

**RISK BASED PRICING
Final Rule**

Digest Number 11 issued August 1, 2010

The effective date for new risk-based pricing notice is January 1, 2011. This compliance digest is a summary of compliance options for the new regulation.

Risk-based pricing is defined as the practice of setting or adjusting the terms of credit offered to a consumer to reflect the risk of nonpayment by that consumer. Risk based pricing generally results in consumers with good credit histories receiving credit with more favorable terms than consumers with poor credit histories.

Risk-based notice must be provided to consumers if the Credit Union uses a credit report in connection with an application for, grant, or extension of credit *and* based on the credit report grants or extends credit on material terms that are less favorable than the most favorable terms available to a substantial portion of its members.

The risk-based pricing notice must be provided to those members who receive credit on terms that are less favorable than the substantial portion of members unless an exception applies.

Methods to make the determination of who receives the disclosure are:

Direct Comparison

Compare material terms (costs more) offered to members against the same terms offered to other members for a specific type of credit product such as; credit cards, vehicle loans, mortgage loans.

Credit Score Proxy Method

Determine the cut-off credit score that equals 40% of the members with credit extended that have higher credit scores and which 60% have lower credit scores. Provide a risk-based pricing notice to each member who has a lower credit score. (For cases where credit at the most favorable terms has been provided to more than 40% of members, the cut-off score can be set at a point which members have historically been granted credit at terms less favorable than the most favorable terms).

If member does not have a credit score, the Credit Union must use less favorable credit terms

The cut-off score must be recalculated every two (2) years.

If multiple credit scores are applicable the same method used to regularly evaluate multiple scores must be used (for example; average, highest, lowest).

Tiered Pricing Method

Credit unions that set the material terms of credit granted/extended by placing members within one of several pricing tiers for a specific type of credit product based on the member's credit report can comply by providing a notice to each consumer not in the top pricing tiers.

Four (4) or less tiers --- provide a notice to anyone who does not qualify for the top tier

Five (5) or more tiers --- provide a notice to anyone who does not qualify for the top two (2) tiers, together with any other tier that with the top tiers make up no less than the top 30%, but no more than the top 40% of the total tiers.

CREDIT CARD ISSUERS

- Provide a risk-based pricing notice to members when the member applies for a credit card in response to an application/solicitation that has more than one (1) potential APR
- Provide a risk-based pricing notice when the Credit Union provides a card to the member with an APR higher than the lowest APR referenced in the application/solicitation
- The decision is based at least partly on the credit report

- The Credit Union must provide the risk-based pricing notice if its review of the member's credit report increases the APR on an established account based on the report.

AUTO LOANS...DIRECT LENDING

The Credit Union may provide the notice OR the dealer may provide the notice as long as the Credit Union maintains reasonable procedures/policies to verify that the dealer is providing adequate notice.

INDIRECT LENDING

If the credit is *initially payable* to the dealer, the dealer must provide the risk-based pricing notice even if the dealer immediately assigns the agreement to the Credit Union and doesn't fund the contract.

Example; Auto dealers who are original creditors under retail installment sales contracts **MUST** provide the risk-based pricing disclosure.

JOINT CREDIT AND RISK BASED PRICING NOTICES

If the members have the same address, one (1) notice may be provided. If members do NOT have the same address, a notice must be provided to each.

EXCEPTIONS: When is notice not required?

- The application is for specific terms
 - If a member applies for credit with specific material terms (APR) and is granted credit under those terms. However, the Credit Union can not specify terms based on viewing the credit report *after* the member applied for credit
- Adverse Action Notices
 - If the Credit Union provides an adverse action notice in response to an application for credit, no risk-based pricing notice is required
- Prescreened solicitations
 - No risk-based pricing notice is required if the Credit Union obtains a prescreened list and uses that list to make firm offers of credit. It does not matter if terms are less favorable than other members who receive firm offers of credit
- Residential real estate loans (receiving proper credit score disclosures)
 - If a member applies for a loan and is provided with a credit score disclosure, no need for risk-based pricing notice
 - Must be provided to all members who apply for risk based credit ASAP after receiving credit scores
- Other loans not secured by real estate (receiving credit score disclosures)
 - If a member applies for a loan and is provided with a credit score disclosure, no need for a risk-based pricing notice
 - Must be provided to all members who apply for risk-based credit ASAP after receiving credit scores

TIMING OF THE NOTICE

Closed-end Credit --- Before consummation of the transaction, but not before the member has been advised of the decision to approve credit

Open-end Credit --- Before the first transaction under the plan occurs, but not before the member has been advised of the decision to approve credit

CONTENT OF THE NOTICE

- Information about credit history/type of transaction
- Terms offered (APR for example) are based on information from the report
- Terms offered may be less favorable than others with better credit history
- Consumer should verify credit information and report disputes
- The identity of each consumer reporting agency providing a report

- Notice that federal law gives the member the right to obtain a free copy of the consumer report within 60 days of receiving notice
- Information about how to obtain the report from reporting agencies, including toll free numbers
- Reference to FRB/FTC for more information

Conmar has compliant risk-based pricing notices that will be customized to your credit union in printed or laser format:

1. General risk-based pricing notice
2. Risk-based pricing notice for account review
3. Credit score disclosure residential property
4. Credit score disclosure non-residential property
5. Credit score disclosure when no credit score available

The General Risk-Based pricing notice format will be the applicable form to use for the majority of circumstances.

PRICING

General risk-based notice in **Laser Print** format

Initial \$210.00 with an annual license/maintenance of \$85.00

Account review risk-based notice in Laser Print format

Initial \$210.00 with an annual license/maintenance of \$85.00

Each of the other formats is the same price as above.

Please contact Conmarsystems to place your order. We will need the name and contact information for the credit reporting agency used by your credit union.

support@conmarsystems.com

800.227.4931 or 770.487.3883

The information contained in this notice is provided with the understanding that the author and company are not engaged in rendering legal advice. As such, information should not be used as a substitution for consultation with credit union legal counsel.

