

FTC Announces Six-Month Delay of Enforcement of Red Flag Rules

Deadline for Compliance Extended to May 1, 2009

October 24, 2008

The Federal Trade Commission has announced that it will delay enforcement of the new "Red Flag Rules" requiring certain businesses and municipal utilities to develop identity theft policies until May 1, 2009. If your municipality is affected by the rules because it provides utility services to residents, your municipality now has more time to adopt and implement written identity theft prevention policies in compliance with FTC requirements.

The Red Flag Rules were issued by the FTC in 2007 as part of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act") to provide new protections to consumers against the growing problem of identity theft. The rules apply to financial institutions and creditors with covered accounts. The FTC defines creditors as including utility companies, and has taken the position that municipalities and other government entities that provide utility services to residents will be treated as utilities under the Red Flag Rules.

In an effort to clarify the requirements and to provide additional time for covered entities to develop programs appropriate to the nature of their operations and in compliance with the rules, the FTC has decided to extend the deadline for implementing identity theft policies to May 1, 2009. This extension applies only to implementation of identity theft policies as required under the Red Flag Rules. If your municipality uses consumer credit reports to establish residential utility accounts, additional requirements apply that must be met by November 1, 2008.

The FTC has released an Enforcement Policy Statement with its announcement delaying enforcement of the Red Flag Rules.

Miller Canfield would be happy to discuss how the Red Flag Rules may affect your individual entity. For more information on compliance and the development of policy language, please contact [Tom Colis](mailto:Tom.Colis) at 313.496.7677, email colis@millercanfield.com or any Miller Canfield Public Law attorney.