

# Risk-Based Pricing Rule

## Frequently asked questions

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### Compliance — general questions related to the rule

#### To whom does this new Risk-Based Pricing Rule apply?

The Risk-Based Pricing Rule applies to an entity that both:

- Uses a consumer report in connection with an application for, or a grant, extension or other provision of, credit to a consumer **and**
- Based in whole or in part on the consumer report, grants, extends or otherwise provides credit to that consumer on material terms that are *materially less favorable* than the most favorable terms available to a substantial proportion of consumers from or through that entity

“Credit” is defined as it is in the Fair Credit Reporting Act and means “the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.”

In layman’s terms, the rule applies to any company that uses a credit report or score in connection with a credit decision.

#### What lenders are excluded from complying with the Risk-Based Pricing Rule?

Any lender that does not use a credit report or score in connection with a credit decision is excluded from the

ruling. In addition, the ruling does not apply to small-business lenders.

#### What is the lender’s obligation?

- To send a Risk-Based Pricing Notice to a consumer when a credit report or score is used in connection with a credit transaction **and**
- Based on the credit report or score, the lender must provide credit to the consumer on material terms that are *materially less favorable* than the most favorable terms available to a substantial proportion of consumers from or through that lender (any consumer who does not receive the lender’s best rate)
- The rule defines “material terms” in most cases to be the Annual percentage rate of the loan

#### When does this new Risk-Based Pricing Rule become effective?

Jan. 1, 2011

#### What are my customers’ options to comply with the new Risk-Based Pricing Rule?

Lenders will be required to provide affected consumers with the following:

- A Risk-Based Pricing Notice **or**
- A Credit Score Disclosure Exception Notice

### Are model forms available for the Risk-Based Pricing Notice and Credit Score Disclosure Exception Notice?

Yes, model forms are available in the final ruling issued by the Federal Reserve Board and the Federal Trade Commission.

### Where can I obtain an official copy of the Risk-Based Pricing Rule?

The ruling can be accessed from the Website of the Board of Governors of the Federal Reserve Board.

### Are there exceptions to the Risk-Based Pricing Notice requirements?

Yes. Some instances that do not require a Risk-Based Pricing Notice include the following cases.

#### When a lender is:

- Making a prescreened solicitation.
- Providing an adverse action notice.

#### When a consumer is:

- Applying for specific credit terms.
- Applying for business credit. (All credit that is not for personal, family or household use is excluded from the rule.)

Please refer to the rule for more information.

### Compliance — Credit Score Disclosure Exception Notice

#### Which consumers will receive a Credit Score Disclosure Exception Notice?

All consumers approved for credit must receive a Credit Score Disclosure Exception Notice.

#### Which national score distributions will Experian be providing to clients for use in the Credit Score Disclosure Exception Notice?

This option is for companies that simply want the data as input to their own disclosure notices. The score distributions that will be available include:

VantageScore<sup>®1</sup>

Scorex PLUS<sup>SM</sup> (new and existing versions)

Telecommunications, Energy and Cable Risk Model<sup>SM</sup>

National Equivalency Score<sup>2</sup>

Experian<sup>®</sup>/FICO<sup>®</sup> Risk Model (versions 2 and 3)

Experian<sup>®</sup>/FICO<sup>®</sup> Auto Loan Model

Experian<sup>®</sup>/FICO<sup>®</sup> Bankcard Model

Experian<sup>®</sup>/FICO<sup>®</sup> Installment Loan Model

Experian<sup>®</sup>/FICO<sup>®</sup> Personal Finance Model

Experian<sup>®</sup>/FICO<sup>®</sup> Risk Model v08

Experian<sup>®</sup>/FICO<sup>®</sup> Auto Loan Model v08

Experian<sup>®</sup>/FICO<sup>®</sup> Bankcard Model v08

Experian<sup>®</sup>/FICO<sup>®</sup> Advanced Risk Score (versions 1 and 2)

Experian<sup>®</sup>/FICO<sup>®</sup> Bankruptcy Score

#### Are there specific delivery guidelines for lenders if they choose to comply via the Credit Score Disclosure Exception Notice?

If you choose to comply with the rule via the Credit Score Disclosure Exception Notice, the disclosure must be provided in writing and in a form the consumer can keep. The rule specifically states that a notice complying with the Electronic Signatures in Global and National Commerce Act (E-SIGN)

<sup>1</sup>VantageScore<sup>®</sup> is owned by VantageScore Solutions, LLC.

<sup>2</sup>Federal Reserve System 12 CFR Part 222; Federal Trade Commission 16 CFR Parts 640 and 698; Fair Credit Reporting Risk-Based Pricing Regulations; Proposed Rule

Experian<sup>®</sup> is happy to provide our observations related to the provisions included in the Risk-Based Pricing Rule. However, your organization needs to work with your legal counsel to ensure that you comply with your obligations under the rule.

satisfies the “in writing” requirement. E-SIGN deals with consumer notice and other provisions for delivering electronic notice.

## Compliance — Risk-Based Pricing Notice

### Which consumers will receive a Risk-Based Pricing Notice?

A Risk-Based Pricing Notice must be provided to a specific segment of consumers who apply for credit and receive “credit terms that are *materially less favorable* than the most favorable terms available to a substantial portion of consumers.”

### How do I determine which consumers receive a Risk-Based Pricing Notice?

The final rules provide three methods to determine which consumers must receive a Risk-Based Pricing Notice:

- Direct comparison method
- Credit score proxy method
- Tiered pricing method

### How do lenders communicate the Risk-Based Pricing Notice to consumers?

The Risk-Based Pricing Notice can be given “in oral, written, or electronic form.”<sup>2</sup>

## Automotive clients

### Is the auto dealer or auto lender responsible for complying with the Risk-Based Pricing Rule?

The responsibility for providing the Risk-Based Pricing Notice in auto lending depends on the lending model used by the customer. The basic rule is that the original creditor is required to provide the notice, even if that creditor immediately transfers the loan to another lender.

- If an auto dealer originates the contract and then sells it to another lender, the auto dealer has to provide the Risk-Based Pricing Notice
- If the original lender is a financial institution, it is required to provide the Risk-Based Pricing Notice

However, the final rule notes that the financial institution can appoint the dealer to provide the notice.

## Utility clients

### Does the Risk-Based Pricing Rule apply to public utilities or telecommunications providers?

If you require a deposit, prepayment of service or otherwise condition service based on a credit report or score, then you must comply with the guidelines outlined in the Risk-Based Pricing Rule.

## Small business

### Does the Risk-Based Pricing Rule apply to small-business lending?

No. However, organizations should consult their own legal counsel to determine their required obligations under the Risk-Based Pricing Rule.

### If a small-business loan uses a guarantor's personal credit score, does the lender need to provide a Risk-Based Pricing Notice?

No. The rule applies to the use of a credit report in connection with “credit to a consumer for personal, family or household purposes.”<sup>2</sup> Being a small-business loan excludes it from the rule, even with the use of the guarantor's personal credit report.

To find out more about the Risk-Based Pricing Rule and how you can comply, contact your account executive or call 1 888 414 1120.

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