common violation is material misrepresentation – failure to disclose damage that has been repaired prior to sale



CONSUMER PROTECTION

- ▣ Dealers should disclose prior damage to customers discovered by:
 - Service history
 - Visual inspection
 - Carfax or other vehicle history reports
 - Inventory damage
 - Trade statements

Train sales staff on how to sell repairs of prior damage

CONSUMER PROTECTION

- ▣ Best Practice
 - Damage Disclosure Form in all deals
 - ▣ If Damage known then disclose
 - ▣ If No Damage known then disclose
 - ▣ Include limitation of CarFax or other vehicle history reports

- ▣ Sample Limitation:

“Vehicle history reports are a third-party report which are wholly independent from Dealer. Dealer is not responsible for, and has not verified, the accuracy or completeness of the information contained in the report. Dealer accepts no responsibility and expressly makes no warranties or guarantees as to the reliability of the information contained in the report.”



CREDIT APPLICATIONS



CREDIT APPLICATIONS

- ▣ FCRA requires a “permissible purpose”
- ▣ Credit Application is consumer’s permission to access their credit report
- ▣ Violation can result in:
 - Actual/statutory damages
 - Attorney fees
 - Punitive damages if violation is willful

CREDIT APPLICATIONS

- ▣ Best practices:
 - Credit application should be
 - ▣ Complete
 - ▣ Discloses that customer is applying for credit
 - ▣ Authorizes Dealer to submit credit application to lenders
 - Limit ways to apply
 - ▣ No permission over phone/text/email
 - ▣ No completion out of Dealer except online



CREDIT APPLICATIONS

- ▣ Best Practices:
 - Have process before credit report is accessed
 - ▣ Salesperson enters information into CRM
 - ▣ Consumer reviews for accuracy before signing
 - ▣ Sales Manager verifies endorsement before accessing credit report
 - ▣ Most Lender Agreements require that Dealer has consumer's credit application before appearing on any platform for their access to the consumer's report

CREDIT APPLICATIONS

- ▣ Unwinding a credit report accessed in error is a complicated process and requires
 - The consumer's participation
 - A written statement by the Dealer that the report was pulled in error
 - ▣ Civil liability under FCRA possible
 - ▣ Breach of Lender Agreement

Privacy Notice

▣ Overview

- Gramm Leach Bliley (GLB) Act generally governs disclosure by a “financial institution” of a person’s personal information to “non-affiliated” third-parties.
- FTC considers a dealership’s leasing and credit sale activities to qualify it as a financial institution.
- Privacy Rule does not apply to business transactions, including sole proprietors acting in a business capacity.

Privacy Notice

Important Definitions

▣ Customers v. Consumer

■ Consumer

- ▣ A person who initiates the process of obtaining from your dealership a financial product or service to be used for personal, family or household purposes.
- ▣ Someone who just walks in and looks around and provides a name and contact information is not a “consumer” under the GLB.
- ▣ However, if the person applies for credit and allow you to run a credit check they are a consumer, regardless of whether credit is ultimately extended.

■ Duties to a Consumer:

- ▣ You only need to provide Privacy Notice if you plan on disclosing non-public personal information about the consumer to a non-affiliated third-party.
- ▣ Does not apply to cash customers as long as cash customer does not provide you with non-public personal information.
- ▣ Does not apply to credit card customers.

Privacy Notice

Important Definitions

- ▣ **What is “non-public personal information”?**
 - The term “non-public personal information” (NPI) means “personally identifiable financial information” that a financial institution collects about an individual in connection with providing a financial product or service, unless that information is otherwise “publically available.”
 - This could mean any information that a person provides to lease or finance a vehicle including such simple information as name and address.
 - Includes such other information as income, social security number, account numbers, payment history and loan balances.
 - Also includes information obtained from individuals to obtain credit for service or parts.

Privacy Notice

Important Definitions

▣ What is an affiliate?

- An affiliate is any company that controls, is controlled by or is under common control with another company.
 - ▣ Control can arise from 3 ways:
 - Ownership;
 - Control over election of majority of directors, trustees, general partners or similar people;
 - Power to exercise, directly or indirectly at controlling influence over the management or policies of the company.

Privacy Notice Related Laws

▣ Affiliate Sharing Rule

- The Affiliate Sharing Rule governs whether or how certain customer credit information can be shared among affiliated entities.
- Affiliates may share information about the entity's transactions or experience with the customers.
- If you share other information about a customer or consumer's credit worthiness to an affiliate or allow your affiliate to market to the customer or consumer, you must provide an Opt-Out Notice. This Opt-Out Notice must be included within the Dealers' Privacy Notice.

Privacy Notice Related Laws

- ▣ What is the Affiliate Marketing Rule?
 - The Affiliate Marketing Rule generally provides that information shared among affiliates, including both transaction and experience information, as well as creditworthiness information, CANNOT be used by the affiliate for marketing purposes unless the consumer has received another notice of such use, and another opportunity to opt-out, and the customer does not opt-out.
 - This can be included on the Model Privacy Notice

Privacy Notice Related Laws

- ▣ When should the Notice be provided to the customers or consumers?
 - To “consumers” only if you plan on disclosing NPI to nonaffiliated third-parties.
 - To “customers” when they execute a credit or lease transaction.
 - Must be a signed acknowledgement.
 - Cannot force customer to accept or sign, simply note refusal on form and maintain a copy for your file.
 - E-delivery possible, but may be difficult to comply with.
 - Must be provided on an annual basis if ongoing relationship, i.e. buy-here pay-here.
 - If dealership sells or assigns retail contract, customer relationship ends.

<u>PRIVACY ACT NOTICE REQUIREMENTS</u>			
Type of Notice	To Whom	When	Contents
Initial	Customers	Not later than when you establish the Customer relationship.	Description of information-collection and sharing practices, and opt-out notice (if you share NPI with nonaffiliated third parties outside of certain exceptions). Use Model Notice to obtain “safe harbor.”
Initial	Consumers who are not Customers (including former Customers)	Before you disclose their NPI to a nonaffiliated third party outside of certain exceptions	SAME
Annual	Customers with whom you have a continuing relationship	Delivery on a consistent basis at least once in any period of 12 consecutive months for the duration of the Customer relationship	SAME

Source NADA.

Privacy Notice

▣ Opt-Out Notices

- If NPI is going to nonaffiliated parties, Opt-Out Notice must be delivered at the time of the Privacy Notice.
- These can be combined.
- Dealership must develop a system to keep track of opt-out customer or consumers.
- Can't force customer to decide opt-out at time of transaction.
- Customer has to be provided a “reasonable opportunity” to opt-out i.e. thirty (30) days.
- Opt-Out good for life if combined on Privacy Notice or five (5) years if provided separately.

PRIVACY NOTICE

DRAFT

Version 3: Model Privacy Form with Mail-in Opt-Out

Rev. [insert date]

FACTS	WHAT DOES [NAME OF FINANCIAL INSTITUTION] DO WITH YOUR PERSONAL INFORMATION?
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: <ul style="list-style-type: none">■ Social Security number and [income]■ [account balances] and [payment history]■ [credit history] and [credit scores]
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons [name of financial institution] chooses to share; and whether you can limit this sharing.
Reasons we can share your personal information	Does [name of financial institution] share? Can you limit this sharing?
For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	
For our marketing purposes—to offer our products and services to you	
For joint marketing with other financial companies	
For our affiliates' everyday business purposes—information about your transactions and experiences	
For our affiliates' everyday business purposes—information about your creditworthiness	
For our affiliates to market to you	
For nonaffiliates to market to you	
To limit our sharing	<ul style="list-style-type: none">■ Call [phone number]—our menu will prompt you through your choice(s)■ Visit us online: [website] or■ Mail the form below <p>Please note:</p> <p>If you are a new customer, we can begin sharing your information [30] days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice.</p> <p>However, you can contact us at any time to limit our sharing.</p>
Questions?	Call [phone number] or go to [website]

Mail-in Form	
Leave Blank OR (If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below.) <input type="checkbox"/> Apply my choices only to me	<p>Mark any/all you want to limit:</p> <p><input type="checkbox"/> Do not share information about my creditworthiness with your affiliates for their everyday business purposes.</p> <p><input type="checkbox"/> Do not allow your affiliates to use my personal information to market to me.</p> <p><input type="checkbox"/> Do not share my personal information with nonaffiliates to market their products and services to me.</p>
Name	Mail to:
Address	[Name of Financial Institution]
City, State, Zip	[Address1]
[Account #]	[Address2]
	[City], [ST] [ZIP]

56

© National Automobile Dealers Association
November 2010

DRAFT

Page 2	
Who we are	
Who is providing this notice?	[insert]
What we do	
How does [name of financial institution] protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.
How does [name of financial institution] collect my personal information?	[insert] We collect your personal information, for example, when you <ul style="list-style-type: none">■ [open an account] or [deposit money]■ [pay your bills] or [apply for a loan]■ [use your credit or debit card] [We also collect your personal information from other companies.] OR [We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]
Why can't I limit all sharing?	Federal law gives you the right to limit only <ul style="list-style-type: none">■ sharing for affiliates' everyday business purposes—information about your creditworthiness■ affiliates from using your information to market to you■ sharing for nonaffiliates to market to you State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.]
What happens when I limit sharing for an account I hold jointly with someone else?	[Your choices will apply to everyone on your account.] OR [Your choices will apply to everyone on your account—unless you tell us otherwise.]
Definitions	
Affiliates	Companies related by common ownership or control. They can be financial and nonfinancial companies. <ul style="list-style-type: none">■ [affiliate information]
Nonaffiliates	Companies not related by common ownership or control. They can be financial and nonfinancial companies. <ul style="list-style-type: none">■ [nonaffiliate information]
Joint marketing	A formal agreement between nonaffiliated financial companies that together market financial products or services to you. <ul style="list-style-type: none">■ [joint marketing information]
Other important information [insert other important information]	

57

© National Automobile Dealers Association
November 2010



Risk-Based Pricing Rule

- **Background**

- The Fair and Accurate Credit Transactions Act of 2003 (FACT Act) significantly amended the Fair Credit Reporting Act (FCRA).
- The FACT Act created a number of new duties for dealers, many of which pertain to identity theft prevention, i.e Red Flags.
- Title III of the FACT Act created the obligation to enhance the accuracy of credit reports.

Risk-Based Pricing Rule

- **Section 311 of the FACT Act**

- . . . If any person uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit or material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide an oral, written, or electronic notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

Risk-Based Pricing Rule

- This Section 311 is intended to compliment the FCRA's Adverse Action Notice requirement.
- Whereas Adverse Action Notice's typically arise in the context of a declination of credit, a Risk-Based Pricing Exception Notice arises in the context of credit being granted, but on less favorable terms.

Risk-Based Pricing Rule

- **Why does it apply to automobile dealers?**
 - The risk-based pricing notice will generally apply to “any creditor that engages in risk-based pricing and uses a credit report to set the terms on which credit is extended to customer.”
 - The agency determined that “the automobile dealer’s use of a consumer report to determine which third-party financing source is likely to purchase the retail installment contract, and at what “buy rate,” and to set the annual percentage rate based in part on the “buy rate,” is conduct that fits squarely within the description of risk-based pricing.”
 - This rule does not apply to lease transactions.
 - This rule does not apply to the extension of business credit.



Risk-Based Pricing Rule

- **Model Notices**

- There are five (5) model notices.
- Two (2) pertain to the Exception Notice, and are the ones we will focus on:
 - When a credit score is available for the consumer credit applicant.
 - When a credit score is unavailable.



Risk-Based Pricing Rule

- **Who should receive this notice?**

- Every customer who applies for credit.
- If two customers jointly apply, a separate notice must be provided to each credit applicant.
- Each separate notice must contain only the credit score of the consumer, and not the joint applicant to whom another notice is provided.
- The rule distinguishes between a joint applicant and a “guarantor, co-signer, surety, or endorser,” – these individuals are not applying for credit and a separate notice is not required for them.

Risk-Based Pricing Rule

- **Timing**

- The Exception Notices must be provided to the consumer applicants “as soon as reasonably practical after the credit score has been obtained, and in any event, at or before the consummation in the case of a close-end credit.”
- Best Practice: provide the Exception Notice upon receipt of the credit score.

Risk-Based Pricing Rule

- Specific Requirements:

- The consumer's current credit score.
- The date on which the credit score was created.
- The name of the credit reporting agency (CRA), providing score.
- Range of possible credit scores and the credit scoring model used to generate the credit score.
- Statement of bar graph showing consumer how their score fits compares to other consumers.
- Forward information that educates the consumer about credit reports and credit scores and credit contact information.

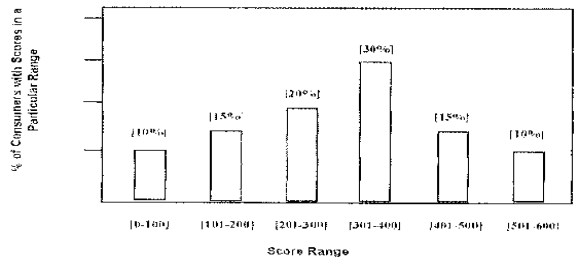
DRAFT

Appendix B1

Model Exception Notice (When Credit Score Is Available)

[Name of Entry Providing the Notice]
Your Credit Score and the Price You Pay for Credit

Your Credit Score	
Your credit score	[Insert credit score] Source: [Insert source] Date: [Insert date score was created]

Understanding Your Credit Score	
What you should know about credit scores	Your credit score is a number that reflects the information in your credit report. 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. Your credit score can change, depending on how your credit history changes.
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	Scores range from a low of [Insert bottom number in the range] to a high of [Insert top number in the range]. Generally, the higher your score, the more likely you are to be offered better credit terms.
How your score compares to the scores of other consumers	 <p>[or] Your credit score ranks higher than [X] percent of U.S. consumers.</p>

© National Automobile Dealers Association
(October 2010)

DRAFT

Checking Your Credit Report	
What if there are mistakes in your credit report?	You have a right to dispute any inaccurate information in your credit report. If you find mistakes on your credit report, contact the consumer reporting agency. It is a good idea to check your credit report to make sure the information it contains is accurate.
How can you obtain a copy of your credit report?	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. To order your free annual credit report: <i>By telephone:</i> Call toll-free, 1-877-322-8228. <i>On the web:</i> Visit www.annualcreditreport.com . <i>By mail:</i> Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commission's web site at http://www.ftc.gov/bcp/online/credit-requests/annual.pdf) to: Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281
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 .

© National Automobile Dealers Association
(October 2010)

DRAFT

Appendix B1

Model Alternative Exception Notice (When Credit Score Is Unavailable)

[Name of Dealer Providing the Notice]
Credit Issues and the Price You Pay for Credit

Your Credit Score	
Your credit score	Your credit score is not available from [Insert name of CRA], which is a national 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 if there are mistakes in your credit report?	<p>You have a 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 report to make sure the information is correct 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 obtain your free annual credit report—</p> <p>By telephone: Call toll-free 1-877-325-3228</p> <p>On the web: Visit www.annualcreditreport.com</p> <p>By mail: Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commission's web site at http://www.ftc.gov http://www.ftc.gov/bureaucracy/understandyourcreditreport.html) to:</p> <p>Annual Credit Report Request Service P.O. Box 10008 Atlanta, GA 30348-0008</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 .

© National Automobile Dealers Association
(October 2004)

Risk-Based Pricing Rule

- **Compliance Procedures**

- A written policy will be required.



Risk-Based Pricing Rule

- **Suggestions for Policy Include:**

- Appointment of a BPR compliance officer.
- Procedures that your employees will follow.
- Procedures mandating initial and periodic training.
- Procedures mandating periodic audits and retention of policies to demonstrate compliance with our BPR compliance policy.

Risk-Based Pricing Rule

- **Enforcement**

- No federal private cause of action for violating Section 311 -Enforcement will be the FTC in conjunction with new Bureau of Consumer Financial Protection.



Risk-Based Pricing Rule

- **FTC Penalties**

- Injunctions to civil penalties up to \$4,111.00 for each knowing violation.
- Failure to comply with consent orders can create fines of over \$40,000 for each future violation.
- It is also possible that violation could subject the dealer to state law claims under “unfair and deceptive acts or practices.”

Risk-Based Pricing Rule

- **Miscellaneous**

- Many DMS providers will provide the contextual information that must accompany the credit score on the Exception Notice.
- NADA has drafted a Risk-Based Pricing Rule Guide which can assist.

Adverse Action: A Primer

Federal law prohibits discrimination in any aspect of a credit transaction. Under the Equal Credit Opportunity Act ("ECOA"), you cannot treat a credit applicant less favorably because of color, religion, national origin, sex, marital status, age, or because the applicant relies on social security, welfare, or other public assistance. This law also requires you to give a notice, called an "adverse action notice," under certain circumstances, such as denying a request for credit.



Adverse Action: A Primer

A related law, the Fair Credit Reporting Act ("FCRA"), also may require you to give an adverse action notice (which may be combined with the ECOA notice) if a credit report or information from a third party other than a credit reporting agency ("CRA") is involved in an adverse credit decision.

Who Does this Apply To:

- The ECOA applies to all "creditors" as defined in the Act and its regulations.
- The adverse action notice requirements apply to "participating creditors"—that is, creditors who "regularly participate in a credit decision," including setting the terms of the credit.

Who Does this Apply To:

- As a dealer, you also are a "participating creditor" if you "regularly participate in a credit decision."
- If you only refer customers or prospective customers to creditors or select or offer to select creditors from whom the customer will directly request credit, you are what is called a "referral creditor."

Who Does this Apply To:

- Referral creditors are not required to give adverse action notices, although they are still subject to the ECOA's rules against illegal discrimination.
- A dealer has been deemed to "participate in a credit decision" when the dealer merely forwards the customer's application to a bank or finance company for its determination.



Who Does this Apply To:

- Dealers also have been deemed to "regularly participate in a credit decision" in a spot delivery/conditional delivery credit sale. Under some interpretations, a dealer may "regularly participate in a credit decision" because the dealer regularly signs the retail installment sales agreement before sending it to a bank or other finance source.

Who Does this Apply To:

The FCRA also requires you to send a notice whenever your "adverse action" as defined in the ECOA is based on a consumer report or on other information from a third party. (A "consumer report" includes such items as a credit report or credit score from a credit bureau.) Therefore, if you are a "participating creditor" under the ECOA and you use a consumer report in taking an "adverse action," you need to send an FCRA adverse action notice, which can be combined with the ECOA adverse action notice.



What is an Adverse Action?

Under the ECOA:

- A dealer who is a “participating creditor” must issue an adverse action notice if the dealer has taken "adverse action."
- The term "adverse action" means refusing to grant credit in substantially the amount or on substantially the terms requested in a written *or* oral application. Significantly, "adverse action" includes the making of a counteroffer to grant credit in a different amount or on other terms unless (and only unless) the customer uses or expressly accepts the counteroffer. If the customer doesn't use or expressly accept the counteroffer, then there is adverse action.

Adverse Action

- Adverse Actions are required in three (3) situations:
 - When a dealership takes a credit application from a customer but does not send it to any financial source;
 - When a dealership unwinds or re-contracts a spot delivery/conditional delivery deal; and
 - When the customer rejects the final offer of credit terms.

Adverse Action

In other words, if the deal does not get done the consumer must get an Adverse Action Notice.

Dealership Letterhead
[Insert dealership name, address, and phone number]

[Applicant's Name]

[Date]

[Applicant's Street Address]

[Applicant's City, State and Zip Code]

Dear _____:

Thank you for submitting your recent application to us for vehicle financing. After carefully reviewing your application, we are sorry to advise you that we cannot extend vehicle financing to you at this time.

If you would like a statement of specific reasons why your application was denied, please contact our Finance Director at the address and/or telephone number listed above within 60 days of the date of this letter, and we will provide you with a statement of reasons within 30 days after receiving your request. If we provide reasons to you orally, you have the right to request that we confirm them in writing within 30 days of our receipt of your written request for confirmation.

DEALER OBTAINED A CREDIT REPORT: ☐ YES ☐ NO

If we checked YES, that means we obtained information from a consumer reporting agency as part of our consideration of your application. The box checked below shows the name, address, and [toll-free] telephone number for the consumer reporting agency that provided a report to us. The reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. You also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you received is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. You can find out about the information contained in your file (if one was used) by contacting:

☐ Experian

P.O. Box 2104

Allen, TX 75013

(888) 397-3742

www.experian.com

☐ TransUnion

P.O. Box 2000

Chester, PA 19022

(800) 888-4213

www.transunion.com

☐ Equifax

P.O. Box 740241

Atlanta, GA 30374

(800) 685-1111

www.equifax.com

DEALER OBTAINED INFORMATION FROM THIRD PARTY ABOUT CREDITWORTHINESS: ☐ YES ☐ NO

If we checked YES, that means we obtained information from a third party other than a credit reporting agency, such as your employer, landlord, or other credit reference you provided. Our credit decision was based in whole or in part on information obtained from the third party. Under the Fair Credit Reporting Act, you have the right to make a written request, no later than 60 days after you receive this notice, for disclosure of the nature of this information.

DEALER SUBMITTED YOUR APPLICATION TO FINANCE SOURCE(S): ☐ YES ☐ NO

If we checked YES, that means we submitted your application to a bank or other creditor(s). You should understand that as a dealer, we generally sell cars on credit only if a third party like a bank or finance company will agree to buy the contract from us on terms that are financially acceptable to us. Regrettably, we could not do that in this instance.

If we checked NO, that means we made the decision on your application without submitting it to another creditor.

If you have any questions regarding this notice, please contact our Finance Director at the number listed above.

Sincerely,

DEALER

Notice: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission at Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Published by the National Automobile Dealers Association

8400 Westpark Drive, McLean, VA 22102

© NADA 2007. All rights reserved.



© 2011 DealerTrack, Inc. All rights reserved. No representations or warranties made with respect to content or legal effect. For information purposes only.

(The Yellow highlighted section is the editable default text box under Reports/Compl/Prefs/AAM.)

(The Blue highlighted section only displays when the dynamic Third Party Info box is selected.)

Dealer Name: _____
Street Address: _____
City, State, Zip+4: _____
Phone number: _____

Date: _____

Applicant Name _____
Address _____
City, ST ZIP+4 _____

Dear _____:

Thank you for applying to us for vehicle financing. After carefully reviewing your application, we are sorry to advise you that we cannot provide credit to you at this time or that we cannot provide credit on the terms you requested.

You should understand that as a dealer, we generally sell or lease vehicles on credit only if a third party like a bank or finance company will agree to buy the contract from us on terms that are financially acceptable to us. Regrettably, we could not do that in this instance.

If you would like a statement of specific reasons why your application was denied, please contact our Finance Director at the number or address shown above within 60 days of the date of this letter. We will provide you with the statement of the reasons within 30 days after receiving your request. If we provide the reasons to you orally, you have the right to request us to confirm them in writing within 30 days of our receiving your written request to do so. You should also receive letters from the financing sources to which we submitted your credit application giving their reasons for not providing credit to you or not providing credit on the terms you requested.

If we obtained information from a consumer reporting agency as part of our consideration of your application, it is checked and its name, address, and toll-free telephone number is shown below. The reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. You have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency.

You can find out about the information contained in your file (if one was used) by contacting each consumer reporting agency that is checked below:

<input type="checkbox"/> Experian P. O. Box 2104 Allen, TX 75013 (888) 397-3742 www.experian.com	<input type="checkbox"/> Equifax P.O. Box 740241 Atlanta, GA 30374 (800) 685-1111 www.equifax.com	<input type="checkbox"/> TransUnion P.O. Box 2000 Chester, PA 19022 (800) 888-4213 www.transunion.com
--	--	---

☐ If this box is checked, we also obtained your credit score from the _____ consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____
Date: _____
Scores range from a low of _____ to a high of _____
Key factors that adversely affected your credit score:

[Number of recent inquiries on credit score]

Our credit decision was based in whole or in part on information obtained from an affiliate or from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, no later than 60 days after you receive this notice, for disclosure of the nature of the information.

If you have any questions regarding this notice, you should contact:

Dealer name: _____
Dealer address: _____
Dealer's telephone number: _____

Sincerely,

NAME OF DEALER

Notice: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity 20580.



RECALL DISCLOSURE NOTICE



RECALL DISCLOSURE NOTICE

- Failure to disclose the recall status of vehicle at sale can be
 - a deceptive practice
 - a material misrepresentation
 - a franchise violation
 - open the Dealership to civil liability.
- [NHTSA.gov/recalls](https://www.nhtsa.gov/recalls)

RECALL DISCLOSURE NOTICE

- Best Practice – Have a Recall Notice for all Deals that disclose:
 - Vehicle of Dealer's make has recall and there is remedy (most likely done before sale)
 - Vehicle of Dealer's make has recall with no remedy (grounded if safety recall)
 - Vehicle not of Dealer's make has recall with remedy
 - Vehicle not of Dealer's make has recall with no remedy
 - Dealership is unable to determine if there is an open recall

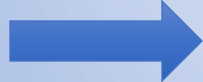
FTC USED CAR RULE BUYERS GUIDE



BUYERS GUIDE

- The requirement to post a Buyers Guide comes from the 1985 federal regulation known as the FTC Used Car Rule
- Purpose of the Buyers Guide
 - Disclose the major mechanical and electronic systems that can fail in a used vehicle
 - Disclose any warranties that are applicable on the vehicle
 - Ensure that the buyer knows who to contact if they have a complaint after the sale
- Regulatory penalties for violating the FTC Used Car Rule can be over \$40,000 per occurrence

BUYERS GUIDE

☐

AS IS - NO DEALER WARRANTY

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☐

DEALER WARRANTY

☐

FULL WARRANTY.

☐

LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.



SYSTEMS COVERED:

DURATION:

NON-DEALER WARRANTIES FOR THIS VEHICLE:

☐

MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐

MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐

OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐

SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

BUYERS GUIDE

Here is a list of some major defects that may occur in used vehicles.

Frame & Body

Frame-cracks, corrective welds, or rusted through
Dog tracks—bent or twisted frame

Engine

Oil leakage, excluding normal seepage
Cracked block or head
Belts missing or inoperable
Knocks or misses related to camshaft lifters and push rods
Abnormal exhaust discharge

Transmission & Drive Shaft

Improper fluid level or leakage, excluding normal seepage
Cracked or damaged case which is visible
Abnormal noise or vibration caused by faulty transmission or drive shaft
Improper shifting or functioning in any gear
Manual clutch slips or chatters

Differential

Improper fluid level or leakage, excluding normal seepage
Cracked or damaged housing which is visible
Abnormal noise or vibration caused by faulty differential

Cooling System

Leakage including radiator
Improperly functioning water pump

Electrical System

Battery leakage
Improperly functioning alternator, generator, battery, or starter

Fuel System

Visible leakage

Inoperable Accessories

Gauges or warning devices
Air conditioner
Heater & Defroster

Brake System

Failure warning light broken
Pedal not firm under pressure (DOT spec.)
Not enough pedal reserve (DOT spec.)
Does not stop vehicle in straight line (DOT spec.)
Hoses damaged
Drum or rotor too thin (Mfgr. Specs)
Lining or pad thickness less than 1/32 inch
Power unit not operating or leaking
Structural or mechanical parts damaged

Air Bags

Steering System

Too much free play at steering wheel (DOT specs.)
Free play in linkage more than 1/4 inch
Steering gear binds or jams
Front wheels aligned improperly (DOT specs.)
Power unit belts cracked or slipping
Power unit fluid level improper

Suspension System

Ball joint seals damaged
Structural parts bent or damaged
Stabilizer bar disconnected
Spring broken
Shock absorber mounting loose
Rubber bushings damaged or missing
Radius rod damaged or missing
Shock absorber leaking or functioning improperly

Tires

Tread depth less than 2/32 inch
Sizes mismatched
Visible damage

Wheels

Visible cracks, damage or repairs
Mounting bolts loose or missing

Exhaust System

Leakage
Catalytic Converter

DEALER NAME

ADDRESS

TELEPHONE

EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:



BUYERS GUIDE

- Buyers Guide **MUST** be posted on all used vehicles **BEFORE**
 - A vehicle is displayed for sale
 - A customer is permitted to inspect a vehicle
 - Even if the vehicle is not fully prepared for delivery
- Best practice
 - Have a designated location for vehicles not yet available for customer inspection
 - Have a “NOT AVAILABLE FOR SALE” sticker in the window

AUDITING

AUDITING

- Dealerships create and modify operational processes to meet compliance requirements and avoid risk of loss
- Dealerships train on these processes to effect their compliance and risk avoidance goals.
- But how do Dealerships know if all they are getting the protection they need?

**PROCESS + TRAINING + AUDITING
= COMPLIANCE & RISK MGMT**

AUDITING

- Best Practice is to identify
 - What processes you need to audit
 - What employees are responsible for those processes
 - The frequency of the audits
 - Auditor
 - Outside Counsel/ In-House Counsel
 - Vendor
 - Management Employee

AUDITING

- Best Practices
 - Establish and share regular audit periods
 - Allow time to prepare/conduct the audit
 - Advise staff audit is coming
 - Regularity reveals important trends over time
 - Create and distribute an audit report
 - Use an audit format that is easily understood
 - Present your findings in an impactful way by referencing potential fines and civil liability

AUDITING

- Engage Dealership staff in review of Audit Report
 - Provides an opportunity to praise staff for audit successes
 - Provides staff an opportunity to explain their understanding of processes
 - Provides staff an opportunity to be part of solutions to challenges revealed in audit