Red Flags Rule

DECEMBER 2010

The Federal Trade Commission (the "FTC") has issued a new rule on identity theft known as the "Red Flags Rule". This is effective December 31, 2010.

The "Red Flags Rule" states that a "covered organization" needs to have procedures for addressing any "red flags" related to a consumer account when there are indications that the security of a consumer's identity has been compromised.

The regulations issued by the FTC state that any entity that is engaged in providing installment plans where the payment for goods and services is delayed would be considered a "covered organization" and would be required to comply with the requirements of the regulations. Organizations that hold "covered" accounts must create a program to address red flags identified in day-to-day operations.

The Community Associations Institute (CAI) believes that the FTC may find that the Red Flags rule may apply to associations. This is because many associations collect special assessments on a monthly/quarterly basis. We believe that the monthly/quarterly payments of annual maintenance fees may also be considered as installment payments. Therefore, associations should evaluate, in conjunction with their attorney, if a program should be instituted and the extent of such a program.

Factors to consider in determining if an association would be required to implement such a program include:

- whether the association accepts installment payments for assessments or special assessments and;
- there is a reasonable risk of identity theft of consumer data. This is influenced by the size of the association, number of employees with access to association member records as well as other factors

Any program developed should include reasonable policies and procedures in order to achieve the following:

1. Identify relevant red flags for new and existing accounts
2. Detect red flags that have been incorporated into the program
3. Prevent and mitigate identity theft
4. Periodic updating- the program should be updated at least annually to reflect changes in risks and safety and soundness of the account

Additional information regarding the Red Flags Rule can be found at the following websites:

- Federal Trade Commissions' website: www.ftc.gov/redflagsrule,
- CAI's website: www.caionline.org. The CAI website also includes a template for a sample program.

Information contained in this publication should not be construed as accounting advice. It is not intended, and should not be used, as a substitute for consultation with an accounting professional.

Wilkin & Guttenplan, P.C.
Certified Public Accountants and Consultants

1200 Tices Lane
East Brunswick, NJ 08816

T 732.846.3000
F 732.846.0618

www.wgcpas.com