

Compliance Definitions, Scope, and Guidance

This document supplements, and is not a substitute for, the University's *Identity Theft Prevention Program*, available at <http://www.finsys.umn.edu/controller/redflags.html>.

The Red Flags Rule consists of three related but distinct sections. Units may be in-scope for one or more sections. Consequently, each section must be considered separately. Colleges and major administrative units that must comply with one or more sections must complete and submit a Certificate of Compliance form annually to the Controller's Office (available [here](#)). Contact the Controller's Office at 612-624-1617 or finsys@umn.edu.

Definitions of Key Terms used in Red Flags Rule Legislation

Account means a continuing relationship established by a person with a creditor to obtain a product or service. Examples include (a) an extension of credit, such as the purchase of property or services involving a deferred payment, and (b) a deposit account.

Covered Account means (a) An account that a creditor offers or maintains, primarily for personal, family, or household purposes that permits multiple payments or transactions such as credit and debit card accounts, checking or savings accounts, and student loans, or (b) Any other account offered or maintained by the creditor (including small business accounts) for which there is a reasonably foreseeable risk to customers or to the University from identity theft.

Credit means the right granted by a creditor to a debtor to defer payment of debt.

Creditor means any person who regularly extends, renews, or continues credit, or arranges for the continuation of credit (e.g., debt collection). You are a creditor if you **regularly** and **in the ordinary course of business** do one or more of the following:

- (a) **obtain** or use consumer reports, directly or indirectly, **in connection with a credit transaction**,
- (b) **furnish** information to consumer reporting agencies **in connection with a credit transaction**, OR
- (c) **advance funds** to or on behalf of a person, **based on an obligation to repay the funds or repayable from specific property pledged by or on behalf of the person**.

Financial institution is defined by *activities* rather than an organization's line of work. University units are in-scope if they act as a bank or credit union, or hold a consumer transaction account from which a consumer can make payments or transfers to third parties.

Address Discrepancy Rule (Red Flags Rule, Section 681.1)

The purpose of the *Address Discrepancy Rule* is to improve and maintain the accuracy of consumer reports and to provide useful “red flags” to detect potential identity theft of covered accounts within a *Red Flags Rule Identity Theft Prevention Program*.

1. **Do you obtain or use *consumer reports* or furnish information to consumer reporting agencies in connection with credit transactions?** [Note: The University has decided to extend compliance requirements to units that obtain background checks as part of hiring or admission decisions.]

If No → Go to *Duties of Card Issuers Flow Chart*

If Yes → **You must comply with the Address Discrepancy Rule**

NOTE: Units that use a University-approved service provider for this service (such as HireRight) do not need to take further action.

Compliance Requirements

- Colleges and major administrative units must **develop and follow reasonable procedures to confirm the consumer report matches with the right person**. Reasonable procedures could include:
 - Verifying the information in the background report directly with the consumer; or
 - Reviewing other records at the University to verify it is the right consumer; or
 - Obtaining information from a third-party source to verify it is the right consumer.
- Colleges or major administrative **units who receive an address discrepancy notice from a consumer reporting agency must** have a process in place to **verify the information and report corrections** back to the consumer reporting agency.
- Colleges or major administrative units who must comply with this Rule must train appropriate staff members as needed.

Red Flags Rule (Red Flags Rule, Section 681.2)

1. Are you (or do you act as) a “creditor” or “financial institution”? (The FTC answers this “yes” for higher education.)

2. Do you have “covered accounts”?

(a) Do you offer or maintain accounts that involve a **continuing relationship with a customer** to **obtain a product or service** that includes an **extension of credit** or is a **deposit account** primarily for personal, family, or household purposes?

AND

(b) Do the accounts allow **multiple payments or transactions**, e.g., credit, debit or declining balance card account, checking/savings account, loans, or certain tuition payment plans that allow payment in arrears of class attendance?

If No → Go to (c).

*If Yes → **You must comply with Section 681.2 of the Red Flags Rule.***

Or

(c) Do you offer or maintain accounts for which there is a **reasonably foreseeable risk** to customers or the University **from identity theft**?

If No → Go to Address Discrepancy Rule Illustration and Duties of Card Issuers Illustration.

*If Yes → **You must comply with the Red Flags Rule (681.2)***

Compliance Requirements

Using the tools on the [Controller’s Office website](#), complete a risk assessment of the methods used to open and access “covered accounts”. Review past experience with identity theft involving these accounts. Develop and implement reasonable policies and procedures to:

- Identify Red Flags to look for patterns, practices or specific activities that indicate the possible existence of identity theft.
- Detect these Red Flags when they occur.
- Respond appropriately to Red Flags that are detected.
- Periodically update your Program to reflect changes in risk.
- Train appropriate staff members as needed.
- Provide oversight of service providers that are not hired through University Purchasing.

Duties of Card Issuers (Red Flags Rule, Section 681.3)

The purpose of the Duties of Card Issuers Rule is to reduce identity theft by verifying cardholder addresses before providing replacement additional or replacement cards.

1. Do you issue credit or debit cards, including declining balance cards?

If No → Done;

If Yes → **You must comply with the Duties of Card Issuers Rule.**

Compliance Requirements

- Colleges and major administrative units that issue credit, debit or declining balance cards must establish and implement reasonable policies and procedures to **verify a cardholder's address** if the card issuer receives a change of address notification **AND** within a short period of time also receives a request for an additional or replacement card for the account. Before fulfilling the request, the **card issuer must first:**
 - Notify the cardholder of the request at the cardholder's former address; or
 - By any other means of communication that the card issuer and the cardholder have previously agreed to use;

AND

 - Provide a reasonable means for the cardholder to promptly report an incorrect address change, OR
 - Assesses the validity of the change of address in accordance with the card issuer's policies and procedures.
- Colleges or major administrative units who must comply with this Rule must train appropriate staff members as needed.