



MEMORANDUM

DATE: October 28, 2008

TO: Hospital Clients

FROM: Elana R. Zana
Donald W. Black

RE: FACTA Red Flag Rules - Extension of November 1st Deadline

The Federal Trade Commission (FTC) released a statement on October 22, 2008, that it will grant a six-month delay in enforcement of the Red Flag Rules (the rules are located at 16 CFR § 681.2). The new date for compliance is **May 1st, 2009**. The FTC broadly defines creditors and includes non-profit and government entities under its jurisdiction. Accordingly, the FTC considers hospitals which defer payments following the provision of services as creditors, therefore hospitals must comply by developing and implementing a written identity theft prevention program.

The FTC explained that it will not begin enforcing the Red Flag Rules until May 1, 2009, because of general confusion regarding coverage under the rules. The FTC's release is available at <http://www.ftc.gov/opa/2008/10/redflags.shtm>. However, the deadline for compliance with 16 CFR § 681.1 - Duties of users of consumer reports regarding address discrepancies, has not been extended and must be complied with by November 1st, 2008. Further information relating to the Red Flag Rules and their applicability to hospitals will be sent out within the next month in order to assist our hospital clients with the creation and implementation of their programs.

If you have questions regarding the FACTA Red Flag Rules please contact Elana Zana at ezana@omwlaw.com or Don Black at dblack@omwlaw.com.