

**From:** [Marks Paneth & Shron LLP](#)  
**To:** [MP&S Nonprofit Alert: Mandatory FTC Identity Theft Program](#)  
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## NONPROFIT ALERT

JULY 2010

### NEW FTC AUDIT RISK RULE PUSHES NONPROFITS TO IMPLEMENT IDENTITY THEFT PROGRAM

#### Many Nonprofit Organizations Fall Under New Rule; Have until December 2010 to Comply

In October 2007, the Federal Trade Commission (FTC) issued the Red Flags Rule for financial institutions and creditors to fight identity theft. The rule requires many businesses and organizations to implement a written Identity Theft Prevention Program designed to detect warning signs – or “red flags” – of identity theft in their day-to-day operations, take steps to prevent crime, and mitigate the damage it inflicts.

The Red Flags Rule applies to financial institutions and creditors. The rule requires a periodic risk assessment to determine if the entity has covered accounts. A written program needs to be in place only if the entity has covered accounts.

#### Where Do Nonprofit Organizations Fit?

It is important to look closely at how the rule defines *financial institution* and *creditor* because the terms apply to groups that typically might not use those words to describe themselves. For example, many not-for-profit organizations (“NPO”) and government agencies are creditors under the rule.

The Red Flags Rule does not name specific types of organizations that must comply; however, for NPO organizations, compliance requirements are based on the types of accounts that the institution has with its customers and clients. Examples include (a) payment plans for tuition at a college or university or (b) club dues of an NPO that are allowed to be paid in installments. Because of their creditor status in these situations, the Red Flags Rule applies.

The FTC suspended initial enforcement of the new Red Flags Rule until December 2010. After that date, any instance of identity theft exposes the organization to an FTC investigation.

For further guidance, please visit [www.ftc.gov/redflagsrules](http://www.ftc.gov/redflagsrules). The website also provides a template that enables low risk entities to create an identity theft program with an easy-to-use online form.

### HOW CAN MP&S HELP?

Marks Paneth & Shron (MPS) is a recognized provider of auditing, accounting, advisory and tax services to the public service sector. Having successfully served nonprofit organizations and government entities for more than 50 years, our dedicated professionals understand the unique challenges faced by organizations operating in the public service sector.

[The Nonprofit Group](#) at MP&S can help nonprofit organizations comply with the FTC Red Flags Rule by assisting with the following:

- Participating in internal discussions at your organization to help identify red flags and other areas of concern;
- Evaluate your organization's procedures to detect red flags and appropriate actions to be taken to prevent and mitigate identity theft; and
- Integration of management's periodic re-evaluation of the Identity Theft Prevention Program as part of MP&S's audit planning and internal control review procedures.

### MP&S PUBLICATIONS

As a leading professional services firm, Marks Paneth & Shron offers thought leadership on a wide range of topics. Recent publications can be found in the [Library section](#) of the firm's website.

*\*\* Information in the above Alert has been taken from the [Federal Trade Commission website](#) and from the Audit Risk Alert: Not-for-Profit Entities Industry Developments published by the American Institute of Certified Public Accountants.*

## **FOR FURTHER INFORMATION**

To discuss how Marks Paneth & Shron can help your organization, please contact:

- [Michael L. McNee, CPA](#), Partner-in-Charge, Nonprofit and Government Services and Westchester Office, at 212.503.8954 or at [mmcnee@markspaneth.com](mailto:mmcnee@markspaneth.com)

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