



Identity Theft/Red Flags Industry Guidance and Compliance Procedures

Industry Conference Call
August 11, 2008

Identity Theft/Red Flags Exam Procedures

- ❑ The Interagency Exam Regulations
 - ❑ 12 CFR Part 571.90
- This conference call is designed to provide an opportunity to learn more about the Identity Theft regulations and the interagency guidance that was recently issued by the federal financial regulatory agencies and the FTC.





Identity Theft/Red Flags Exam Procedures

- Final regulations were issued on November, 2007.
- Mandatory compliance date is November 1, 2008.
- The regulations cover the following:
 - Identity Theft prevention program
 - Changes of Address
 - Address Discrepancies



Identity Theft/Red Flags Exam Procedures

- The regulations provide that only financial institutions and creditors that offer “covered accounts” are subject to the regulation.

Identity Theft/Red Flags Exam Procedures

- What are covered accounts?
- A “covered account” includes: (i) an account primarily for personal, family, or household purposes; OR
- (ii) any other account for which there is a reasonably foreseeable risk to customers or the safety and soundness of the institution from identity theft.



Identity Theft/Red Flags Exam Procedures

- The rule focuses on covered accounts, not on the type of business (i.e., regardless of whether it is a bank, thrift or credit union). By focusing on the definition of “covered accounts”. This makes the rule adaptable to changing business services and products.
- There must be some type of continuing relationship with the consumer (not just a one time purchase, such as sales of gift cards.).





Identity Theft/Red Flags Exam Procedures

- In designing its identity theft program, the institution must consider the Guidelines provided, and should review the 26 examples of red flags listed in the Supplement to Appendix J and incorporate those that are appropriate to its program. The institution should also consider its own experience with identity theft – this is not an exhaustive list of possible red flags.



Identity Theft/Red Flags Exam Procedures

- The interagency examination procedures for the identity theft regulations have been agreed upon but each agency is in the process of approval of the exam procedures. Each agency will issue the examination procedures using its own issuance procedures once approved through each agency's process.

Identity Theft/Red Flags Exam Procedures

□ *Scoping for the Identity Theft Examination*

- OTS Examiners assigned to conduct the examination will use the materials submitted prior to the examination to ascertain how the institution has formulated its Program.
- If the program is designed and integrated along the lines of its information security program, then the S&S examiner or IT examiner will perform the ID theft exam.
- If the program is designed and integrated with its compliance program, then compliance examiners will perform the examination.



Identity Theft/Red Flags Exam Procedures

There are 6 Examination Procedures:

- 1. *The examiner will verify* that the financial institution periodically identifies covered accounts it *offers* or maintains.**





Identity Theft/Red Flags Exam Procedures

- ✓ In connection with this initial procedure in the examination, the examiner will verify that the financial institution:
 - ✓ included accounts for personal, family and household purposes, that permit multiple payments or transactions; and
 - ✓ conducted a **risk assessment** to identify any other accounts that pose a reasonably foreseeable risk of identity theft, taking into consideration the methods used to open and access accounts, and the institution's previous experiences with identity theft.

Identity Theft/Red Flags Exam Procedures

- The examiner will review* examination findings in other areas (e.g. Bank Secrecy Act, Customer Identification Program and Customer Information Security Program) to determine whether there are deficiencies that adversely affect the financial institution's ability to comply with the Identity Theft Red Flags Rules (Red Flag Rules).



Identity Theft/Red Flags Exam Procedures

3. *The examiner will review* any reports, such as audit reports and annual reports prepared by staff for the board of directors (or an appropriate committee thereof or a designated senior management employee) on compliance with the Red Flag Rules. Determine whether management adequately addressed any deficiencies.



Identity Theft/Red Flags Exam Procedures

4. *The examiner will verify* that the financial institution has developed and implemented a comprehensive written Program, designed to detect, prevent, and mitigate identity theft. The Program must be appropriate to the size and complexity of the financial institution and the nature and scope of its activities.



Identity Theft/Red Flags Exam Procedures

5. *The examiner will verify* that the financial institution trains appropriate staff to effectively implement and administer the Program.



Identity Theft/Red Flags Exam Procedures

6. *The examiner will determine* whether the financial institution exercises appropriate and effective oversight of service providers that perform activities related to covered accounts.



Identity Theft/Red Flags Exam Procedures

❑ *Conclusion:*

- ❑ On the basis of examination procedures completed, the examiner will form a conclusion about whether the financial institution has developed and implemented an effective, comprehensive written Program designed to detect, prevent and mitigate identity theft.



Identity Theft/Red Flags Exam Procedures

- Remember, the Identity Theft Program has a *two-fold* purpose:
 - ✓ 1) Detecting and preventing identity theft
 - ✓ 2) Taking appropriate mitigating measures if identity theft occurs.



Change of Address and Address Discrepancy Exam Procedures

- Although the Identity Theft exam procedures will be performed by both compliance and safety and soundness and IT examiners, the next two sets of examination procedures will be handled only by compliance examiners.



Change of Address Exam Procedures

- ❑ 12 CFR Part 571.91
 - The final rules also require credit and debit card issuers to develop policies and procedures to assess the validity of a request for a change of address that is followed closely by a request for an additional or replacement card. **(30 days)**



Change of Address Exam Procedures

- ❑ Under these circumstances, the card issuer may not issue an additional or replacement card, until, the card issuer:
 - (1) Notifies the cardholder of the request, or
 - (2) Otherwise assesses the validity of the change of address in accordance with the policies and procedures the card issuer has established.



Change of Address Exam Procedures

- ❑ There are 4 examination procedures:
- ✓ Can the card issuer assess the validity of a change of address;
- ✓ Does its policies and procedures prohibit issuance of a card until it verifies the change of address;
- ✓ Are electronic notices sent for verification clear and conspicuous; and
- ✓ Perform sampling, if needed.



Change of Address Exam Procedures

□ *Conclusion:*

- On the basis of examination procedures completed, form a conclusion about whether a card issuer's policies and procedures effectively meet regulatory requirements for evaluating the validity of change of address requests received in connection with credit or debit card accounts.



Address Discrepancy Exam Procedures

- ❑ 12 CFR Part 571.82
- The final rules also require users of consumer reports to develop reasonable policies and procedures to apply when they receive a notice of address discrepancy from a credit reporting agency.



Address Discrepancy Exam Procedures

- ❑ There are 5 examination steps:
- ✓ Does the institution recognize the address discrepancy;
- ✓ Does it confirm that it relates to the consumer;
- ✓ Does it furnish the correct address for the consumer to the credit reporting agency;
- ✓ Does it report during the appropriate reporting period; and
- ✓ Perform sampling, if needed.



Address Discrepancy Exam Procedures

- ❑ The user may reasonably confirm an address is accurate by:
 - (i) Verifying the address with the consumer about whom it has requested the report;
 - (ii) Reviewing its own records to verify the address of the consumer;
 - (iii) Verifying the address through third-party sources; or
 - (iv) Using other reasonable means.



Address Discrepancy Exam Procedures

□ Conclusion:

- On the basis of examination procedures completed, form a conclusion about the ability of user's policies and procedures to meet regulatory requirements for the proper handling of address discrepancies reported by a credit reporting agency.



Identity Theft/Red Flags Exam Procedures

- We have received questions about the Identity Theft program and what is required.
- We will cover some of those questions today that have been previously submitted.
- We will also take your questions today as time permits.



Identity Theft/Red Flags Exam Procedures

- Once the examination are ready for issuance, we are planning to send out a Regulatory Bulletin to all of our institutions; other agencies will distribute the procedures through its normal channels.
- Also, be sure to check the OTS website under “What’s New” and “Events” for copies of today’s presentations and for additional information that may be posted following today’s conference call.



CONCLUSION

- ❑ Questions and Answers
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QUESTIONS

- Let's begin with the first question.