

**IDENTITY THEFT RED FLAGS AND NOTICES OF ADDRESS DISCREPANCY:
PROPOSED RULE**

The Federal Trade Commission and the federal financial institution regulatory agencies¹ are requesting public comment on a jointly proposed Notice of Proposed Rulemaking (“Proposed Rule”) that would implement sections 114 and 315 of the Fair and Accurate Credit Transactions Act. Under the Proposed Rule, (A) users of consumer reports must reconcile address discrepancies; (B) financial institutions and creditors must detect, prevent, and mitigate identity theft; and (C) card issuers must assess the validity of a request for a change of address. Public comments are due no later than September 18, 2006.

Specifically, the Proposed Rule establishes the following:

- (A) Duties of users regarding address discrepancies. Users of consumer reports must develop and implement reasonable policies and procedures to verify the identity of consumers for whom they receive a notice of address discrepancy. A *notice of address discrepancy* means a notice provided to a user of a consumer report by a Consumer Reporting Agency (“CRA”) that informs the user of a substantial difference between the address for a consumer that the user provided to request the consumer report and the address in the CRA’s file for the consumer.
- (B) Duties regarding the detection, prevention, and mitigation of identity theft. Each financial institution and creditor must develop and implement a written identity theft prevention program, which must include reasonable policies and procedures to address the risk of identity theft to its customers and the safety and soundness of the financial institution and creditor. The program must be able to identify and evaluate “red flags” that indicate the possible risk of identity theft to customers. The program must also be designed to prevent and mitigate identity theft regarding new and existing accounts. In addition, the Proposed Rule requires proper staff training, the oversight of service provider arrangements, and the involvement of the board of directors and senior management (*e.g.*, the board of directors or an appropriate committee of the board must approve the program).
- (C) Duties of card issuers regarding changes of address. A card issuer (*i.e.*, a person that issues a credit or debit card) must develop and implement reasonable policies and procedures to assess the validity of a request for a change of address if it receives notice of a change of address for a consumer’s credit or debit card account followed closely by a

¹ Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision; and the National Credit Union Administration.

request for an additional or replacement card. Under these circumstances, the card issuer is not allowed to issue another card unless the issuer satisfies one of the exceptions under the Proposed Rule - *e.g.*, the cardholder is notified of the request at the cardholder's former address and he or she is provided with the opportunity to promptly report incorrect address changes.

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August 3, 2006

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