

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
750 FIRST STREET NE SUITE 1100
WASHINGTON, DC 20002
(202) 326-6016
(202) 408-6998
<http://www.naag.org>

LYNNE M. ROSS
Executive Director

October 24, 2000

PRESIDENT
ANDREW KETTERER
Attorney General of Maine

PRESIDENT-ELECT
CARLA J. STOVALL
Attorney General of Kansas

VICE PRESIDENT
W.A. DREW EDMONDSON
Attorney General of Oklahoma

IMMEDIATE PAST PRESIDENT
CHRISTINE O. GREGOIRE
Attorney General of Washington



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

Re: Gramm-Leach-Bliley Act Privacy Safeguards Rule, 16 CFR Part 313-Comment.

Dear Mr. Clark:

This letter contains comments of the undersigned Attorneys General¹ with respect to the advance notice of proposed rulemaking and request for comment published in 16 C.F.R. Part 313 (2000). In light of the early stage of the rulemaking process, our comments are necessarily general and serve more to highlight areas of concern rather than to make definitive recommendations.

The Attorneys General believe that the privacy protections contained in the Gramm-Leach-Bliley Act ("the GLB Act") should be construed as broadly as possible consistent with the Act's requirement that each financial institution respect the privacy of "customers" and protect the security and confidentiality of "nonpublic personal information." Many of the businesses that will be regulated by the Commission's final rule may not yet realize that they are "financial institutions" within the meaning of the GLB Act and are subject to its privacy provisions. Because these businesses engage in a wide variety of activities, any rules adopted by the Commission should include expansive definitions and interpretation and provide additional guidance that will be needed by these financial institutions to comply with the privacy safeguards contained in the GLB Act.

¹ Of the states listed, Hawaii is not represented by its Attorney General. Hawaii is represented by its Office of Consumer Protection, an agency which is not part of the state Attorney General's office, but which is statutorily authorized to represent the State of Hawaii in consumer protection actions. For the sake of simplicity, the entire group will be referred to as "Attorneys General" and such designation as it pertains to Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.

Section 501(a) of the GLB Act states that privacy safeguards apply to privacy concerns of a financial institution's "customers." What constitutes "customer records" and "nonpublic personal information" should be broadly applied, particularly when a financial institution is unable to accurately separate its customer records from its consumer records. For example, a mortgage broker may obtain nonpublic personal financial information, such as credit information and social security number, during an initial telephone interview with an applicant. Based on the results of the application process, the consumer may or may not become a customer. If the mortgage broker maintains records of all inquiries and customer records by name in a single database, it may well be impossible to accurately separate consumer records from customer records. If a financial institution cannot accurately separate consumer records from customer records, the institution should be required to safeguard the records and personal financial information of all consumers and customers alike.

The Attorneys General believe that the privacy safeguards are affixed to nonpublic personal information and, as such, the privacy safeguards travel with the information. The over-arching principle that applies under the GLB Act and section 501 is that confidentiality and privacy attach to the information at its originating source and are not lost merely because the information is transferred to another party. Accordingly, the safeguards remain applicable to financial institutions that receive another financial institution's customer records even if the receiving financial institution has no customer relationship with the consumer. The Safeguards Rule should recognize that there are a variety of relationships among financial institutions that will be affected. For example, a mortgage broker may provide information to an appraiser or realtor. In many instances, financial institutions may furnish information to debt collectors. Nonpublic personal information may be furnished to check-approval or bad-check reporting services. The receiving entity in each of these examples should be required to safeguard customer information consistent with the requirements of the sending financial institution. Financial institutions that share nonpublic personal information with other financial institutions must take appropriate steps to ensure that there are limits on the reuse or redisclosure of the information. The final rule should emphasize its intent to cover the full range of financial institution communication of nonpublic personal information.

The procedures used to safeguard nonpublic personal information should not be dependent upon the size of the financial institution. Information should be safeguarded regardless of the size. The specific steps required to safeguard information may depend on a variety of factors, including the nature of the information, and the amount of information being received.

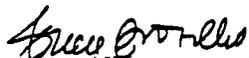
The Attorneys General support the suggestion that the final rules should require financial institutions to designate an individual to be responsible for safeguarding practices and procedures. In the event that a financial institution concludes that customer information is subject to loss, damage, or unauthorized access, the final rules should require the financial institution to notify the customer. The rules should also permit customers to periodically examine their own records maintained by financial institutions in order to ensure the accuracy of the records.

The FTC's proposal to issue rules recognizes that, unlike other entities that will be monitoring the activities of financial institutions, the FTC does not audit the financial institutions under its regulatory control. While the standards of conduct regarding the privacy of financial information should remain identical among various regulated industries, the FTC should provide detailed descriptions in its rules on how to achieve that standard. That detail

should be sufficiently clear to provide specific guidance to the financial institutions that are subject to the FTC's safeguards rule.

Thank you for the opportunity to comment on the advance notice of rulemaking.

Very truly yours,



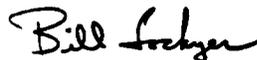
Bruce M. Botelho
Attorney General of Alaska



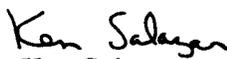
Janet Napolitano
Attorney General of Arizona



Mark Pryor
Attorney General of Arkansas



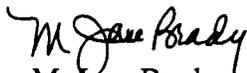
Bill Lockyer
Attorney General of California



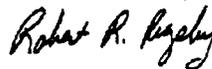
Ken Salazar
Attorney General of Colorado



Richard Blumenthal
Attorney General of Connecticut



M. Jane Brady
Attorney General of Delaware



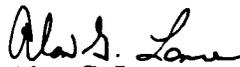
Robert R. Rigsby
D.C. Corporation Counsel



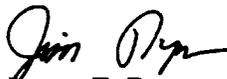
Robert A. Butterworth
Attorney General of Florida



Stephen H. Levins
Acting Executive Director, Office of Consumer
Protection



Alan G. Lance
Attorney General of Idaho



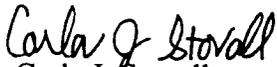
James E. Ryan
Attorney General of Illinois



Karen Freeman-Wilson
Attorney General of Indiana

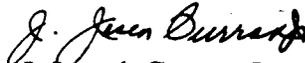


Tom Miller
Attorney General of Iowa



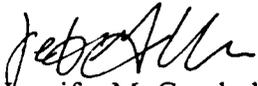
Carla J. Stovall

Attorney General of Kansas



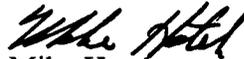
J. Joseph Curran, Jr.

Attorney General of Maryland



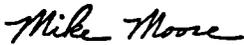
Jennifer M. Granholm

Attorney General of Michigan



Mike Hatch

Attorney General of Minnesota



Mike Moore

Attorney General of Mississippi



Jeremiah W. Nixon

Attorney General of Missouri



Joseph P. Madurek

Attorney General of Montana



Frankie Sue Del Papa

Attorney General of Nevada



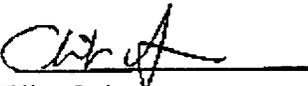
John J. Farmer, Jr.

Attorney General of New Jersey



Patricia Madrid

Attorney General of New Mexico



Eliot Spitzer

Attorney General of New York



Michael F. Easley

Attorney General of North Carolina



Heidi Heitkamp

Attorney General of North Dakota



Betty D. Montgomery

Attorney General of Ohio



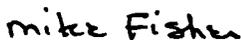
W.A. Drew Edmondson

Attorney General of Oklahoma



Hardy Myers

Attorney General of Oregon



Mike Fisher

Attorney General of Pennsylvania



Charlie Condon

Attorney General of South Carolina



Paul G. Summers
Attorney General of Tennessee



Jan Graham
Attorney General of Utah



William H. Sorrell
Attorney General of Vermont



Iver A. Stodiron
Attorney General of Virgin Islands



Christine O. Gregoire
Attorney General of Washington



Darrell V. McGraw, Jr.
Attorney General of West Virginia



Gay Woodhouse
Attorney General of Wyoming