

## Delay in Red Flags Rule



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The Federal Trade Commission announced last week that it has postponed the effective date of the new “Red Flags Rule” until May 1, 2009. The Rule, which was issued pursuant to the Fair and Accurate Credit Transactions Act of (2003) (FACTA) and was to have taken effect November 1, 2008, requires a broad category of “creditors” and non-traditional financial institutions to implement programs to identify, detect and respond to potential instances of identity theft. The FTC acknowledged that many companies were unaware of the new rules and agreed to delay the effective date to allow covered companies more time to prepare.

The postponement only applies to the “creditors” and non-traditional financial institutions within the FTC’s FACTA enforcement jurisdiction. The federal banking agencies (the Federal Reserve System, the Federal Deposit Insurance Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision), the Securities and Exchange Commission, and the Commodity Futures Trading Commission have retained the November 1, 2008 Red Flags Rule deadline for traditional financial institutions within their direct supervision.

The FTC’s official announcement, which includes a helpful summary of the Rule, can be found at: <http://www.ftc.gov/opa/2008/10/redflags.shtm>.

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