

“Another Red Flag for the Red Flags Rule”

By: Jack Santaniello

Last month, the Federal Trade Commission (FTC) announced that enforcement of the anti-fraud identity theft rule, otherwise known as the Red Flags Rule, would again be delayed. The rule became effective on January 1, 2008 with full compliance for all covered entities originally required by November 1, 2008. The FTC has delayed enforcement several times - the most recent deadline prior to this extension was June 1, 2010. The new enforcement date is December 31, 2010.

The rule requires creditors to develop programs identifying, detecting and responding to the warning signs of identity theft. These programs work by responding to patterns, practices or specific activities that could indicate identity theft - hence, the term "red flags". A "creditor" is defined as any entity that regularly extends, renews or continues credit; any entity that regularly arranges for the extension, renewal or the continuation of credit; or any assignee of an original creditor who was involved in the decision to extend, renew or continue credit.

For a more detailed discussion of the Red Flags Rule, please see the Winter 2009 *Dividends* article "[Are You Ignoring Red Flags?](#)".

The FTC also provides guidance through materials posted on [their website](#), and a compliance guide for businesses [here](#).

Jack Santaniello is a partner in the corporate, franchising and intellectual property law practice groups in the firm's Charlotte office.