Q: What is a Red Flag?
A: A Red Flag is a pattern, practice, or activity that indicates a possibility of identity theft. Examples are discrepancies in the information obtained (address doesn’t match any address in consumer report or SSN has not been issued, etc.), suspicious documentation (photo is not consistent with the appearance of the applicant, documents appear to have been altered, etc.), and significant changes in credit usage or inquiries.

Q: What does the Red Flags Rule require?
A: The Red Flags Rule requires dealers who originate or maintain “covered accounts” (retail installment sale and lease transactions) to implement a written identity theft prevention program. The program must:

- Identify relevant Red Flags.
- Include processes on how to detect these Red Flags.
- Outline actions on how to respond to Red Flags.
- Be updated periodically to reflect changes in risk.

Administrative Requirements:

- The program must be approved by the board of directors or a senior manager.
- The program must be overseen by a program coordinator.
- The program must include staff training as required for implementation.

Q: When did the rule become effective?
A: The effective enforcement day was January 1, 2011. However, the mandatory compliance date has always been November 1, 2008. The rule was issued by the Federal Trade Commission (FTC) and federal banking regulators and is part of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”).

Q: Why was this rule implemented?
A: Identity theft has been the number one fraud complaint filed with the FTC for the last decade. In an attempt to combat this growing problem, the Red Flags Rule was established. The rule seeks to ensure that creditors are alert for signs or indicators that an identity thief is actively misusing another individual’s sensitive data.

Q: I don’t pull credit reports. Does the rule still apply to my dealership?
A: Yes, the rule applies to creditors whether or not they obtain or use credit reports.

Q: What are the retention requirements for any paperwork generated in the process?
A: The rule does not contain specific record retention requirements. However, you must be able to demonstrate that you have complied with the rule requirements including preparing regular reports on the effectiveness of your program.

Q: Under what circumstances should I contact law enforcement?
A: If you have a confirmed incident of identity theft, contact your local police department. If you suspect your business is being targeted, consider contacting the FBI or U.S. Secret Service.

Q: What are the penalties for non-compliance?
A: The FTC can use two methods of enforcement:

- $3,500 in civil penalties per violation, or
- $16,000 in administrative penalties per violation.

Q: How can I learn more about the Red Flag Rule?
A: Visit the following Web pages to get more information about Red Flags Rule and how it affects your dealership:

- www.ftc.gov/redflagrule

The above questions and answers are offered for informational purposes only and are not intended as legal advice. You should consult an attorney who is familiar with applicable law and your operations for guidance on the full scope of your compliance obligations.