

LEGAL UPDATES

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## "Red Flag" Warning For Businesses To Fight Identity Theft

A **November 1, 2008** Deadline for Compliance with Federal Regulations

The Federal Trade Commission (FTC) and other federal agencies issued final "Red Flag" Identity Theft Rules under the Fair and Accurate Credit Transactions Act (FACTA) to combat the risk of identity theft. FACTA requires many businesses to implement a full, written Identity Theft Prevention Program with Board-level approval and oversight by November 1, 2008.

### **Who Must Comply?**

The FACTA Red Flag Rules apply to financial institutions or creditors that use personal information from its customers and maintain "covered" accounts for those customers. Examples of businesses subject to the FACTA Red Flag Rules include:

#### **Financial Institutions**

Banks

Securities Brokers/Dealers

Commercial Lenders

Mortgage Brokers

Subsidiaries of Foreign Banks

Financial Advisors and Service Providers

#### **Any Business That Arranges or Extends "Credit"**

Utilities

Telecoms

Cable/Internet Service Providers

Retailers

Credit Card Issuers/Providers

Mortgage Lenders

Car/Boat Dealers

Third-Party Vendors

## **Plan For Compliance**

Compliance with the federal mandate may require substantial planning and immediate action. The regulations require a Board-approved and written Identity Theft Prevention Program to detect and mitigate Identity Theft to be in place by the November 1, 2008 deadline. But there are a series of investigations and risk assessments that must be conducted before attempting to craft a final compliance program. Each company faces a unique set of Identity Theft risks. And each compliance program must be designed specifically for those unique risks.

Please contact your Husch Blackwell attorney or an attorney from our Information Privacy & Data Security practice for more information on the FACTA Red Flags and assistance with a comprehensive FACTA Identity Theft compliance solution.

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