

FTC Solicits Public Comment on Identity Theft Detection Rules

Thursday, December 6, 2018

On December 4, 2018, the Federal Trade Commission (“FTC”) [announced](#) that it is accepting public comments regarding its Identity Theft Detection Rules, [16 C.F.R. Part 681](#) (the “Rules”), as part of a systematic review of the Commission’s regulations and guidelines. The review of the Rules is particularly noteworthy because identity theft is among the [top consumer complaints](#) to the FTC, and has been an [enforcement priority](#) for the FTC’s Bureau of Consumer Protection.

The Rules were originally promulgated in 2007 pursuant to the Fair and Accurate Credit Transactions Act (“FACTA”), and were narrowed by a subsequent act of Congress. In their current form, the Rules generally impose on certain creditors duties regarding the detection, prevention, and mitigation of identity theft. Creditors subject to the Rules must develop and maintain a written identity theft prevention program with respect to covered accounts, consistent with the Rule’s guidelines. The Rules also impose requirements on card issuers with respect to changes in borrower addresses.

The FTC’s request tees up both general and specific issues for public comment. General issues for public comment include the benefits provided to and costs imposed on consumers by the Rules, the degree of industry compliance and the extent of compliance costs, and how the Rules should be updated to reflect technological changes. Specific issues for public comment include the scope of rule (i.e., whether other types of creditors should be made subject to the rule), and whether the Rule’s guidelines for identity theft prevention programs should be modified.

The public comment period for the Rules ends on February 11, 2019. Interested parties may file a comment [online](#) or by mail.

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