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## The race against identity thieves

Even as scammers exploit financial crisis, new rules aim to prevent ID theft

By Andrea Coombes, MarketWatch

SAN FRANCISCO (MarketWatch) -- The economic turmoil of late is benefiting at least one group: Identity thieves are tapping into news about bank failures and other mayhem to prey on potential victims. But a new federal regulation that requires a broad array of companies to better protect consumers' data aims to reduce the prevalence of this white-collar crime.

Under the so-called "red flag" rule, the Federal Trade Commission, federal bank regulatory agencies and the National Credit Union Administration require just about any company that extends credit to consumers to have identity theft prevention programs in place.

The new rule requires companies enact measures to "identify, detect, and respond" to activities that signal identity theft, according to the Federal Trade Commission. See FTC announcement.

"It's really raising the bar relative to the prevention, detection and mitigation of risk around identity theft," said Mark Steinhoff a New York-based principal with consulting firm Deloitte.

The rule governs financial-services firms and creditors, including banks, credit-card companies and mortgage originators, plus utility companies and retailers if they grant credit to customers, Steinhoff said. Even doctor's offices and others might find themselves covered by the rule, said Jay Foley, executive director of the Identity Theft Resource Center, a research and advocacy group. "Under the definitions of these rules, there are a lot more entities that are affected than may realize [including] doctor's offices, dental offices, hospitals, county courts," he said, because these agencies and firms often set up deferred-payment plans.

"It's great news for consumers," said Tom Rusin, president and chief executive of Affinion Group North America, a Norwalk, Conn.-based provider of products and services that companies market to consumers, including an ID theft protection product.

The new rules require "institutions to look internally and say, 'Are there things that we're doing that could be improved that will help the theft of consumers' identities and assets?'" Rusin said.

### Scammers see opportunity

While the rule's effect won't be immediate, greater protection doesn't come a moment too soon as scammers ramp up their efforts to separate consumers from their personal data. One popular fraud: A "phishing" email that purports to come from your bank, noting that because of a recent merger, your account information needs updating.

"I'm working with two banks that have both been phished," said Tom Harkins, chief strategy officer of Secure Identity Systems in Nashville, Tenn. These fraud emails send consumers to a Web site in the hopes of collecting their personal data there.

One bank, a small southern bank with which he works, has been the victim of nine phishing attacks in the past three months, Harkins said. The other attack involved the merger of two large banks.

"There was a merger between this bank and another bank and it was occurring on Monday about two weeks ago. That Friday, many of their customers got an email asking for their information, saying 'Due to the merger the bank systems are down and we're trying to update our files, so go to this site and provide the information required.'" The link in the email went to a fraudulent site monitored by identity thieves.

### Companies to mind the red flags

Under the new rule, companies must keep an eye on a number of red flags. One example: A customer calls with a change of address, and then a few weeks later calls to request a new card to replace a lost one.

"The combination of the two events, change of address with recent request for replacement card, is a red flag for identity theft. Thieves obtain a new card that you won't notice because it's sent to a new address," Rusin said.

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The federal government's plan was to start monitoring companies' compliance on Nov. 1, but the FTC postponed enforcement efforts for six months, until May 1, because it found companies often were unaware of the upcoming deadline. Other regulatory agencies may or may not delay enforcement efforts for the companies they monitor.

Many firms told the FTC they didn't realize their activities caused them to be defined as a creditor or financial institution. "Any entity that defers payment for a product or services is a creditor and therefore is covered by ... the red-flag rule," said Betsy Broder, assistant director of the FTC's Division of Privacy and Identity Protection. Plus, some firms said that since they usually aren't regulated by the FTC they "had not followed or even been aware of the rulemaking, and therefore learned of the rule's requirements too late to be able to come into compliance by Nov. 1," the FTC release said. The enforcement delay will give firms more time to come up with appropriate prevention programs, the FTC said. See FTC announcement.

When the FTC does start looking closely at companies' efforts, they won't be heavy-handed, Broder said. The agency will continue to provide guidance, and will not "jump from out behind the bushes" with enforcement actions, she said.

"We're looking for good-faith efforts to come into compliance, reasonable efforts under the circumstances," Broder said. But firms that don't make an attempt to comply will not be ignored. "There may be additional obligations involving audits, reporting, and there may be circumstances where civil penalties can be sought against the companies," she said.

Steinhoff said that regulators have not said much about how the examination procedures will work, though the Office of Thrift Supervision "has indicated they certainly intend to include this as part of their examination procedures."

## **ABOUT SECURE IDENTITY SYSTEMS**

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