

# RED FLAG RULES

We have spent some time reviewing in detail the Red Flag Rules issues by the Federal Trade Commission. It appears as though most, if not all businesses that grant credit (bill clients) are affected by these rules. The rules encompass all financial institutions and creditors as defined by the United States Department of Justice. Creditors is a very broad term which includes all businesses that regularly defer payment for goods or services or provide goods or services and bill customers later. Another way to put this is that it includes all businesses that offer payment term agreements.

All applicable businesses need to be in compliance with the Red Flag Rules by January 1, 2011. If they are not in compliance the fine is \$2,500 per occurrence plus additional civil penalties of up to \$3,500. This will add up very quickly.

In order to comply with the Red Flag rules, each business must develop, implement and administer an Identity Theft Prevention Program. **At the end of this memo we have a link to help you through these four steps.**

Your plan must include the following steps:

**First**, your Program must include reasonable policies and procedures to identify the “red flags” of identity theft you may run across in the day-to-day operation of your business. Red flags are suspicious patterns or practices, or specific activities, which indicate the possibility of identity theft. For example, if a customer has to provide some form of identification to open an account with your company, an ID that looks like it might be fake would be a “red flag” for your business.

**Second**, your Program must be designed to detect the red flags you’ve identified. For example, if you’ve identified fake IDs as a red flag, you must have procedures in place to detect possible fake, forged, or altered identification.

**Third**, your Program must spell out appropriate actions you’ll take when you detect red flags.

**Fourth**, because identity theft is an ever-changing threat, you must address how you will re-evaluate your Program periodically to reflect new risks from this crime.

Just getting something down on paper won’t reduce the risk of identity theft. That’s why the Red Flags Rule sets out requirements on how to incorporate your Program into the daily operations of your business. It is the responsibility of the owners of the business to approve your first written Program. Your Program must state who’s responsible for implementing and administering it effectively. Because your employees have a role to play in preventing and detecting identity theft, your Program also must include appropriate staff training. If you should outsource or subcontract parts of your operations that would be covered by the Rule, your Program also must address how you’ll monitor your contractors’ compliance.

The Red Flags Rule gives you the flexibility to design a Program appropriate for your company – its size and potential risks of identity theft. While some businesses and organizations may need a comprehensive Program that addresses a high risk of identity theft in a complex organization, others with a low risk of identity theft could have a more streamlined Program.

The following is a link to a worksheet designed by the Federal Trade Commission to help get started putting together a program to comply with the Red Flag rules.

[http://www.ftc.gov/bcp/edu/microsites/redflagsrule/RedFlags\\_forLowRiskBusinesses.pdf](http://www.ftc.gov/bcp/edu/microsites/redflagsrule/RedFlags_forLowRiskBusinesses.pdf)

If your business is extending credit and/or offering payment term agreements to your customers, you will want to get a plan developed and implemented prior to January 1, 2011.

If you need assistance in developing a plan let us know.