

CLIENT ALERT: JUNE 4, 2010

**FTC FURTHER DELAYS ENFORCEMENT OF RED FLAGS RULE TO
DECEMBER 31, 2010**

The Federal Trade Commission recently announced that it would further delay enforcement of the Red Flags Rule to December 31, 2010. The enforcement date was previously set as June 1, 2010. The FTC [Press Release](#) attributes this most recent delay to a request from members of Congress, who are considering legislation that would impact the range of organizations covered by the Rule, based on such factors as type and number of employees. Notably, the American Medical Association and two other health care organizations filed suit on May 21, 2010, to block the FTC from enforcing the Red Flags Rule against physicians. To read more about the AMA lawsuit, click [here](#). The American Bar Association recently won a similar suit against the FTC, blocking enforcement of the Red Flags Rule against law firms, which decision the FTC has appealed.

The Red Flags Rule is designed to ensure that financial institutions and “creditors” take certain steps to prevent identity theft. Health care providers, accountants, and all other professionals who offer services and bill for those services in arrears are considered “creditors” under the Rule and the correlating statute. Companies that regularly arrange for loans or the extension of credit, such as real estate agents, mortgage brokers, financial services companies, and other retailers that offer financing packages or process credit applications, are also considered “creditors” under the Rule.

All entities subject to the Red Flags Rule will be required to create, implement, and maintain a written identity theft prevention program designed to detect warning signs (i.e., “red flags”) of security breaches and identity thefts in their daily operations. The prevention program must also identify the steps that will be taken to mitigate the harm in a particular instance of identity theft and prevent similar incidents from occurring in the future.

If you have any questions please contact Sheryl Howard showard@kb-law.com.

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