What is the Fair and Accurate Credit Transactions Act?

The Fair and Accurate Credit Transactions Act, 2003 (FACTA) was enacted in December 2003 with more specific document destruction rules coming into effect on June 1, 2005. FACTA amended the existing Fair Credit Reporting Act providing consumers, companies, consumer reporting agencies and regulators with new tools to expand consumer access to credit, enhance the accuracy of consumer financial information, and help fight identity theft. FACTA is administered by the Federal Trade Commission (FTC).

Who is affected?

FACTA applies to any person or company that "maintains or otherwise possesses consumer information or any compilation of consumer information, derived from consumer reports for a business purpose". For example:

- *consumer reporting agencies*
- *resellers of consumer reports*
- *lenders*
- *insurers*
- *employers*
- *landlords*
- *government agencies*
- *mortgage brokers*
- *automobile dealers*
- *waste disposal companies*

What does FACTA have to do with information management?

FACTA includes a specific rule regarding the proper disposal of consumer report information and records. The purpose of the rule is to reduce the risk of identity theft and other consumer harm from improper disposal of a consumer report or any record derived from one. The following rule comes into effect on June 1, 2005:

> *Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.*

What do companies have to do to comply with the document destruction provision of FACTA?

The destruction rule covers records about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report.

Several examples of how to comply with the requirements are included in the rule. For example, implementing and monitoring compliance with policies and procedures that require shredding or other forms of destruction and contracting with a third party to properly dispose of consumer information. Companies are responsible for monitoring the performance of third parties.

The Fair Credit Reporting Act (revised by FACTA) outlines various penalties including civil liability for willful noncompliance:

> *616. Civil liability for willful noncompliance – (a)* In general. *Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of (1) (A) any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000; or (B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater; (2) such amount of punitive damages as the court may allow; and (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.*

What can Shred-it do to assist customers?

As you review your document destruction policies in connection with the FACTA rule, consider contracting Securit to handle your document destruction needs.

Securit ensures that materials are destroyed completely, onsite, by our Customer Service Representatives on our mobile shredding truck. Upon completion, Securit provides a Certificate of Destruction to prove that the documents were destroyed. For peace of mind, contact Securit today at 1 800 697-4733.

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For more information:

Federal Trade Commission – http://www.ftc.gov

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(04/06)