

## CLIENT ALERT

### Alert for Clients Engaged In Retail or E-Commerce Credit/Debit Card Transactions

Jan.16.2007

We are writing to alert you to a new wave of class action cases that several plaintiffs' law firms have initiated against numerous companies. The class actions allege violations of the Fair and Accurate Credit Transaction Act ("FACTA"), a statute which amended the Fair Credit Reporting Act ("FCRA"). Most of the new class actions have been filed in the U.S. District Court for the Central District of California but several cases have been filed in other jurisdictions.

For companies involved in credit or debit card transactions, FACTA provides that it is a violation to print more than the last 5 digits of a customer's credit or debit card on credit/debit card receipts or to print the expiration date of credit/debit cards on the receipts. The requirement does not apply to receipts that are only imprinted or hand-written. The law became effective January 1, 2005, for electronic cash registers installed on or after that date, but it only became effective in early December 2006 for older machines. Since the December date, dozens of complaints have been filed alleging that various companies "willfully" violated the statute. More actions continue to be filed every day.

For a "willful" <sup>1</sup>violation of FCRA, plaintiffs can recover statutory damages sustained by the consumer of \$100 to \$1,000 for each violation (i.e., each credit or debit transaction since the effective date of the statute) or they can recover their actual damages. Plaintiffs alleging willful violations can also recover punitive damages, attorney's fees, and costs. Negligent noncompliance can result in actual damages, costs, and attorneys fees.

Because of our class action and credit litigation expertise, Crowell & Moring is already actively defending these new claims. If you have any questions about the statute, or have already been sued, please feel free to contact any member of our FACTA/FCRA team.

<sup>1</sup>On January 16, 2007, the Supreme Court heard oral arguments in a case that is expected to resolve a conflict among the Circuits regarding the *mens rea* required for a "willful" violation of FCRA.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**Daniel A. Sasse**

Partner – Orange County  
Phone: +1 949.798.1347  
Email: [dsasse@crowell.com](mailto:dsasse@crowell.com)

**Kris D. Meade**

Partner – Washington, D.C.  
Phone: +1 202.624.2854  
Email: [kmeade@crowell.com](mailto:kmeade@crowell.com)