



Keeping you compliant!

Red Flags Identity Theft Rules

The Federal Trade Commission (FTC) has again delayed enforcement of the "red flags" requirements for identity theft prevention programs until **NOVEMBER 1, 2009**, for entities not subject to other federal agencies. A copy of the FTC announcement can be found on the mmba website www.massmba.com.

As you may recall, the "red flags" rule is an anti-fraud regulation, requiring creditors and financial institutions with covered accounts to implement programs to identify, detect and respond to warning signs, or "red flags", that could indicate identity theft. The FTC is increasing its efforts to help small businesses and others in complying with the rules by providing additional guidance and resources shortly.

The FTC's three-month delay in enforcement of the rules does not affect other federal agencies' enforcement of the original November 1, 2008, compliance deadline for institutions subject to their oversight.

The following section is written in cooperation and thanks to one of our MMBA members, Bankers Advisory, Inc.



Since 1986, Bankers Advisory has helped hundreds of mortgage lenders throughout the United States achieve high standards of credit quality and employee proficiency through the firm's auditing and consulting services. Having educated thousands of employees and audited more than 100,000 mortgage files, the firm has earned an unparalleled reputation of excellence among industry agencies and investors.

For more information on Bankers Advisory, contact Anna DeSimone at (617) 489-2008

Red Flag Summary ~ Key Points

On November 1, 2009 all non-depository mortgage brokers and lenders must implement a comprehensive program to detect, prevent and mitigate identity theft. Red Flags rules are implemented under the Fair and Accurate Credit Transactions Act. The requirement for an internal program became effective November 1, 2008 for federally chartered depository institutions. Enforcement of rules was delayed until November 1, 2009 for creditors and state-chartered banks operating under the jurisdiction of the Federal Trade Commission (FTC) including all mortgage companies. Listed are 8 "key points" of the Red Flags Rule.

1. Financial institutions include banks, thrifts, credit unions and entities that hold a "transaction account"

where a consumer can make payments, drafts or transfers. Examples are checking & savings accounts and broker accounts where consumers can write checks.

2. Creditors include organizations that regularly extend, renew or continue credit; companies that make arrangements to extend/renew/continue credit; and assignees of a companies who extend/renew/continue credit. Examples are: finance companies, utility companies; automobile dealers, telecommunication companies, mortgage brokers and mortgage lenders.

3. Covered Accounts include credit cards, checking/savings accounts, car loans, cell phone service, utilities, margin accounts and mortgage loans.

4. Identity Theft Program is a written plan that must reflect the creditor's size, structure and business model. The program requires a designated employee to oversee the program, complete audits, monitor compliance and report to management.

5. Red Flags consist of alerts, discrepancies, warnings, variance, or unusual activity that is noticed by the creditor.

6. Red Flag Detection is a workflow step where a comparative review is made among documents furnished by the borrower, the information reported on the loan application, verification responses and information reported by credit repositories. Detection steps may include the use of SSN validation tools, fraud checks and factual ID reports.

7. Response and Mitigation involve an assessment of the risk to the lender and/or exposure to identity theft to the consumer. Examples of responses include the receipt of explanations from borrowers and/or supporting documents that clear discrepancies or unwarranted "false positives." Mitigation is evidenced through a paper trail or interactive comment submitted to a factual ID vendor.

8. Address Discrepancies are notices sent to lenders by credit agencies informing the lender of a substantial difference between the information provided on the request order form with the agency's database. Mandatory response steps include cross-checking data, verifying directly with the consumer and submitting a confirmation to the credit agency.