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Commissioner



INDUSTRY LETTER

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SUBJECT: Fair and Accurate Credit Transactions Act (FACT Act) Final Rules

The federal financial institution regulatory agencies and the FTC have issued final rules and guidelines implementing Sections 114 and 315 of the FACT Act.

Red Flag Guidelines: Each institution offering any account for which there is a reasonably foreseeable risk of identity theft must establish a written Identity Theft Prevention Program. The Board must approve the Program and personnel must be appropriately trained.

The guidelines include a supplement that identifies 26 patterns, practices, and specific forms of activity that are “red flags” for possible identity theft.

The Program must include reasonable policies and procedures for assessing risk, detecting, preventing and mitigating identity theft and must enable the institution to:

- Identify relevant patterns, practices and specific forms of each activity that are “red flags” signaling possible identity theft and incorporate those red flags into its Program;
- Detect red flags;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Ensure the Program is updated periodically to reflect changes in risks from identity theft.

Additional requirements under the final rules:

- Credit and debit card issuers must develop policies and procedures to assess the validity of a request for a change of address followed closely by a request for an additional or replacement card; and
- Users of consumer reports must develop reasonable policies and procedures to be applied when receiving notice of an address discrepancy from a consumer reporting agency.

A full copy of the final rules and guidance can be accessed electronically at

<http://www.ots.treas.gov/docs/4/481019.pdf>

Compliance with the final rules is mandatory on November 1, 2008.

Compliance with these rules will be reviewed at your institution's next regular examination.

If you have any questions or would like to discuss this matter please contact Commissioner Foster at 512/475-1353 or Caroline C. Jones, Chief Thrift Attorney, at 512/475-1038.
