



October 2008

INVESTMENT MANAGEMENT UPDATE

FTC Grants Six-Month Delay in Red Flag Rules

On October 22, 2008, the Federal Trade Commission (FTC) announced that it would suspend enforcement of the new "Red Flag Rules" (the "Rules") until May 1, 2009, to give entities subject to the Rules additional time in which to develop and implement written identity theft prevention programs. The original compliance date was November 1, 2008.

The Rules were developed pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003. Under the Rules, financial institutions and creditors with covered accounts are required to adopt identity theft prevention programs to identify, detect and respond to patterns, practices or specific activities that could indicate identity theft. The Rules apply to creditors and financial institutions. Federal law defines financial institutions as entities that offer accounts that enable consumers to write checks or to make payments to third parties through other means, such as other negotiable instruments or telephone transfers.

Originally, the Rules were not thought to apply to investment companies because they generally are not considered financial institutions subject to the FTC's jurisdiction. However, in July 2008, the FTC and the Securities and Exchange Commission determined that the Rules do apply to investment companies. In the press release announcing the six-month delay, the FTC said that its staff recently learned that some industries and entities subject to the Rules that generally are not required to comply with FTC rules in other contexts were not aware of the rulemaking, and therefore learned of the Rules' requirements too late to be able to comply by November 1, 2008. The FTC said that its delay of enforcement will enable these entities sufficient time to establish and implement appropriate identity theft prevention programs, in compliance with the Rules.

FOR MORE INFORMATION

For more information, please contact:

- Michael V. Wible 614.469.3297 Michael.Wible@ThompsonHine.com
Richard S. Heller 212.908.3907 Richard.Heller@ThompsonHine.com
James P. Jalil 212.908.3976 James.Jalil@ThompsonHine.com
Donald S. Mendelsohn 513.352.6546 Don.Mendelsohn@ThompsonHine.com
JoAnn M. Strasser 513.352.6725 JoAnn.Strasser@ThompsonHine.com
Marc L. Collins 513.352.6774 Marc.Collins@ThompsonHine.com

If you do not wish to receive future communications by email, please reply to this email with "unsubscribe" in the subject line.

This advisory may be reproduced, in whole or in part, with the prior permission of Thompson Hine LLP and acknowledgement of its source and copyright. This publication is intended to inform clients about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in it without professional counsel.

This document may be considered attorney advertising in some jurisdictions. Some of the design images and photographs in this document may be of actors depicting fictional scenes.