



CAA News

BROUGHT TO YOU BY THE CALIFORNIA APARTMENT ASSOCIATION



FTC Extends Deadline for Enforcement of Red Flag Rules

FTC Announces Expanded Business Education Campaign on 'Red Flags' Rule

The Federal Trade Commission staff has announced that it will double its efforts to educate small business and other entities about compliance with the "Red Flags" Rule and will ease compliance by providing additional resources and guidance to clarify what businesses must do to comply. To give creditors and financial institutions more time to review this guidance and develop and implement written Identity Theft Prevention Programs, the FTC will further delay enforcement of the Rule until November 1, 2009.

The Red Flags Rule is an anti-fraud regulation, requiring "creditors" and "financial institutions" (including rental property owners and managers) to implement programs to identify, detect, and respond to the warning signs, or "red flags," that could indicate identity theft. The financial regulatory agencies, including the FTC, developed the Rule, which was mandated by the Fair and Accurate Credit Transactions Act of 2003 (FACTA).

The FTC's Red Flags Web site, www.ftc.gov/redflagsrule, offers resources to help entities determine if they are covered and, if they are, how to comply with the Rule. It includes an online compliance template that enables companies to design their own Identity Theft Prevention Program through an easy-to-do form, as well as articles directed to specific businesses and industries, guidance manuals, and Frequently Asked Questions to help companies navigate the Rule.

Although many covered entities have already developed and implemented appropriate, risk-based programs, some – particularly small businesses and entities with a low risk of identity theft – remain uncertain about their obligations. The additional compliance guidance that the Commission will make available shortly is designed to help them. Among other things, Commission staff will create a special link for small and low-risk entities on the Red Flags Rule Web site with materials that provide guidance and direction regarding the Rule. The Commission has already posted FAQs that address how the FTC intends to enforce the Rule and other topics – www.ftc.gov/bcp/edu/microsites/redflagsrule/faqs.shtm. The enforcement FAQ states that Commission staff would be unlikely to recommend bringing a law enforcement action if entities know their customers or clients individually, or if they perform services in or around their customers' homes, or if they operate in sectors where identity theft is rare and they have not themselves been the target of identity theft.

The three-month extension, coupled with this new guidance, should enable businesses to gain a better understanding of the Rule and any obligations that they may have under it.

For more information on how to comply with the rule, visit www.caanet.org.