



Information Privacy & Data Security Law Alert Update

A Corporate Department Publication

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This Information Privacy & Data Security Law Alert is intended to provide general information for clients or interested individuals and should not be relied upon as legal advice. Please consult an attorney for specific advice regarding your particular situation.

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FTC Delays Enforcement of Red Flags Rule

On April 30, 2009, the Federal Trade Commission ("FTC") announced that it will delay enforcement of the "Red Flags Rule" until August 1, 2009. Prior to this announcement, the rules were scheduled to go into effect today, May 1, 2009. Promulgated on November 1, 2007 under the Fair and Accurate Credit Transactions Act of 2003 ("FACTA"), the "Red Flags Rule" requires any business that accepts payment over time for goods or services on a covered account to adopt and implement an identity theft prevention program. In addition to the enforcement delay, the FTC stated that it will release a "template" to assist businesses with a low risk of identity theft, such as those that know their customers personally, with the development of compliant identity theft prevention programs. The template will be available on the FTC's website.

This notice of delay does not apply to other federal agencies that regulate financial institutions for whom compliance began on November 1, 2008. For more detailed information on the "Red Flags Rule," please see our previously issued law alerts by clicking on the attached links on-line: Health Care Law Alert February 2009 and Information Privacy and Data Security Law Alert February 2009. Or, please visit our publications at www.porterwright.com.

The FTC's April 30th announcement restated the breadth of the definition of "creditor" under FACTA, including, for example: finance companies; automobile dealers that provide or arrange financing; mortgage brokers; utility companies; telecommunications companies; non-profit and government entities that defer payment for goods or services; and businesses that provide services and bill later, including many lawyers, doctors and others professionals.

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