



October 2008

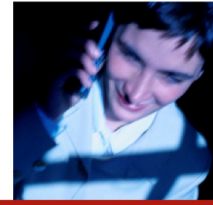
PRIVACY & INFORMATION  
SECURITY UPDATE**FTC Enforcement of Red Flag Rules Delayed Until May 1**

On October 22, 2008, the Federal Trade Commission (FTC) announced that it would suspend enforcement of portions of the new “Red Flag Rules” until May 1, 2009. Enforcement originally was scheduled to begin on November 1, 2008. The Red Flag Rules require covered entities to develop and implement a written, comprehensive identity theft prevention program. It is important to note, however, that while the federal bank regulatory agencies and the National Credit Union Administration had joined the FTC in issuing the Red Flag Rules, those agencies have not as of yet similarly extended their compliance deadlines for institutions under their jurisdiction. Consequently, the compliance deadline for those subject to the jurisdiction of the federal bank regulatory agencies and the National Credit Union Administration remains November 1, 2008.

The FTC announced that it will not penalize noncompliance with the Red Flag Rules by those entities under its jurisdiction until the new May 1 deadline. According to the FTC, the delayed enforcement is in response to confusion on the part of certain industries and entities regarding the reach of the FTC’s jurisdiction and the scope of the rules. Under the rules, the terms “financial institution” and “creditor” are broadly defined and cover more than just banks and other lenders. Consequently, entities that are not generally required to comply with FTC rules in other contexts are subject to the Red Flag Rules, and will now be given more time to comply.

**ADDRESS DISCREPANCY RULES WILL BE ENFORCED AS OF ORIGINAL NOVEMBER 1 DEADLINE**

The delay in enforcement of the Red Flag Rules will *not* delay enforcement of the new address discrepancy rules. Along with the Red Flag Rules, the FTC, federal bank regulatory agencies and the National Credit Union Administration adopted rules that apply to credit and debit card issuers and users of consumer reports. By November 1, credit and debit card issuers must develop and implement procedures to validate change of address requests when a change of address request is followed closely by a request for an additional or replacement card. The rules also require *users* of consumer reports to develop reasonable policies to verify the identity of a consumer upon receipt of a notice of address discrepancy from a consumer reporting agency. The FTC’s suspended enforcement of the Red Flag Rules does not impact the November 1 deadline for compliance with these address discrepancy rules.



## **THOMPSON HINE IS AVAILABLE TO ASSIST YOU**

Thompson Hine's Privacy and Information Security practice, an interdisciplinary and international group of lawyers with experience in complex national and international issues including privacy, data protection, information security, records retention, employment and labor law, consumer protection, Internet law and intellectual property, can help you develop, implement and benefit from globally compliant data management practices. Our team has assisted numerous companies in developing and implementing global privacy and data protection programs and strengthening their strategic use of competitively critical data.

## **FOR MORE INFORMATION**

If you would like more information on the Red Flag Rules or the discrepancy rules, please contact:

Thomas F. Zych	216.566.5605	<b><a href="mailto:Tom.Zych@ThompsonHine.com">Tom.Zych@ThompsonHine.com</a></b>
Carolyn S. Flahive	614.469.3294	<b><a href="mailto:Carolyn.Flahive@ThompsonHine.com">Carolyn.Flahive@ThompsonHine.com</a></b>
Joanne E. Clifford	216.566.5758	<b><a href="mailto:Jodi.Clifford@ThompsonHine.com">Jodi.Clifford@ThompsonHine.com</a></b>

If you do not wish to receive future communications by e-mail, please send e-mail with the word "unsubscribe" as the subject line to **[Georgene.Davison@ThompsonHine.com](mailto:Georgene.Davison@ThompsonHine.com)**.

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.

© 2008 THOMPSON HINE LLP. ALL RIGHTS RESERVED.