

FACTSHEET FOR BUSINESS

RED FLAG RULES: A Consumer Protection Board Business Alert

WHEN?

New effective date of May 1, 2009. *(The FTC has delayed enforcement.)*

WHO?

Financial institutions and creditors with "covered accounts."

A **financial institution** is a State or national bank, a State or federal savings and loan association, a mutual savings bank, a State or federal credit union, or any other entity that holds a "transaction account" belonging to a consumer. A transaction account is a deposit or other account from which the owner makes payments or transfers. Transaction accounts include checking accounts, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

A **creditor** is any entity that regularly extends, renews, or continues credit; any entity that regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who is involved in the decision to extend, renew, or continue credit. Non-profit and government entities that defer payment for goods or services are to be considered creditors.

A **covered account** is defined as an account used mostly for personal, family, or household purposes, and involves multiple payments or transactions. **Covered accounts** include credit card accounts, mortgage loans, automobile loans, margin accounts, cell phone accounts, utility accounts, checking accounts, and savings accounts. A covered account is also an account for which there is a foreseeable risk of identity theft for example, small business or sole proprietorship accounts.

WHY?

The Red Flag rules were promulgated by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision to safeguard data and help banks and financial institutions protect customers against identity theft. These rules are comprised of guidelines and regulations required by sections 114 and 315 of the FACT Act (The Fair and Accurate Credit Transactions Act) which amended the Fair Credit Reporting Act (FCRA). The goal of the rules is to "flag" attempted and actual identity theft early, thereby reducing consequences associated with identity theft.

¹FTC Business Alert, New Red Flag Requirements for Financial Institutions and Creditors Will Help Fight Identity Theft <http://www.ftc.gov/bcp/edu/pubs/business/alerts/alt050.shtm>.

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WHAT?

The red flag rules require any financial institution or creditor with “covered accounts” or other accounts for which there is a reasonably foreseeable risk of identity theft, to formulate and implement an identity theft program. Each institution’s program must include policies and procedures for detecting, preventing and mitigating identity theft. Further, the program must set forth a list of red flag activities that signal possible identity theft, and a response plan for when a flag is raised. In addition, each financial institution or creditor must update its program periodically to reflect changes in risks from identity theft.

The red flag rules also address the incidence of requests for a change of address, followed by requests for additional or replacement cards. (This is a common technique that identity thieves use to take over victims’ accounts.) Further, the rules require users of consumer reports to develop reasonable policies and procedures to utilize when reviewing a notice of address discrepancy from a consumer reporting agency. Moreover, the red flags include additional guidelines to help institutions spot other suspicious activity.

WHERE?

For more information, visit www.ftc.gov.

Or call toll free 1-877-FTC-HELP (1-877-382-4357)(tty 1-866-653-4261).



New York State
Consumer Protection Board
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