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## Red Flag Enforcement Delay Expired January 1, 2011; No Clarification Yet From FTC

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The last [FTC action](#) with regard to the Red Flag Rule delayed enforcement through December 31, 2010 to allow Congress time to clarify the scope of the rule. On November 30, 2010, Congress passed the "[Red Flag Program Clarification Act of 2010](#)"; (Clarification Act). That bill was signed into law on December 18, 2010. As we described [here](#), the Clarification Act leaves some questions unanswered. In the interim, the FTC's enforcement delay has expired, but the FTC has not yet explained its interpretation of the Clarification Act. As of the writing of this note, visitors to the [FTC Red Flag website](#) are instead greeted with a text box noting the passage of the Clarification Act, and an explanation that "The FTC is revising the materials on this site to reflect the change in the law."

### Ober|Kaler's Comments

The Clarification Act appears to have exempted many providers from the ambit of the rule, but it is not certain that all providers are exempt. Until the FTC issues revised guidance explaining its interpretation of the Act, providers who have Red Flag plans in place would be wise to maintain them.

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