

RED FLAG RULE COMPLIANCE DEADLINE: JUNE 1, 2010

The deadline for compliance with the Red Flag Rules, which require covered businesses to have programs to detect and respond to threats of identity theft, is rapidly approaching. Businesses of all kinds that regularly extend credit to customers or clients must comply with these regulations. These rules define “extending credit” very broadly. For example, medical providers that allow patients to defer payment for services, or pay in installments, are subject to the new rules.

Last fall, the House of Representatives passed legislation that would exempt dental/medical practices, law firms, and accounting firms with 20 or fewer employees from the Red Flag requirements, but that legislation has not yet been passed by the Senate, which means businesses of all sizes are subject to the requirements.

Businesses that haven’t already done so should review their existing policies and procedures to identify possible risks to the security of account information, such as past history of data theft, suspicious activity, and outdated intake procedures. Businesses should then implement a detection process to monitor change of address requests, authentication, and other instances where identity theft is possible. Businesses are required to appropriately respond to instances of identity theft, such as cooperating with law enforcement, monitoring accounts, and changing passwords. The program should be reviewed at least annually and updated as needed to account for new technology, processes, and any incidents.

Your office should immediately adopt written policies and procedures to comply with the new rules. The Red Flag compliance program should be formally approved by the directors, and a management-level employee should be appointed to oversee the implementation and continuous updates needed to prevent evolving risks to personal information. Penalties for willful noncompliance include the consumer’s actual damages (up to \$1000), punitive damages, and attorney fees.

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