

>>>FAIRVIEW FLASH REPORT <<<

SEC Adopts Identity Theft Rule

WHAT HAPPENED?	The SEC and the Commodity Futures Trading Commission (CFTC) have jointly agreed to adopt rules requiring broker-dealers, mutual funds, investment advisers, and other entities regulated by the SEC to adopt programs designed to detect and prevent identity theft.
WHO IS AFFECTED?	The new rules apply to an SEC-registered investment adviser, broker-dealer, or mutual fund that meets the definition of a “financial institution” or a “creditor” under the Fair Credit Reporting Act. The SEC urged private fund advisers registered with the SEC to carefully consider whether they are covered by the new rules. The staff stated that certain investment advisers would meet the definition of a financial institution if they have the authority to pay bills or disburse funds to third parties from an investor’s account.
WHAT DOES THIS MEAN?	<p>The programs should include policies and procedures designed to:</p> <ul style="list-style-type: none">• Identify relevant types of identity theft red flags.• Detect the occurrence of those red flags.• Respond appropriately to the detected red flags.• Periodically update the identity theft program. <p>Rather than requiring specific red flags and policies and procedures, entities will have flexibility in determining which red flags are relevant to their businesses and their covered accounts.</p> <p>The rules mentions (5) categories of red flags that financial institutions and creditors must consider including in their programs, as appropriate:</p> <ul style="list-style-type: none">• Alerts, notifications, or other warnings received from consumer reporting agencies or service providers, such as fraud detection services;• Presentation of suspicious documents, such as documents that appear to have been altered or forged;• Presentation of suspicious personal identifying information, such as a suspicious address change;• Unusual use of, or other suspicious activity related to, a covered account; and• 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. <p>Organizations will be required to provide such things as staff training and effective oversight of service provider arrangements.</p>
NEXT STEPS	<p>The final rules will become effective 30 days after publication in the Federal Register and the compliance date will be six months after the effective date.</p> <ul style="list-style-type: none">• We will keep you posted on the compliance date and will assist you in updating your compliance policies and procedures as needed to integrate this new rule’s requirements.