



FACTA FAQ

Q: Does FACTA apply to my business?

A: **Yes.** If you have, maintain, store, or transmit “covered” account or FACTA protected information.

Q: What is a covered account?

A: A covered account has two definitions. The first definition of “covered account” is divided into two parts. The first definition refers to “an account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions.” The definition provides examples to illustrate that these types of consumer accounts include, “a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account.”¹⁴

The second definition refers to “any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.”

...This part of the definition reflects the Agencies’ belief that other types of accounts, such as small business accounts or sole proprietorship accounts, may be vulnerable to identity theft, and, therefore, should be considered for coverage by the Program of a financial institution or creditor.

Q: Why does FACTA apply to my business?

A: The Federal Trade Commission published 16 CFR Part 681 *Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003: Final Rule*, which states: While identity theft primarily has been directed at consumers, the Agencies are aware that small businesses also have been targets of identity theft. Over time, identity theft could expand to affect other types of accounts. Thus, the definition of “account” in §1.90(b)(1) of the final rules continues to cover any relationship to obtain a product or service that an account holder or customer may have with a financial institution or creditor.¹²

.....The Agencies also recognize that a person may establish a relationship with a creditor, such as an automobile dealer or a telecommunications provider, primarily to obtain a product or service that is not financial in nature. To make clear that an “account” includes relationships with creditors that are not financial institutions, the definition is no longer tied to the provision of “financial” products and services. Accordingly, the Agencies have deleted the reference to the Bank Holding Company Act.

Q: What should I be doing to comply with FACTA?

A: Through FACTA, the FTC intends to reasonably protect, mitigate, and detect identity theft against covered accounts or other information at-risk of identity theft.

Reference:

Federal Trade Commission, 16 CFR Part 681, Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003; Final Rule

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