

Advocacy Comments on Identity Theft Regulatory Impacts and Available Alternatives

On September 18, 2006, the Office of Advocacy (Advocacy) filed a comment with the Federal Trade Commission (FTC) to discuss the regulatory impacts and available alternatives in response to the FTC's proposed rule on "Identity Theft Red Flags." To assist the FTC in its analysis, Advocacy solicited input from small entities and urged the FTC to give careful consideration to the impact of the rule on small entities and alternatives that would minimize that impact. A complete copy of Advocacy's letter may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- The FTC is seeking comment on guidelines for creditors on identity theft "Red Flags" which are patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. The proposed rule requires financial institutions and creditors to establish reasonable policies and procedures for implementing the Red Flag guidelines as well as how to handle address discrepancies on credit reports.
- Advocacy spoke with representatives of small business from a variety of different industries to determine the impact of the proposed rule. Small businesses believe that the economic impact of the rule will be significant. While they are supportive of the overall goals of the rulemaking, they believe that it will take a substantial amount of time for them to review the 31 Red Flags identified by the FTC and determine which Red Flags are relevant to their businesses, develop the policy, write the policy, and train employees.
- Advocacy presented significant alternatives based on its outreach. These alternatives included: delay the implementation, create a shortened Red Flag list, and provide a certification form. Advocacy also recommended that the Commission issue a compliance guide for small businesses which would walk them through each step in the program.
- The Regulatory Flexibility Act and Executive Order 13272 require Federal government agencies to analyze the impact of proposed and final rules on small entities and consider less burdensome alternatives. The initial analysis should be done at the same time as the proposed rule and should be issued concurrently with the proposal. Advocacy urged the FTC to consider the comments from small entities and consider the regulatory impact of the proposed rule.

For more information, visit Advocacy's website at <http://www.sba.gov/advo/> or contact Eric Menge at (202) 205-6533.