



## Independent Bankers Association of Texas

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February 06, 2019

Document Information:

Comment Letter to the Federal Trade Commission (Office of the Secretary)

**Title: Identity Theft Rules, 16 CFR Part 681, Project No. 188402**

Posting Date: Dec 11, 2018

Comment Due Date: Feb 11, 2019

**Docket ID: FTC-2018-0112**

Federal Register Number: 2018-26609

Via Federal eRulemaking Portal: <http://www.regulations.gov>

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW  
Suite CC-5610 (Annex B)  
Washington, D.C. 20580

Ladies and Gentlemen:

The following comments are submitted on behalf of the Independent Bankers Association of Texas ("IBAT"), a trade association representing more than 350 independent, community banks domiciled in Texas.

The Federal Trade Commission (FTC) is seeking comments on five specific questions. IBAT would like to comment on three of those specific questions.

### **Is there a continuing need for the specific provisions of the Rules?**

*Comment: The Fair and Accurate Credit Transactions Act of 2003 (FACTA or FACT Act) amended the Fair Credit Reporting Act (FCRA) to include seven major titles dedicated to the protection of consumer information and identity-theft prevention. Any change to the identity-theft prevention rules should be accomplished by a necessary change to the underlying statutes.*

### **What significant costs, if any, have the Rules imposed on businesses, including small businesses?**

*Comment: The cost to community banks has been significant in both time and talent. Every community bank's 'Red Flag' program is already required to include four elements that deal with identity theft:*

1. *Identifying relevant red flags for covered accounts and incorporating those red flags into the program;*
2. *Detecting red flags identified by the organization;*
3. *Responding appropriately to any red flags that are detected; and*
4. *Updating the program periodically.*

*Identity theft is woven into every bank's daily operations. It's difficult to see how expanding the burden on community banks will accomplish more than what is already being done.*

**Are there any types of creditors that are not currently covered by the Red Flags Rule but should be, because they offer or maintain accounts that could be at risk of identity theft?**

*Comment: The term 'financial institution' and 'creditor' in the 'Red Flag Rules' has the same meaning as in 15 U.S.C.1681.*

*...snip*

*(e) The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.*

*...snip*

*(t) Financial Institution—*

*The term "financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 461(b) of title 12) belonging to a consumer.*

*The applicability of the rule should be expanded to include providers of services to consumers for personal, family and household purposes not contemplated by the rule makers in 2003 that are not also a 'creditor' or 'financial institution.' This would include the explosive growth in service providers and applications in mobile and internet services.*

IBAT certainly supports efforts to prevent and detect identity theft. Additionally, IBAT supports a modernization of the 'Red Flag Rules' to address the current technologically driven marketplace provided that the burden is not placed upon community banks across the nation.

Sincerely,

—

Christopher L. Williston, VI, CAE  
President and CEO

