

FTC RED FLAGS RULE COMPLIANCE CHART:

This chart may assist you in developing and implementing a written ITPP by the final date for complying with the Red Flags Rule (November 1, 2008). The chart highlights the general compliance steps you must take with cross-references to the Sample ITPP and the narrative portion of the guide.

STEP 1

Appoint an ITPP Compliance Officer and an ITPP Program Coordinator.

Appoint a senior manager to serve as the ITPP Compliance Officer who will be responsible for the Program's oversight, development, implementation, and administration. If necessary, appoint an ITPP Program Coordinator to manage and coordinate the Program under the supervision of the Compliance Officer.

See Section 3 and the final page of Sample ITPP (entitled "Appointments and Approval") and narrative discussion at pp. 4 - 5.

STEP 2

Determine the "covered accounts" that you offer or maintain.

Identify all of the "accounts" that you offer or maintain and determine which ones are "covered accounts" that must be addressed in your ITPP. Covered accounts generally consist of (1) all of your consumer transactions involving multiple payments (even if you immediately assign the contract to a third party) and (2) your other multiple payment accounts (including business accounts) where there is a reasonably foreseeable risk of identity theft to your dealership or your customers.

See Sections 4-6 and 9 of Sample ITPP and narrative discussion at pp. 5 - 7.

Use Account Identification and Risk Assessment Worksheets.

STEP 3

Identify relevant indicators of possible identity theft ("Red Flags") for each covered account.

For each of the covered accounts you identified, determine what patterns, practices, or activities may indicate a possible attempt at identity theft. Keep in mind that "relevant" Red Flags are reasonable (as opposed to theoretical) indicators of ID theft. You must consider several sources of Red Flags, such as vulnerabilities in how you open and maintain your covered accounts, your prior experiences with identity theft (consider also methods of identity theft at other dealerships that you have learned

about), and guidance from the FTC, including its list of 26 Example Red Flags.

The Worksheets to the Sample ITPP set forth the 26 Example Red Flags and other Red Flags that may apply to your covered accounts. Determine which of these, and other Red Flags that are not set forth in the Worksheets, are relevant to your covered accounts, and list them in your ITPP.

See Sections 7 and 10 of Sample ITPP and narrative discussion at pp. 7 - 10.

Use Red Flag Identification, Detection, and Response Worksheets.

STEP 4

Develop procedures for detecting those Red Flags.

For each relevant Red Flag that you have identified, determine what reasonable methods dealership personnel must follow to detect that Red Flag. Include procedures to verify the identity of a customer who wishes to open or access a covered account, **and** additional detection procedures for certain Red Flags that you identify.

See Sections 8 and 11 of Sample ITPP and narrative discussion at pp. 10 - 11.

Use Red Flag Identification, Detection, and Response Worksheets.

STEP 5

Develop procedures for responding to relevant Red Flags that you detect.

For each relevant Red Flag that you identify and detect, determine what reasonable response procedures dealership personnel must follow. The procedures should be flexible and should provide for a range of possible responses depending on the Red Flag detected and the specific facts and circumstances involved. The Sample ITPP sets forth "General Response Procedures" to be followed when any Red Flag is detected as well as additional "Specific Response Procedures" to be followed when certain Red Flags are detected.

See Section 12 of Sample ITPP and narrative discussion at pp. 11 - 12

Use Red Flag Identification, Detection, and Response Worksheets.

STEP BY STEP

STEP 6

Train your employees.

Your ITPP should include policies for training all dealership personnel involved in opening or maintaining covered accounts or performing any duty set forth in your Program, including your procedures for complying with the Address Discrepancy Rule.

See Sections 13, 14 (if applicable), and 15 of Sample ITPP and narrative discussion at page 12.

STEP 7

Oversee your service providers.

If you outsource to a service provider any activity necessary for opening or maintaining covered accounts, or any duty under your ITPP (e.g., functions related to identifying, detecting, or responding to relevant Red Flags that exist with your covered accounts), ensure that your service provider has appropriate policies and procedures in place to perform these functions and agrees to do so contractually.

Note that the Sample ITPP assumes the dealership does *not* retain service providers for this purpose. If you retain service providers to which you have outsourced ITPP duties, ensure that your ITPP reflects that arrangement.

See Section 16 of Sample ITPP, narrative discussion at pp. 13 - 14, and Appendix A entitled "Sample Clauses to Include in Service Provider Agreements."

STEP 8

Draft an ITPP that details the procedures set forth above.

Consolidate the information gathered and produced to comply with each of these steps, including the information from the Sample ITPP Worksheets, and incorporate it into a formal written Program. Ensure that your ITPP is comprehensive and includes the procedures you will adopt to comply with the Address Discrepancy Rule. In addition, ensure that you document all of your compliance efforts.

STEP 9

Ensure that your board of directors or a committee of the board approves your ITPP by November 1, 2008.

Once your ITPP is drafted, it must be approved by the dealership's board of directors or an appropriate board committee by November 1, 2008. If your dealership does not have a board of directors, the ITPP must be approved by a designated senior management employee.

See Sections 1 and 3 and the "Appointments and Approval" page of Sample ITPP and narrative discussion at page 14.

STEP 10

Comply with the ongoing Program requirements.

Your compliance duties under the Red Flags Rule do not end on November 1, 2008. The Program must be continuously administered and you must adhere to a series of ongoing administrative requirements designed to ensure that your ITPP is responsive to the latest trends in identity theft.

The Program Coordinator (or staff responsible for administration of the ITPP) must submit compliance reports at least annually as detailed in the ITPP, while the Compliance Officer (or the board of directors, a board committee, or a designated senior management employee) must ensure the ITPP is updated periodically. The dealership should update its list of covered accounts, relevant Red Flags, and detection and response procedures as part of this process or sooner if warranted by the circumstances (such as if an identity theft incident occurs). The dealership also must stay current with its training obligations and service provider oversight responsibilities.

See Sections 17 and 18 of Sample ITPP, narrative discussion at page 14, and Appendix B entitled "Sample Compliance Report."

This chart is offered for informational purposes only and is not intended as legal advice. Consult your legal counsel concerning the full range of your Red Flags Rule compliance responsibilities.