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Be Aware of the Demands of the Red Flags Rule

The Red Flags Rule is a set of guidelines developed by the Federal Trade Commission (FTC) to help many types of organizations defined as "financial institutions" and "creditors" develop, implement and administer programs designed to combat identity theft and more specifically, the use of fraudulent personal information. At first glance, it may not seem like the rule is applicable to not-for-profit organizations. But while it does apply to traditional providers of credit and financial institutions, there are many organizations, colleges and universities and healthcare organizations that fall under the scope of these regulations that will begin to be enforced soon.

By the rule's definitions of "financial institutions" and "creditors," many organizations are categorized as creditors. With enforcement scheduled for June 1 of this year, it is imperative that organizations that have identified "covered accounts" will need to examine their preventative identity theft and fraud measures and implement a comprehensive written program as soon as possible.

So what is considered a "covered account?" This term encompasses any type of account that is invoiced or requires multiple payments. This is where a large amount of not-for-profit organizations fall under the Red Flags Rule's umbrella. Any organization that participates in billing, or has a continued financial relationship with an individual is subject to scrutiny under the guidelines.

Not-for-profit organizations/Charitable organizations

Organizations that collect dues on a regular basis would be an example of a financial arrangement that would be required to follow the Red Flags Rule guidelines.

Colleges and universities

There are many accounts that would be considered a "covered account" from a higher education perspective. Institutions that take payments for student loans or process loan applications are subject to Red Flags Rule guidelines.

Healthcare organizations

Many hospitals and healthcare organizations will be required to comply with these guidelines because they rarely receive full payment from patients at the time of treatment. They instead send invoices at a later date or bill for payments in installments.

Red Flags Rule Compliance

As the name of the regulations may suggest, the aim of the legislation is to identify key indicators that may potentially be indicative of activity surrounding the attempt to acquire and/or use critical information which could result in identity fraud. The FTC has suggested possible red flags scenarios, but there are no mandatory guidelines to monitor, due to the differences in organizational, structure, size, billing practices and the evolving nature of the crime.

The rule specifies that you should develop a written program to identify reasonable warning signs that would identify the opportunity for fraudulent activity, related to identity theft, to occur and how such activity will be monitored. The rule does leave flexibility for the interpretation of what is a relevant red flag, but common warnings include suspicious application information, account activity or warnings on reports from credit bureaus.

If it is determined that your organization is required to comply with the Red Flags Rule, your program must contain four key elements:

- It must include reasonable policies and procedures to identify the "red flags" of identity theft you may run across in the day-to-day operation of your business
- It must be designed to detect the red flags you've identified
- It must delineate appropriate actions you'll take when you detect red flags
- It must address how you will monitor and re-evaluate your program periodically to reflect new risks from time to time

It is important that you take all forms of covered accounts and all access points to those accounts into consideration when designing and implementing your plan. Be sure to include all types of accounts that you may invoice for and warning signs for how they can be potentially accessed in person, online or by phone.

A successful Red Flags Rule program implementation plan could help your organization guard against any damage to the public perception of your organization. In the event that a criminal does compromise the integrity of your organization with fraud related to identity theft, you want to be sure that your specific red flag program and the process that is taken to identify relative control points and address them is clearly documented. If organization has made a reasonable effort to detect and deal with apparent threats, it is unlikely that your organization will receive any punishment from the FTC.

Enforcement of the rule has been delayed on a four occasions, but the FTC plans on monitoring

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Opportunities for Educational and Not-for-Profit Organizations Under the American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009 (ARRA) was enacted into law by President Obama in February 2009. Through this economic stimulus package, the federal government has earmarked more than $780 billion for economic recovery in the form of federal contracts, grants, loans and job opportunities.

It's not just major corporations that will be benefiting from the ARRA, but also a large number of government and education organizations, as well as not-for-profit organizations, will also find that they too will have access to the billions marked for recovery. This article will tell you specifically how your institution can benefit from ARRA funding and the common types of aid that are now being provided to higher education institutions, both private and public, under the Act.

Financial aid – Pell Grants and Federal Work Study

Many higher education institutions have begun receiving ARRA funding in various forms.

One common source of federal funding for colleges and universities has been through the financial aid program, with the ARRA providing an additional $8.7 billion for Pell Grants, and of that, about $200 million was allocated to the existing Federal Work Study (FWS) program. Colleges and universities that have been awarded $25,000 or more in 2009-2010 FWS funding from the ARRA are required to file reports at www.federalreporting.gov, detailing jobs created or maintained.

The Department of Education (ED) has released guidance on reporting for FWS program under ARRA. The guidance stipulates that the first funds drawn from the institution's 2009-10 FWS funds are assumed to be ARRA funds. Additionally, ARRA expenditures reported are equal to the total actual net drawdowns (not payments made to employed students) of 2009-2010 FWS funds received from ED during the quarter ending Sept. 30, 2009. The number of FWS jobs reported is on a full-time equivalent (FTE) basis, regardless of the number of part-time jobs funded. ED guidance provides a formula for calculating the number of FTE jobs created or maintained. ED's announcement includes a tip sheet that institutions can use when reporting their ARRA FWS funds.

Formula grants

Another opportunity for an educational institution to benefit from the ARRA is to apply for specific types of grants and other funding in line with the academic mission of your institution. For instance, ED is offering several grant programs focused on higher education, such as education research training, international business education, promoting post-baccalaureate programs, etc. More than $67 billion in formula grants were awarded as of Sept. 30, 2009, but thousands of similar grants from federal awarding agencies are currently available and can be applied for at www.grants.gov.

Build America Bonds

Many colleges and local governments have taken advantage of the Build America Bond program under the ARRA. This program was established to provide much-needed funding at lower borrowing costs for state and local governments, enabling them to pursue necessary capital projects that may otherwise have not been an option due to the cost of financing.

Traditionally, tax-exempt bonds provide a critical source of capital for state and local governments, but the recession has sharply reduced their ability to finance new projects. Supplementing this existing market, the Build America Bond program is designed to provide a federal subsidy for a larger portion of the borrowing costs of state and local governments than traditional tax-exempt bonds in order to stimulate the economy and encourage investments in capital projects in 2009 and 2010.

The bonds, which allow a new direct federal payment subsidy, are taxable bonds issued by state and local governments that will give them access to the conventional corporate debt markets. At the election of the state and local governments, the Treasury Department will make a direct payment to the issuer in an amount equal to 35 percent of the interest payment on the Build America Bonds.

As a result of this federal subsidy payment, state and local governments will have lower net borrowing costs and be able to reach more sources of borrowing than with more traditional tax-exempt or tax credit bonds. For example, if a state or local government were to issue Build America Bonds at a 10 percent taxable interest rate, the Treasury would make a payment directly to the government of 3.5 percent of that interest, and the government's net borrowing cost would be only 6.5 percent on a bond that actually pays 10 percent interest.

Since the ARRA was issued, the Government Audit Quality Center (GAQC) has received numerous questions about whether Build America Bonds should be a federal award that would be subject to the single audit. Recently, the GAQC staff was informed by OMB that it has determined, after consideration with the various federal agencies involved, that the Build America Bonds program is excluded from the provisions of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and, therefore, should not be presented by auditees on the Schedule of Expenditures of Federal Awards and should not be included in the scope of the single audit.

For important steps to take if you have determined that you are eligible for funding, read the remainder of this article at www.rsmmcgladrey.com/muse.

For more information, please contact McGladrey & Pullen Director, Higher Education Assurance Services Tara Leja at tara.leja@rsmi.com

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McGladrey & Pullen, LLP Publishes a Guide to Assist in Referencing the FASB Codification

On July 1, 2009, the Financial Accounting Standards Board (FASB) launched the *FASB Accounting Standards Codification* (Codification) as the single source of authoritative, non-governmental accounting principles generally accepted in the United States of America (U.S. GAAP). The codification is effective for all non-government not-for-profit organizations and supersedes all existing accounting standards from the FASB, Emerging Issues Task Force (EITF), American Institute of Certified Public Accountants (AICPA), as well as related standards. The codification is effective for interim and annual periods ending after Sept. 15, 2009.

In response, McGladrey & Pullen, LLP has published and made available a one-page quick reference guide to assist clients and others in navigating the codification by providing a comprehensive listing of codification topics and sections, and cross-referencing some commonly used accounting standards.

Structure of the codification

The codification organizes the thousands of U.S. GAAP pronouncements into a consistent, user-friendly structure designed to facilitate more efficient and accurate research. This structure reorganizes authoritative U.S. GAAP into roughly 90 accounting topics. Topics pertain to specific issues relating to presentation, financial statement accounts, broad transactions, and specific industries. For example, topic No. 958 includes authoritative guidance that is uniquely applicable to not-for-profit entities. Within each topic, the codification content is arranged within subtopics, sections and paragraphs and is classified in the following manner:

XXX-YY-ZZ-PP, where XXX = Topic; YY = Subtopic; ZZ = Section; and PP = Paragraph

The codification does not result in any changes to U.S. GAAP; rather, it introduces a new user friendly structure. The pre-codification accounting literature was organized in a five-tiered hierarchy dispersed throughout pronouncements issued by a variety of standard-setting bodies, including the FASB, the EITF, the Accounting Standards Executive Committee and the Accounting Principles Board. With the implementation of the codification, those pronouncements have been superseded and only two levels of U.S. GAAP exist:

- Authoritative - represented by the codification
- Nonauthoritative - represented by all other literature

Advantages to using the codification

Due to its uniquely organized and consistent structure, the codification is expected to provide several key advantages to users, including:

- A reduction in the amount of time needed to research and solve questions regarding the identification and application of U.S. GAAP.
- A mitigated risk of noncompliance within U.S. GAAP due to the fact that all authoritative standards will be included and non-authoritative or superseded standards will be excluded from the Codification.
- Real-time access to current accounting standards. New standards are added to the codification immediately upon their release and pending content is clearly identified.

To aid in the transition to the codification, *The Codification at a Glance* is available at the McGladrey & Pullen Web site.

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implementation starting June 1, 2010. Some may be anticipating another delay, but there is nothing on the horizon that suggests that this may be the case. With something that has been delayed several times, it is also easy to think that this rule may never go into effect, and it will just be forgotten about. But with an issue as sensitive and as serious as identity theft, it will be implemented and enforced as soon as possible. Non-compliance with the rule once enforcement takes effect could be a very expensive proposition for all organizations that are impacted by the rule.

An incident of identity theft could be damaging to an organization in two significant ways as it could do damage to your reputation and carry significant fines. It would be very detrimental to have fraud attached to your organization in any way, and we often hear about fraud cases involving organizations across a wide array of industries in the media; not-for-profit, government, commercial, and private could all be effected by the rule,

Each violation of the Red Flags Rule could incur a separate fine from the FTC, as well as other sanctions. An easy way to imagine how fast financial penalties could escalate is to think of a mailing list or database, which almost all organizations have, routinely consisting of the contact and other relevant information of hundreds or even thousands of people. The FTC can impose a fine for each individual offense, so if each of the names on a particular list was seen as vulnerable and therefore in violation, a potential fine could be very severe.

For more information, please contact RSM McGladrey Manager Keri Venkatesan at 301.296.3669 or at keri.venkatesan@rsmi.com.

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