



Enforcement of Identity Theft Red Flags Rule Delayed Again

The Federal Trade Commission has now delayed enforcement – through December 31, 2010 – of a rule requiring “financial institutions” and “creditors” to implement written identity theft programs.

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 November 10, 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

At the request of Congress, the FTC [announced](#) on May 28, 2010 that it would further delay enforcement of the red flags rule through December 31, 2010, unless Congress approves legislation with an earlier effective date. The FTC is urging Congress to quickly pass legislation that will resolve questions as to which entities are covered by the 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.