



***Spotlight On* Consumer Financial Services** **Recognizing Their Scope, FTC Delays Enforcement of Red Flags**

The 2003 Fair and Accurate Credit Transactions ("FACT") Act requires financial institutions and creditors to create and maintain written programs for identifying "patterns, practices, and specific forms of activity that indicate the possible existence of identity theft." The FACT Act's reach is broad; it applies to *any* company that regularly extends, renews, or continues credit.

As a result, the Federal Trade Commission ("FTC"), one of the agencies involved in crafting rules and guidelines to help institutions develop complying programs, has learned that many are uncertain about their obligations under the FACT Act. Indeed, a number of institutions remain completely unaware that November 1, 2008, is the deadline for mandatory compliance with the new rules.

Accordingly, the FTC just announced that it will not enforce the rules until May 1, 2009. This delay is meant to provide sufficient time to establish and implement the appropriate identity theft prevention programs. It also gives the FTC an opportunity to publicize further the requirements.

Importantly, however, none of the other agencies have announced a similar grace period. Entities regulated by the Comptroller of the Currency -- the Federal Reserve, the FDIC, the Office of Thrift Supervision, and the National Credit Union Administration -- must remain prepared for enforcement beginning in just one week's time.

The information in this spotlight should not be considered legal advice. Consult your attorney before acting on anything contained herein.

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