



Compliance News...

FACT Act Deadlines Quickly Approaching . . .

Just a reminder, the Affiliate Marketing rule's mandatory compliance date is October 1, 2008. For more information on the specific requirements see our [February 2008](#)¹ newsletter article. In addition to the Affiliate Marketing rule, the ID Theft/Red Flags and Address Discrepancy rules become mandatory on November 1, 2008. More information can be found in our [June 2008 newsletter](#)² article. There are still many unanswered questions regarding these requirements; however, we wanted to share some resources that we have found helpful in deciphering these requirements.

The first is the Banker's Online (BOL) [FACT Act page](#)³. This page contains many articles and tools that you may find useful. In addition, BOL also has a [Red Flags page](#)⁴ devoted entirely to the ID Theft/Red Flag requirements. Compliance Headquarters also has a [Red Flags Resource Center](#)⁵, which, again, we have found very helpful. We have also developed a sample ID Theft/Red Flags [Policy and Procedures](#)⁶ that may provide you with a starting point. Obviously, this will need to be customized to fit your institution.

We recently sat in on an Office of Thrift Supervision (OTS) ID Theft/Red Flags teleconference which identified six examination procedures that a bank can expect to encounter at their next exam. (Note: These exam procedures are still preliminary and have not been finalized).

1. The examiner will verify that the financial institution periodically identifies covered accounts it *offers* or maintains.

- In connection with this initial procedure in the examination, the examiner will verify that the financial institution:
 - included accounts for personal, family and household purposes, that permit multiple payments or transactions; and,
 - conducted a risk assessment to identify any other accounts that pose a reasonably foreseeable risk of identity theft, taking into consideration the methods used to open and access accounts, and the institution's previous experiences with identity theft.

2. The examiner will review examination findings in other areas (e.g. Bank Secrecy Act, Customer Identification Program and Customer Information Security Program) to determine whether there are deficiencies that adversely affect the financial institution's ability to comply with the Identity Theft Red Flags Rules (Red Flag Rules).

3. The examiner will review any reports, such as audit reports and annual reports prepared by staff for the Board of Directors (or an appropriate committee thereof or a designated senior management employee) on compliance with the Red Flag Rules. Determine whether management adequately addressed any deficiencies.

4. The examiner will verify that the financial institution has developed and implemented a comprehensive written program, designed to detect, prevent and mitigate identity theft. The program must be appropriate to the size and complexity of the financial institution and the nature and scope of its activities.

5. The examiner will verify that the financial institution trains appropriate staff to effectively implement and administer the program.

6. The examiner will determine whether the financial institution exercises appropriate and effective oversight of service providers that perform activities related to covered accounts.

Conclusion:

On the basis of examination procedures completed, the examiner will form a conclusion about whether the financial institution has developed and implemented an effective, comprehensive written program designed to detect, prevent and mitigate identity theft.

We hope that you are well on your way to having these two important requirements implemented. If you haven't started or just want to make sure you are on the right track, we hope you will take the time to review and utilize some of these resources.

¹http://www.bankerscompliance.com/assets/files/newsletters/2008/February_2008.pdf

²http://www.bankerscompliance.com/assets/files/newsletters/2008/June_Newsletter.pdf

³http://www.bankersonline.com/lending/factact_tracking.html

⁴http://www.bankersonline.com/sb/redflag_specialedition.html

⁵http://www.wolterskluwerfs.com/info/redflagrc/?WT.mc_id=512

⁶<http://www.bankerscompliance.com/compliance-resources/free-downloads.htm>

Home Equity Line of Credit Booklet Updated . . .

The Home Equity Line of Credit booklet entitled "What You Should Know about Home Equity Lines of Credit" has been updated. This booklet is required to be provided to a consumer at the time of application for a Home Equity Line of Credit. These booklets can be obtained free of charge. You can place an order by [phone, fax, mail or online](#)¹.

¹<http://www.federalreserve.gov/pubs/order.htm>

FDIC Updates Address . . .

The FDIC has [updated](#)¹ the division name and address that appear on the Equal Housing Lender poster. This change must be made by August 7, 2009. The address to be reported is the same as appears on an FDIC bank's adverse action notices.

FDIC Consumer Response Center
2345 Grand Boulevard, Suite 100
Kansas City, MO 64108

¹<http://www.bankersonline.com/topstory/73fedreg/73FR45854.pdf>

Federal Reserve Updates Address . . .

The address to be disclosed on adverse action notices for Federal Reserve regulated banks will become mandatory on October 1, 2008. The address is:

Federal Reserve Consumer Help Center
P.O. Box 1200
Minneapolis, MN 55480

Sioux Falls and Omaha Advanced Compliance Seminars . . .

It's not too late to register for our [Advanced Compliance Seminars](#) in Sioux Falls, SD (September 9-11) and Omaha, NE (October 21-23). During the Deposit/Operations seminar at both locations we will have guest speakers (on September 9 and October 21) that are sure to interest you. Special Agent Danny Wright of the IRS Criminal Investigation Division (Sioux Falls) and Special Agent Derick Tarr of the IRS Criminal Investigation Division (Omaha) will discuss Suspicious Activity Report filings, where they go, who reviews them, etc. They are sure to have some interesting stories regarding suspicious activity. In Omaha, Special Agent Tarr will be joined by FBI Special Agent Curtis Cable who is also the Supervisor of the Joint Terrorism Task Force. These gentlemen are very knowledgeable and will be open to your questions during and following their presentations.

Don't miss this opportunity to interact with these federal agents as well as receive an update and instructions concerning the latest compliance requirements, pitfalls and recent developments.