



K A N S A S

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DATE: October 1, 2008
BULLETIN: 2008-KDCU-CUB-09
TO: Management of Kansas Chartered Credit Unions
SUBJECT: FACT Act Red Flag Rules

On November 22, 2003, the United States Congress passed the Fair and Accurate Credit Transactions Act, (FACT Act or FACTA). President George W. Bush signed the FACT Act into law on December 4, 2003. The FACT Act was created as an amendment to the Fair Credit Reporting Act, (FCRA). The act allows consumers to obtain a free credit report once every 12 months from each of the three nationwide consumer credit reporting agencies, (Equifax, Experian and TransUnion).

The act was also designed to help reduce identity theft by giving consumers the ability to place risk alerts in their credit files if they suspected identity theft.

The FACT Act also required major changes for financial institutions, including credit unions. Key provisions of the FACT Act were outlined in an NCUA Regulatory Alert (05-RA-03) issued in January 2005.

Recently new provisions of the FACT Act called "Red Flag Rules" were put into place. All credit unions must comply with these new Red Flag Rules by November 1, 2008. The three main components of the Red Flag Rules are as follows:

- 1) Requires credit unions to develop and implement an Identity Theft Prevention Program in connection with both new and existing accounts. The program must include reasonable policies and procedures for detecting, preventing and mitigating identity theft. Many credit unions will already have the framework for their new Identity Theft Prevention Program in an existing identity theft program, Customer Identification Programs (CIP) and Information Security Programs (ISP). These existing programs will need to be coordinated with the new Identity Theft Prevention Program.
- 2) Requires users of consumer reports (i.e. credit unions), to respond to Notices of Address Discrepancies that they receive.
- 3) Places special requirements on issuers of debit and credit cards to assess the validity of a change of address if they receive notification of a change of address for a consumer's debit or credit card account and within a short period of time afterward they receive a request for an additional or replacement card for the same account.

These new Red Flag Rules may be incorporated into existing FCRA or FACT Act policies and procedures or they may be set aside in separate policies and procedures.

Red Flag policies and procedures must be appropriate for the size and complexity of the credit union and the nature and scope of its activities. Each credit union must identify in writing what they consider to be "red flags". Some Red Flags will be common for all credit unions. (i.e. a credit report shows a different social security number than what the applicant listed on their application). Other Red Flags may only be applicable to larger more complex credit unions based on their products and services.

Examiners will be reviewing credit unions compliance with the Red Flag Rules as part of the examination process beginning in November.

Any questions regarding the Red Flag Rules may be directed to your examiner.

/s/

Michael Baugh, Financial Examiner Principal

October 1, 2008