



Texas Guaranteed Student Loan Corporation

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October 23, 2000

sent via email: GLB501Rule@ftc.gov

Donald S. Clark, Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Gramm-Leach-Bliley Act Privacy Safeguards Rule,
16 CFR Part 313—Comment

Dear Mr. Clark:

On behalf of the Texas Guaranteed Student Loan Corporation (“TG”) I am pleased to provide comments regarding the Federal Trade Commission’s (the “Commission”) Advance Notice of Proposed Rulemaking and Request for Comment, published on September 7, 2000, at 65 Fed. Reg. 54186 (2000), pursuant to Title V of the Gramm-Leach-Bliley Act (the “GLB Act” or “Act”).

TG supports the Commission’s endeavor to establish rules that seek to protect the privacy of, among others, those students receiving financial aid assistance and commends the Commission for requesting comments prior to drafting the Safeguards Rule. In response to the Commission’s requests for comments, TG offers the following:

General Comments:

TG supports the establishment of safeguards designed to ensure the security and confidentiality of customer records and information. TG feels that this purpose is best served by the Commission’s drafting of a Safeguards Rule that contains as much flexibility as possible, in order to accommodate the vast array of financial institutions subject to the Commission’s jurisdiction. Implementing a Safeguards Rule that allows each financial institution to utilize pre-existing safeguarding processes and procedures and compliance measurement tools that meet current regulatory and statutory requirements unique to it and its business partners in the

industry will help to lessen the compliance burdens, both financial and administrative, that could otherwise result from a Safeguards Rule that mandates detailed minimum processes and sets forth comprehensive definitions and procedures.

Specific Comments:

1. *Range of Information Subject to the Safeguards Rule*

Question: Should the Safeguards Rule ever apply to consumer information maintained by a financial institution? Where, for example, a financial institution cannot accurately separate its consumer records, should the Safeguards Rule require the financial institution to safeguard both types of records?

Response: While each financial institution should be free to safeguard “consumer”, as well as “customer”, records and information, the Safeguards Rule should apply only to “customer” records and information as mandated by Section 501(b) of the GLB Act. To require more would have the effect of expanding the statutory mandate of the Act.

2. *Range of Financial Institutions Subject to the Safeguards Rule*

Question: Should the Safeguards Rule require the originating financial institution to disclose its customer records and information subject to the agreement of the party receiving the information to comply with the Safeguards Rule in its handling of the information?

Response: The Privacy Rule addresses when financial institutions must enter into (and conversely, when financial institutions are excepted from entering into) contractual arrangements with regard to disclosed information. Further, the Privacy Rule’s limitations on the reuse and re-disclosure of nonpublic information will apply to financial institutions with no customer or consumers. Therefore, TG feels the Safeguard Rule need not address this matter; however, if the Commission does include such language in the final Safeguard Rule, TG asks that the Safeguards Rule not require a disclosing financial institution to enter into contractual arrangements that are not mandated by the Privacy Rule.

3. *Other Aspects of the Commission’s Safeguards Rule*

Specificity of the Safeguards Rule

Question: In what ways, if any, should the Safeguards Rule take into account the need for financial institutions to keep pace with changing technology and other changes to their operational environment?

Response: The Commission can take into account the need for financial institutions to keep pace with changing technology and other changes to the operational environment by drafting a Safeguard Rule that gives financial institutions the flexibility to make necessary changes quickly in order to protect against anticipated threats or hazards to the security or integrity of,

or the unauthorized access to or use of, the financial institution's customers' records. Rigidly constructed technical requirements could prove difficult to administer given the diverse entities subject to the Safeguards Rule and could soon be outdated in such a rapidly changing environment.

Anticipation of Threats or Hazards to Security or Integrity

Question: Should "anticipated threats and hazards" be defined? Should the Safeguards Rule require financial institutions to anticipate threats and hazards according to particular procedures? Should the Safeguards Rule require financial institutions to assess threats and hazards according to particular categories?

Response: TG believes that it would be virtually impossible to draft an all-encompassing definition for such constantly evolving subjects as anticipated threats and hazards. The Safeguards Rule should not require financial institutions to assess anticipated threats and hazards according to particular procedures and categories, but should allow the financial institutions to identify, assess, categorize and protect against threats and hazards in the most efficient and cost-effective manner available to them at the time. Again, flexibility is the key for financial institutions to be able to adequately and timely safeguard their customers' records and information from threats and hazards.

Question: Does insuring integrity of customer records and information require that customers be granted periodic access to their records, in order to monitor the accuracy of this information?

Response: Insuring the integrity, as in accuracy, of the records can and is accomplished by much less intrusive means than requiring financial institutions to provide Customers with direct access to the records; for example, cross-referencing and updating of information received from business partners or forwarding copies of the information to the Customer who can request changes be made. Allowing customers direct access to the information could adversely affect the integrity, as in reliability, of the records and as such, could become a threat or hazard itself to the security and integrity of the records. Further, requiring financial institutions to allow such periodic access would result in an expansion of the scope of the mandates contained in the GLB Act and Privacy Rule.

Thank you for the opportunity to comment on the formulation of the proposed privacy Safeguards Rule.

Sincerely,

Karen A. Hendershot
Deputy Counsel