

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 1 of 10	

PURPOSE

To comply with the Fair and Accurate Credit Transactions (FACT) Act regulations by implementing an identity theft prevention program designed to identify, detect, and respond to patterns, practices, or specific activities that could indicate that identity theft has taken place in connection with covered accounts offered or maintained by the County of Shasta.

BACKGROUND

Pursuant to the Federal Trade Commission's Red Flags Regulation, this policy implements Section 114 of the Fair and Accurate Credit Transactions (FACT) Act of 2003. 16 C.F.R. § 681.2. The FACT Act was enacted to curtail the effects of identity theft. Regulations adopted pursuant to the FACT Act require that all creditors (including local government creditors) that offer or maintain covered accounts establish policies and procedures to detect, prevent, and mitigate identity theft in connection with those covered accounts.

DEFINITIONS

- A. Covered Account - is an account that a creditor offers or maintains, primarily for personal, family, or household purposes, that involves multiple payments or transactions. A covered account also includes an account for which there is a reasonably foreseeable risk of identity theft.
- B. Creditor - includes governmental agencies that regularly allow payment deferral for property or services.
- C. Identifying Information - any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including: name, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer Internet Protocol address, or routing code, or telecommunication identifying information (such as a personal identification number (PIN)).
- D. Identity Theft - fraud committed or attempted using the identifying information of another person without authority.
- E. Payment Deferral - postponing payments to a future date and/or installment payments.

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 2 of 10	

F. Red Flag - a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.

POLICY

The County Executive Officer, in conjunction with County departments which maintain covered accounts, will develop, implement, and administer a program designed to identify, detect, and respond to patterns, practices, or specific activities that could indicate that identity theft has taken place in connection with covered accounts offered or maintained by the County. In order to do this, each County department that regularly allows payment deferral for property or services for a covered account will:

- A. Identify relevant Red Flags for new and existing covered accounts that will be incorporated into this Identity Theft Prevention Program and communicate them to the County Executive Officer.
- B. Detect Red Flags that have been incorporated into this Identity Theft Prevention Program and communicate this information to the County Executive Officer.
- C. Respond appropriately to any Red Flags that are detected to prevent and mitigate identity theft and communicate such responses to the County Executive Officer.
- D. Ensure that this Identity Theft Prevention Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the County as creditor from identity theft and communicate such information to the County Executive Officer.

Each County department that regularly allows payment deferral for property or services for a covered account shall consider the Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation (included as Exhibit A to this policy) and will suggest that the County Executive Officer include in an Identity Theft Prevention Program those guidelines that are appropriate for those covered accounts.

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 3 of 10	

PROGRAM UPDATES

The program developed and implemented by the County Executive Officer will be periodically reviewed and updated to reflect changes in identity theft risks in connection with covered accounts offered or maintained by the County.

OVERSIGHT

The overall responsibility for overseeing, developing, implementing, administrating, and updating the program lies with the County Executive Officer. The County Executive Officer will determine which County departments are subject to the program.

The department head in each County department that offers or maintains covered accounts will also be responsible for administration of this policy and program for that department’s covered accounts, for ensuring appropriate training of staff on the policy and program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating identity theft, for determining which steps of prevention and mitigation should be taken in particular circumstances, for exercising appropriate and effective oversight of service provider arrangements, and for considering periodic changes to the program. Each affected department head will report on his or her administration of the program to the County Executive Officer on a frequency to be determined by the County Executive Officer.

RESPONSIBLE DEPARTMENTS

County Counsel
County Administrative Office

REFERENCES

Administrative Update--07/13/2012
BOS Policy Resolution No. 2009-02--4/21/09 (Adopted)

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 4 of 10	

EXHIBIT A

Appendix A to 16 C.F.R. Part 681 Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation

Section 681.2 of this part requires each financial institution and creditor that offers or maintains one or more covered accounts, as defined in § 681.2(b)(3) of this part, to develop and provide for the continued administration of a written Program to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account. These guidelines are intended to assist financial institutions and creditors in the formulation and maintenance of a Program that satisfies the requirements of § 681.2 of this part.

I. The Program

In designing its Program, a financial institution or creditor may incorporate, as appropriate, its existing policies, procedures, and other arrangements that control reasonably foreseeable risks to customers or to the safety and soundness of the financial institution or creditor from identity theft.

II. Identifying Relevant Red Flags

- (a) *Risk Factors.* A financial institution or creditor should consider the following factors in identifying relevant Red Flags for covered accounts, as appropriate:
 - (1) The types of covered accounts it offers or maintains;
 - (2) The methods it provides to open its covered accounts;
 - (3) The methods it provides to access its covered accounts; and
 - (4) Its previous experiences with identity theft.
- (b) *Sources of Red Flags.* Financial institutions and creditors should incorporate relevant Red Flags from sources such as:
 - (1) Incidents of identity theft that the financial institution or creditor has experienced;
 - (2) Methods of identity theft that the financial institution or creditor has identified that reflect changes in identity theft risks; and
 - (3) Applicable supervisory guidance.
- (c) *Categories of Red Flags.* The Program should include relevant Red Flags from the following categories, as appropriate. Examples of Red Flags from each of these categories are appended as Supplement A to this Appendix A.
 - (1) Alerts, notifications, or other warnings received from consumer reporting agencies or service providers, such as fraud detection services;

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 5 of 10	

- (2) The presentation of suspicious documents;
- (3) The presentation of suspicious personal identifying information, such as a suspicious address change;
- (4) The unusual use of, or other suspicious activity related to, a covered account; and
- (5) Notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the financial institution or creditor.

III. Detecting Red Flags

The Program's policies and procedures should address the detection of Red Flags in connection with the opening of covered accounts and existing covered accounts, such as by:

- (a) Obtaining identifying information about, and verifying the identity of, a person opening a covered account, for example, using the policies and procedures regarding identification and verification set forth in the Customer Identification Program rules implementing 31 U.S.C. 5318(l) (31 CFR 103.121); and
- (b) Authenticating customers, monitoring transactions, and verifying the validity of change of address requests, in the case of existing covered accounts.

IV. Preventing and Mitigating Identity Theft

The Program's policies and procedures should provide for appropriate responses to the Red Flags the financial institution or creditor has detected that are commensurate with the degree of risk posed. In determining an appropriate response, a financial institution or creditor should consider aggravating factors that may heighten the risk of identity theft, such as a data security incident that results in unauthorized access to a customer's account records held by the financial institution, creditor, or third party, or notice that a customer has provided information related to a covered account held by the financial institution or creditor to someone fraudulently claiming to represent the financial institution or creditor or to a fraudulent website. Appropriate responses may include the following:

- (a) Monitoring a covered account for evidence of identity theft;
- (b) Contacting the customer;
- (c) Changing any passwords, security codes, or other security devices that permit access to a covered account;
- (d) Reopening a covered account with a new account number;
- (e) Not opening a new covered account;

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 6 of 10	

- (f) Closing an existing covered account;
- (g) Not attempting to collect on a covered account or not selling a covered account to a debt collector;
- (h) Notifying law enforcement; or
- (i) Determining that no response is warranted under the particular circumstances.

V. Updating the Program

Financial institutions and creditors should update the Program (including the Red Flags determined to be relevant) periodically, to reflect changes in risks to customers or to the safety and soundness of the financial institution or creditor from identity theft, based on factors such as:

- (a) The experiences of the financial institution or creditor with identity theft;
- (b) Changes in methods of identity theft;
- (c) Changes in methods to detect, prevent, and mitigate identity theft;
- (d) Changes in the types of accounts that the financial institution or creditor offers or maintains; and
- (e) Changes in the business arrangements of the financial institution or creditor, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

VI. Methods for Administering the Program

- (a) *Oversight of Program.* Oversight by the board of directors, an appropriate committee of the board, or a designated employee at the level of senior management should include:
 - (1) Assigning specific responsibility for the Program's implementation;
 - (2) Reviewing reports prepared by staff regarding compliance by the financial institution or creditor with § 681.2 of this part; and
 - (3) Approving material changes to the Program as necessary to address changing identity theft risks.
- (b) *Reports.*
 - (1) *In general.* Staff of the financial institution or creditor responsible for development, implementation, and administration of its Program should report to the board of directors, an appropriate committee of the board, or a designated employee at the level of senior management, at least annually, on compliance by the financial institution or creditor with § 681.2 of this part.
 - (2) *Contents of report.* The report should address material matters related to the Program and evaluate issues such as: the effectiveness of the policies and procedures of the financial institution or creditor in addressing the risk of identity

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 7 of 10	

theft in connection with the opening of covered accounts and with respect to existing covered accounts; service provider arrangements; significant incidents involving identity theft and management's response; and recommendations for material changes to the Program.

- (c) *Oversight of service provider arrangements.* Whenever a financial institution or creditor engages a service provider to perform an activity in connection with one or more covered accounts the financial institution or creditor should take steps to ensure that the activity of the service provider is conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft. For example, a financial institution or creditor could require the service provider by contract to have policies and procedures to detect relevant Red Flags that may arise in the performance of the service provider's activities, and either report the Red Flags to the financial institution or creditor, or to take appropriate steps to prevent or mitigate identity theft.

VII. Other Applicable Legal Requirements

Financial institutions and creditors should be mindful of other related legal requirements that may be applicable, such as:

- (a) For financial institutions and creditors that are subject to 31 U.S.C. 5318(g), filing a Suspicious Activity Report in accordance with applicable law and regulation;
- (b) Implementing any requirements under 15 U.S.C. 1681c-1(h) regarding the circumstances under which credit may be extended when the financial institution or creditor detects a fraud or active duty alert;
- (c) Implementing any requirements for furnishers of information to consumer reporting agencies under 15 U.S.C. 1681s-2, for example, to correct or update inaccurate or incomplete information, and to not report information that the furnisher has reasonable cause to believe is inaccurate; and
- (d) Complying with the prohibitions in 15 U.S.C. 1681m on the sale, transfer, and placement for collection of certain debts resulting from identity theft.

Supplement A to Appendix A

In addition to incorporating Red Flags from the sources recommended in section II.b. of the Guidelines in Appendix A of this part, each financial institution or creditor may consider incorporating into its Program, whether singly or in combination, Red Flags from the following illustrative examples in connection with covered accounts:

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 8 of 10	

Alerts, Notifications or Warnings from a Consumer Reporting Agency

1. A fraud or active duty alert is included with a consumer report.
2. A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
3. A consumer reporting agency provides a notice of address discrepancy, as defined in § 681.1 (b) of this part.
4. A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - a. A recent and significant increase in the volume of inquiries;
 - b. An unusual number of recently established credit relationships;
 - c. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - d. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

Suspicious Documents

5. Documents provided for identification appear to have been altered or forged.
6. The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
7. Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
8. Other information on the identification is not consistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check.
9. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

Suspicious Personal Identifying Information

10. Personal identifying information provided is inconsistent when compared against external information sources used by the financial institution or creditor. For example:
 - a. The address does not match any address in the consumer report; or
 - b. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
11. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 9 of 10	

12. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
 - a. The address on an application is the same as the address provided on a fraudulent application; or
 - b. The phone number on an application is the same as the number provided on a fraudulent application.
13. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
 - a. The address on an application is fictitious, a mail drop, or a prison; or
 - b. The phone number is invalid, or is associated with a pager or answering service.
14. The SSN provided is the same as that submitted by other persons opening an account or other customers.
15. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
16. The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
17. Personal identifying information provided is not consistent with personal identifying information that is on file with the financial institution or creditor.
18. For financial institutions and creditors that use challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

Unusual Use of, or Suspicious Activity Related to, the Covered Account

19. Shortly following the notice of a change of address for a covered account, the institution or creditor receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.
20. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
 - a. The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (e.g., electronics equipment or jewelry); or
 - b. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
21. A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

COUNTY OF SHASTA		Number
ADMINISTRATIVE MANUAL		8-500
SECTION:	Miscellaneous	Identity Theft “Red Flags” Policy
INITIAL ISSUE DATE:	April 21, 2009	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 10 of 10	

- a. Nonpayment when there is no history of late or missed payments;
 - b. A material increase in the use of available credit;
 - c. A material change in purchasing or spending patterns;
 - d. A material change in electronic fund transfer patterns in connection with a deposit account; or
 - e. A material change in telephone call patterns in connection with a cellular phone account.
22. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
23. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.
24. The financial institution or creditor is notified that the customer is not receiving paper account statements.
25. The financial institution or creditor is notified of unauthorized charges or transactions in connection with a customer's covered account.

Notice From Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection With Covered Accounts Held by the Financial Institution or Creditor

26. The financial institution or creditor is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

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