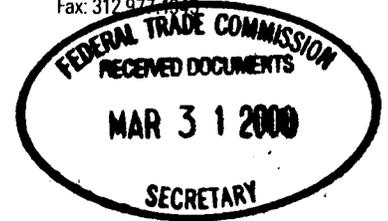


# CASH STATION®

Cash Station, Inc.  
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James H. Hayes  
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March 30, 2000

Jennifer J. Johnson  
Secretary  
Board of Governors of the  
Federal Reserve System  
20th Street and Constitution Avenue, N.W.  
Washington, D.C. 20551  
Attn: Docket No. R-1058

Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
Re: Gramm-Leach-Bliley Act Privacy  
Rule, 16 CFR Part 313 – Comment

Jonathan G. Katz, Secretary  
Securities and Exchange Commission  
450 5<sup>th</sup> Street, N.W.  
Washington, D.C. 20549-0609  
Re: File No. S7-6-00

Communications Division  
Office of the Comptroller of the Currency  
250 E Street, S.W.  
Washington, D.C. 20219  
Attn: Docket No. 00-05

Robert E. Feldman  
Executive Secretary  
Attn: Comments/OES  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429

Manager  
Dissemination Branch  
Information Management & Services  
Division  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, D.C. 20552  
Attn: Docket No. 2000-13

Becky Baker  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428

Re: Gramm-Leach-Bliley Act – Title V  
Comments on Proposed Privacy Regulations

Ladies and Gentlemen:

This comment letter is submitted on behalf of Cash Station, Inc. ("Cash Station") in response to the proposed rules to implement Title V ("Title V") of the Gramm-Leach-Bliley Act (the "Act"), published for comment on various dates in the Federal Register by the Board of Governors of the Federal Reserve System ("FRB"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of Thrift Supervision ("OTS"), the Securities and Exchange Commission ("SEC"), the Federal Trade Commission ("FTC") and the National Credit Union Administration ("NCUA") (the FRB, OCC, FDIC and OTS are collectively referred to as the "Banking Agencies;" the SEC, FTC and NCUA, combined with the Banking Agencies, are collectively referred to as the "Agencies").

Cash Station, a member-owned ATM/POS network, also provides processing services to over 200 financial institutions. These services include ATM terminal driving, cardholder authorization, gateway access, Internet banking and off-line debit card processing. The Cash Station® network has over 600 member financial institutions in Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, and Wisconsin. These institutions issue 6 million ATM cards to consumers and deploy over 6,500 ATMs.

The proposals provide that certain transactions by themselves will not establish a "customer" relationship because there is not "continuing relationship." The proposals specifically provide that a consumer does not have a continuing relationship with a bank if the consumer "only obtains a financial product or service in an isolated transaction, such as withdrawing cash from the bank's automated teller machine . . . ." OCC Proposed Rule 40.3(i)(2)(ii)(A), equivalent to FRB Proposed Rule 216.3(i)(2)(ii)(A); OTS Proposed Rule 573.3(i)(2)(ii)(A); FDIC Proposed Rule 332.3(i)(2)(ii)(A); and NCUA Proposed Rule 716.3(j)(2)(ii)(A). See also SEC Proposed Rule 248.3(k)(2)(v) and FTC Proposed Rule 313.3(i)(2)(ii)(A). The Background section of the Banking Agencies' joint proposal expands on this proposed rule: "A consumer would not *necessarily* become a customer simply by repeatedly engaging in isolated transactions, such as withdrawing funds at regular intervals at an ATM owned by an institution with whom the consumer has no account." (emphasis supplied) 65 F.R. at 8772 (Feb. 22, 2000).

We write to recommend that the final rules adopted by the Agencies make this exception more clear in the following respects:

1. Repeated Use of ATMs by Consumers. We are puzzled by the word "necessarily" in the sentence just quoted, and suggest that it is unnecessary. It is common for a consumer having an account with one financial institution to use an ATM of another institution (typically located close to the consumer's work or home) on a regular basis over a period of years. We see no set of circumstances under which such ATM usage would give rise to a "customer" relationship. We recommend that the language of the final rules be similarly clarified to the effect that a consumer's *repeated* use of another institution's ATM does not result in loss of the "isolated transaction" exception and trigger the notice requirements applicable to "customers."

2. Interchange Deposits. The Cash Station® network permits a consumer having an account at one network member institution to make deposits at ATMs owned by other network financial institutions. The operating rules of the Cash Station® network protect the account relationship with the cardholder in two ways:
  - A. Our rules prohibit the owner of an ATM that accepts a deposit from the cardholder of another institution from using any information from such deposit “for any purpose other than the completion of the [deposit] and compliance with these Rules.”
  - B. Our rules specifically prohibit an ATM owner that accepts an interchange deposit from using “information regarding a Cardholder obtained from its deposit processing activities . . . to identify or solicit such Cardholder.”

We ask that the final rules clarify that all ATM transactions (including deposits) fall within the “isolated transaction” exception.

3. Other Relationships. In the case of a “foreign” ATM transaction, it is not necessarily the case that the consumer using another institution’s ATM has no other relationship with the owner of the ATM. The consumer, for example, could have a mortgage loan with the owner of the ATM, could have a credit card issued by the owner of the ATM or may even have a checking account with and an ATM card from the owner of the ATM. None of these relationships should change the fact that the consumer, in his or her capacity as user of the ATM to access an account at another financial institution, does not have a “customer” relationship with the ATM owner. Any rule to the contrary would require card-issuing institutions to provide sensitive cardholder information to the ATM owner to allow the ATM owner to contact customers directly in order to make the disclosures required to be made to “customers.” Such a result would run directly counter to the privacy protections intended by Title V.

We appreciate the opportunity to comment on these proposals.

Very truly yours,

*James A. Hayes/AMK*