



FTC Further Delays Enforcement of Identity Theft Red Flags Rule

The Federal Trade Commission has again delayed enforcement of a rule requiring “financial institutions” and “creditors” to implement written identity theft programs. The new enforcement deadline is June 1, 2010.

Background

In November 2007, the Federal Trade Commission (FTC) and other federal agencies issued a final “red flags rule” requiring financial institutions and creditors with covered accounts to implement programs to identify, detect and respond to the warning signs (“red flags”) of identity theft. The original compliance deadline for covered entities under the jurisdiction of the FTC was November 1, 2008, but that deadline has been repeatedly extended. (See our August 17, 2009 [For Your Information](#).) During this time, the FTC has continued to provide guidance to covered entities on its [website](#), published a [compliance guide](#) for businesses, and created an identity theft program [on-line template](#) for low-risk businesses.

FTC Extended Enforcement Policy

On October 30, 2009, the FTC [announced](#) that it would delay enforcement of the red flags rule from November 1, 2009 until June 1, 2010. This latest delay came at the request of several members of Congress following the recent approval by the House of Representatives of [H.R. 3763](#). This bill, which has now been referred to the Senate Committee on Banking, Housing and Urban Affairs, would amend the Fair Credit Reporting Act to exempt any health care, accounting or legal practice with 20 or fewer employees, and certain other business from the red flags rule.

Conclusion

Although previous FTC guidance clarified that certain employee benefit programs are not subject to the red flags rule, identity theft remains a potential source of liability for businesses. Buck’s consultants are available to answer any questions you may have about the red flags rule and to help you determine how to address identity theft issues in your workplace.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.