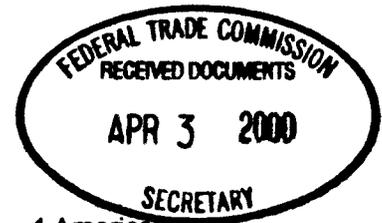




Ford Motor Credit Company
David L. Korman
Vice President – General Counsel



1 American Road
P. O. Box 6044
Dearborn, Michigan 48121

March 31, 2000

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 313 - Comment

Dear Sirs and Madams:

This letter is submitted in response to the request for comments on the proposed privacy regulation ("Proposed Rule") authorized and required under Title V of the Gramm-Leach Bliley Act (the "GLB Act"). Ford Motor Credit Company ("Ford Credit") appreciates the opportunity to comment on this very important and timely Proposed Rule.

Ford Credit, a subsidiary of Ford Motor Company, engages in wholesale and retail motor vehicle financing. Ford Credit is the largest automotive finance company with more than \$160 billion in assets. Ford Credit, with its affiliates and subsidiaries, provides a full spectrum of indirect motor vehicle financing to retail customers through dealer arrangements. In this role, Ford Credit plays an integral role in helping meet the transportation needs of consumers.

The following comments address specific items of the Proposed Rule and respond selectively to the Commission's questions set forth in the notice of proposed rule making. Before proceeding with specific comments we encourage the Commission in its review of the comments to the Proposed Rule to be mindful of the specific language of the GLB Act and reflect on the need for the implementing regulations to be faithful to the actual text of the GLB Act as enacted.

COMMENTS

Section 313.2 Rule of Construction

The use of examples in the Proposed Rule to provide guidance is helpful and should be retained in the final rule. It is also important to retain the concept that the examples are neither exclusive nor exhaustive. With the variety of entities and lines of business potentially subject to FTC oversight pursuant to the Proposed Rule, there is a need for further industry specific guidance as well as

examples of widely encountered situations that tend to cross industry-specific lines. Examples of this type would provide further useful compliance guidance.

Section 313.3 Definitions

Clear and Conspicuous. The Proposed Rule defines "clear and conspicuous" in the context of a notice that is "reasonably understandable" and "designed to call attention to the nature and significance of the information contained in" the notice. The Proposed Rule also includes several examples to illustrate the point. Adopting in the Proposed Rule a "clear and conspicuous" standard and examples that differ from a comparable clear and conspicuous standard already in use in the financial services industry, may have the unintended consequence of confusing, rather than clarifying, the legal requirements governing this phrase. Ford Credit suggests that the Commission adopt the clear and conspicuous standard used in Regulation Z. The clear and conspicuous standard in Regulation Z has ensured that consumers receive disclosures in an appropriate manner and, as an existing defined use, legal authorities have provided additional clarity regarding the Regulation Z definition.

Consumer. GLB Act Section 509(9) defines "consumer" "as an individual who *obtains*, from a financial institution, financial products ... used primarily for personal, family, or household purposes..."(emphasis added). The Proposed Rule restates this definition. However, the examples provided do not require actual receipt of a financial service or product. The final rule should reflect the fact that the GLB Act applies only to consumers who actually *obtain* a financial product or service and not individuals who apply but do not actually obtain a financial product or service. Congress clearly intended that the Act's privacy protections should apply only to individuals with whom financial institutions have developed a "customer relationship". The Proposed Rule, by creating a difference between "consumers" and "customers" and by providing different levels of protection with respect to each category, is contrary to the Act. The final rule should eliminate this distinction in favor of a clear rule applying only to the disclosure of nonpublic personal financial information that a financial institution obtains in the course of a customer relationship.

Customer Relationship. A "customer" is defined as a "consumer" who has a "continuing relationship" with a financial institution under which there is provided "one or more financial products or services" to be used for personal, family or household purposes. Example 2(i)(D) provides there is a continuing relationship when there is an "agreement or understanding" with a financial institution whereby the financial institution undertakes to "arrange credit to purchase a vehicle for the consumer." In contrast, example (ii)(B) states there is *not* a continuing relationship when the "consumer's loan" is sold and servicing rights are not retained in the sale. Ford Credit believes these examples do not provide adequate guidance in the context of a three party (indirect lending) financing arrangement as discussed below.

Ford Credit acquires retail installment contracts from motor vehicle dealers with whom Ford Credit has established a contractual relationship ("Dealers"). Dealers are primarily engaged in the business of selling motor vehicles. Dealers sell vehicles for cash, through customer-arranged

financing and through dealer-arranged financing. With dealer arranged financing, a consumer submits an application for financing which the dealer provides to one or more potential finance sources for a determination of whether or not the financing source will purchase the contract and the terms of such purchase. A dealer may help facilitate financing, but does not retain the installment contract once the contract is entered. After the dealer finds a finance source that will purchase the contract, the dealer and the consumer enter into an installment contract for the sale of the vehicle. The dealer then sells the contract to its selected financing source. In this context it is not clear whether the consumer is a "customer", to whom to consumer will be a customer, and what the relationship is among the motor vehicle purchaser, the Dealer and the assignee (purchaser) of the finance contract. Additional clarification is necessary for proper compliance guidance for parties involved in three party arrangements.

Financial Institution. Bank Holding Company Act Section 4(k) has been used to expand the business activities in which a regulated financial institution may properly engage. This method was used to balance the expansion of traditional banking powers with a changing marketplace with the need for the safety and soundness of the banking system. Using this expanded litany of bank-related activities to now define the products and services that are "financial" results in an expansive coverage of activities that are only tangentially "financial". The ability of a bank to engage in a specified permissible activity through its expanded powers does not mean those new activities are truly financial when a non-bank entity engages in the same activity nor in the common everyday understanding of what is or what should be considered a financial institution. Application of this definitional framework to capture entities that may incidentally engage in activities similar to those listed is over broad. This expansive coverage will result in unintended consequences to businesses that aren't providing financial products and services in the common sense meaning of the term.

Financial Service. The definition includes the "evaluation, brokerage or distribution of information" collected in connection with a "request or application" from a consumer for a financial product or service. This definition when combined with the broad definition of a financial institution further expands an already expansive scope of coverage. The mere transmittal of information is considered a financial service. Does this mean a retailer who transmits a credit application to a credit provider is providing a financial service? The definition should be revised to incorporate those actions that are truly services of a financial nature, and not merely the act of passing through or passing-on information. The provider in this latter instance is not providing a financial service. The Proposed Rule should be modified to properly exclude these and similar activities from the definition of financial service.

Nonpublic Personal Information. The Commission has proposed two possible alternative definitions of "nonpublic personal information". Alternative A suggests information is publicly available only if it is actually obtained from a public source. In essence, a financial would be required to actually obtain the information directly from such a public source and substantiate the sources for all information in order for any information to be public. Proposed Alternative A is overly restrictive and would impose unnecessary costs and burdens without benefit.

Alternative B recognizes that certain information is already in the public domain, regardless of the actions of a financial institution and more accurately defines nonpublic personal information by reasonably and specifically exempting most "publicly available information" from the definition. Information of a type in the public domain remains public and is not converted to nonpublic information by including it with other, truly nonpublic, information. Requiring additional effort and expense to determine that public information is actually available for each individual will result in added costs and will be a burden to lenders who will need to use the data and to governmental agencies that maintain data bases with whom financial institutions will need to verify public information without any resulting benefit to consumers.

Both alternatives fail to comport with the GLB Act. The GLB Act is clear - nonpublic personal information includes only "financial" information. The GLB Act Section 509 (4) (A) provides "[t]he term nonpublic personal information means personally identifiable financial information (i) provided by a consumer to a financial institution; (ii) resulting from any transaction ... or (iii) otherwise obtained by the financial institution." The Proposed Rule effectively eliminates "financial" from the definition and greatly expands the concept of nonpublic personal information beyond the explicit terms of the GLB Act.

As defined in the Proposed Rule nonpublic personal information includes *every* piece of information, not just information that is financial in nature, that a financial institution obtains about a customer, unless it is publicly available information. It is imperative that the final rule covers only *financial* information - as required by the explicit language of the GLB Act and as clearly intended by Congress. Further, as stated above, the final rule definition for "publicly available information" excluded from the definition of nonpublic personal information should apply to *types* of information publicly available whether or not a specific item of information is actually available. A financial institution should not be required to conduct an actual search of public records to confirm the status of each piece of information it receives when the type of information is generally available.

Internet Information. The Commission also invites comment on what information is publicly available, particularly information available over the Internet. The Proposed Rule defines the term "publicly available information" to include information from an Internet site available to the "public without requiring password or similar restriction". Ford Credit believes the Internet is a prime example of a widely distributed medium and the example should be retained in the final rule. It is necessary to clarify that a password (or similar access restriction medium) an individual must enter to gain access to an Internet service provider's site is insufficient to preclude the site from being a public source. Passwords and other access restrictions that deny access to everyone except the password owner, such as a password for a specific transaction account accessible only to the owner and holder of the password, should not be considered public. Only these access-protected items should be excluded as nonpublic information sites subject to other appropriate exceptions as provided in the Proposed Rule. The final rule should ensure proper treatment based on the nature of the site and purpose for the password not merely on the need for a password or other similar device.

Section 313.4 Initial Notice to Consumers of Privacy Policies and Practices Required.

When Initial Notice is Required. The GLB Act Section 503 requires the initial privacy notice to be provided "at the time of establishing a customer relationship" rather than "prior to," as provided in the Proposed Rule. The final rule should provide for the notice "not later than" at the time of establishing the customer relationship. Financial institutions would then have the flexibility to provide initial notices at an earlier time, if practical, and still be required to ensure the notice is provided at the time the relationship is established.

Clarification is requested specifically to address the timing of the notice requirements with respect to indirect lenders, such as Ford Credit, whose customer relationships are established by taking an assignment of a retail installment contract from the product-selling Dealer. Additionally, the rule should permit the notice to be provided by assignees of contracts within a reasonable time after the underlying assignment is completed since the customer's nonpublic personal information cannot be disclosed until the notice and opt-out procedures have been completed. The rule should also provide adequate flexibility to address situations where it may be feasible for a combined joint notice by the initial product seller and the indirect creditor in connection with the underlying transaction prior to assignment, so that the assignee would not be required to reissue the same notice.

In the context of establishing a customer relationship orally, the requirement for customer agreement to receive the privacy notice within a reasonable time after entering into an oral relationship should be deleted. Instead, the financial institution must simply provide the customer with the notice within a reasonable time. The Proposed Rule does not provide for oral disclosure. The delivery of written disclosure is the only method available to fulfill the disclosure requirements. Since the customer's nonpublic personal information cannot be disclosed until the notice and opt-out procedures have been completed the customer would not be adversely impacted.

More Than One Party to an Account. The Commission requests comment on notices to joint account holders. Where there is more than one party to an account, the rule should make clear the financial institution is required to provide only one copy of the initial notice to the parties at the address specified by the parties for the account, or to the individual who initiates the relationship on behalf of the joint account customers. This standard is consistent with Regulation Z which generally requires only one set of disclosures be sent to the parties to the account.

Retention and Accessibility of Initial Notice for Customers. The Proposed Rule specifies that customers must be provided with an initial notice that can be retained or obtained at a later time by the customer. The comments suggest that the Proposed Rule is intended only to require that a customer be able to access the most recently adopted privacy policy. This statement of intent is not clear from either the text of the Proposed Rule or the examples provided. It is important that the final rule include an appropriate clarification reflecting this intent by affirmatively stating access is limited to the then current privacy notice.

Electronic Notice. The comment describing permissible approaches for electronic delivery of notices appears to suggest that electronic delivery of the notice generally should be in the form of electronic mail. Requiring delivery of privacy notices only through electronic mail would not benefit consumers. A web-based privacy notice may be more appropriate in situations when on-line transactions are being conducted or where the customer has agreed to receive the notice electronically since the customer will have the information readily available each time the site is accessed.

Notice to Customers Who Request No Notices. The Commission invites comment on whether a customer should have the ability to decline to receive notices. A customer's wish not to receive privacy notices should be respected by providing in the final rule that financial institutions are not required to provide customers with notices where the customer has indicated his or her desire not to receive such notices.

Section 313.5 Annual Notice to Customers Required.

The Proposed Rule provides that a financial institution is not required to provide an annual notice "to a customer" with whom there is no longer a continuing relationship. Since there is no longer a continuing relationship, the person is not a "customer" by definition but instead is a "former customer" or another individual with whom the financial institution has no dealings. The provision should be revised to avoid possible confusion between actual customers and former customers.

The Commission requests comment on whether the examples are adequate and whether the 12-month proposed standard for deeming an account relationship terminated is appropriate. The examples are helpful and should be retained in the final rule. The term is also appropriate and should be retained. Further clarification about what constitutes a communication would be helpful. The final rule should make clear that a communication from the financial institution to the customer is required. Consumer access to a generally available Internet site should not be deemed a communication unless the access is to a password or similar access-protected site with customer specific information. Further, since many organization may use "charge off" in a non-technical manner added clarification of the intended meaning of this term would also be beneficial.

Section 313.6 Information to be Included in Initial and Annual Notices of Privacy Policies and Practices.

The Proposed Rule will result in overly detailed, extensive disclosures that consumers may either not read, or be able to fully understand. By requiring a high level of detail, the Proposed Rule will result in adding significant burdens and undermining innovation, flexibility and efficiency in business practices while simultaneously frustrating the purposes of the GLB Act by creating information overload without added benefit to consumers.

Affiliate Sharing. Further, the Proposed Rule includes disclosure requirements relating to information sharing among affiliates that far exceed any such obligations under the GLB Act and that are entirely inconsistent with the Fair Credit Reporting Act ("FCRA"). The proffered reading set forth in the Commission comments fails to take into account the specific language of GLB Act Section 503 (a) and the exclusion of affiliates in Section 503(b). An appropriate alternative reading, giving effect to the language of the GLB Act, indicates the provisions of 503(b)(1) apply to "nonaffiliated third parties" and 503(b)(4) applies to affiliate sharing. As a result the Proposed Rule is over inclusive in its treatment of the disclosure obligations relating to affiliate sharing of nonpublic personal information. The final rule should be consistent with the disclosure requirements under both GLB Act and the FCRA.

Confidentiality Security and Integrity of Information. The GLB Act Section 503 (b)(3) requires disclosure of information relating to policies maintained to protect the "confidentiality and security" of nonpublic personal information. The Proposed Rule governing initial and annual privacy notices includes "confidentiality and security" and "integrity" as an additional item relating to consumer nonpublic personal financial information. Requiring institutions to disclose practices regarding information integrity exceeds the statutory scope and may cause confusion.

Model forms. Ford Credit believes there is significant benefit to be gained from the adoption of model forms-of-disclosure for the initial and annual notices required under the Proposed Rule. These model forms would provide additional guidance and by Proposed Rule should establish a safe harbor for disclosures made in conformity with the forms. We acknowledge this will be a particularly difficult task in light of the wide variety of entities subject to the FTC's oversight, but believe the benefits far exceed the difficulties.

Section 313.7 Limitation on Disclosure of Nonpublic Personal Information About Consumers to Nonaffiliated Third Parties.

The ability of financial institutions to disclose application information to potential installment sale contract assignees and the simultaneous transmission of such information to more than one potential assignee is a normal and necessary part of the sales finance business. The final rule should make clear that such transactions continue to be permissible under the rule.

Joint Accounts. The Commission requests comment on application of the opt out right to joint accounts. As described above in response to Section 313.4, the financial institution is required to provide only one copy of the initial notice to the parties at the address specified by the parties for the account, or to the individual who initiates the relationship on behalf of the joint account customers. In the context of opt out for joint account holders, the financial institution need only provide the opt-out notices to the primary account holder. The primary account holder's decision to opt out (or that of any other joint account holder, if obtained) should be applied to all nonpublic personal information with respect to that specific account. However, the final rule should allow for flexibility so that if a financial institution can provide notices to all joint account holders and is able to honor diverging opt-out decisions from joint account holders, then the financial institution may do so. Thus, a financial institution should be able to disclose the

nonpublic personal information of joint account holders who have not opted out if the financial institution is able to separate the nonpublic personal information of such account holders from those that did opt out.

Isolated Transactions. The GLB Act requires opt-out notices be given to consumers prior to the disclosure of nonpublic personal information. It also provides that the consumer must have a sufficient opportunity to opt out prior to the disclosure of the nonpublic personal information to an unaffiliated third party. Requiring an opt out notice in connection with isolated transactions is inconsistent with the requirements of the GLB Act, however, financial institutions should not be precluded from providing an opt out at that time if they desire to do so.

Thirty Day Response Period. The Commission requests comment on the appropriateness of a thirty day response period for notices provided by mail. In most circumstances a thirty day opt-out period is appropriate. The final rule should clarify that the notice and opt-out opportunity can be provided at any time prior to sharing information, so long as customers are provided a reasonable period of time to respond.

Partial Opt-Out. Financial institutions should have the option, but not the requirement, of allowing customers to select certain nonpublic personal information, certain nonaffiliated third parties, or other products with respect to which the consumer wishes to opt-out; provided, the financial institution is capable of honoring the requests made.

Opt-Out for Existing Customers The Proposed Rule provides for consumer opt-out at any time. The final rule should make clear that the financial institution has a reasonable time period to comply with such requests when made by an existing customer.

Section 313.8 Form and Method of Providing Opt Out Notice to Consumer.

To ensure that opt outs are properly received and acted upon, financial institutions should be allowed to direct opt-out decisions to specific telephone numbers or addresses. Allowing a financial institution to establish appropriate phone or mail addresses for opt out requests rather than requiring it to honor opt-out decisions that make it into their organizations via other undesignated routes, would help assure that opt-out decisions are actually received and handled by the financial institution. The Proposed Rule indicating by example that compliance is achieved by distribution by the financial institution of self addressed and postmarked envelopes exceeds the requirements of the GLB Act. Financial institutions should not be required to pay for their customers' opt-out decisions.

Oral Opt Out. Nothing in the GLB Act requires opt-out notices or decisions to be written. To maximize the flexibility available to both consumers and financial institutions the final rule should provide the option for financial institutions to provide both for oral opt-out notices and oral opt-out decisions. Oral opt-out explanations and decisions, such as by telephone, would not compromise the integrity of the opt-out right and would be cost effective and efficient both from the financial institutions and the customers' perspective.

Notice of Change in Terms The Proposed Rule disclosure requirements require detailed and comprehensive disclosures. To avoid unnecessary changes and distribution of new policy statements, the final rule should include a concept of material change. Only changes that impact the policies in a material way should require a new distribution of policy statements. Requiring financial institutions to frequently resend privacy notices without a material change in the institution's disclosure policies will only serve to confuse customers while providing little or no benefit.

Duration of Consumer's Opt Out In situations where the customer relationship is terminated, the institution should not be required to carry over the past opt-out election when a new customer relationship is formed with the former customer. Of course nonpublic personal information related to the former relationship remains subject to the opt-out election made unless otherwise revoked by the individual. At the time of establishing a new relationship, each institution should have the option of considering the opt-out to have terminated along with the customer relationship. Institutions that practice this policy would of course be required to offer its customer a new opportunity to opt-out if a new customer relationship is established. The operational and system problems with carrying over the opt-out in perpetuity for any new relationships established after a customer relationship has been terminated would create system problems that would be difficult to resolve.

The Proposed Rule should clarify that financial institutions have the option, but not the obligation, to provide a new initial notice and opt-out when an existing customer establishes a new type of customer relationship; provided, the policies and notice previously provided are still applicable.

Section 313.9 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions.

The Proposed Rule expands the coverage to traditional out sourcing arrangements other than joint marketing agreements. The final rule should more closely capture the intent of the GLB Act Section 502(b). The disclosure and confidentiality requirements of Section 502(b) apply only to information shared between two or more nonaffiliated financial institutions in connection with a joint marketing agreement between them. Otherwise, traditional outsourcing agreements not covered by Section 502(e) could be subject to 502(b)'s disclosure and confidentiality provision.

Financial Institutions as Agents, Processors and Service Providers The final rule should make clear that in situations where a financial institution acts as an agent, processor or service provider to another financial institution, the servicing institution should be treated as such for the purposes of this regulation. In such cases, the financial institution fulfilling the service provider role is contractually subject to similar terms and conditions as non-financial institution service providers.

Non-attributed Data The Commission requests comments on whether or not the Proposed Rule should apply to third party vendors who use information without the indicators of personal identity to evaluate borrower credit worthiness. Since the information is not attributable to any

individual it can not be nonpublic personal information and is not subject to the restrictions of the Proposed Rule. Language to expressly permit this activity should be included in the final rule.

Types of Joint Marketing Agreements Covered The Commission requests comments on whether examples of the type of joint agreements covered by the Proposed Rule should be included. In recognition of the variety and unique nature of each joint marketing agreement, examples would necessarily be limiting. Further regulatory guidance in this area is not required.

Section 313.10 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions.

Exceptions for Processing. The GLB Act Section 502(e) provides for exceptions "in connection with" servicing or processing a financial product or service requested or authorized by the consumer and maintaining or servicing the consumer's account with the financial institution, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity. To conform the Proposed Rule to the GLB Act, the Proposed Rule should be revised to incorporate the "in connection with" language included in the GLB Act.

It is also suggested that the phrase "... is one of the lawful or appropriate methods" in section 313.10 (b)(1) be modified to read "... is one of the lawful, appropriate, *or usual* methods". This better conforms to a similar phrase in section 313.10(b)(2) and provides clarification that the enforcement of rights may also be accomplished by "usual" means.

Section 313.11 Other Exceptions to Notice Opt Out Requirements.

Co-Branding and Affinity Products and Programs The sharing of information with co-brand or affinity partners should not be subject to the opt-out provisions of the GLB Act. Consumers who acquire co-branded products or services are authorizing their institution to share information to the extent necessary to provide the benefits of such products or services. The final rule should provide for the financial institution's right to terminate the customer relationship or move the customer into another account if the consumer insists on opting-out of information sharing for such products at a later time.

Consumer Consent. Financial institutions should retain flexibility over the methods used to obtain a consumer's consent to disclose nonpublic personal information. Only consent provisions that identify the types of, and the particular purposes for which, information will be disclosed should be required.

Section 313.12 Limits on Redisclosure and Reuse of Information .

Reuse and Redisclosure. The GLB Act does not include a requirement that a financial institution assure compliance with the redisclosure limitations by non-affiliated third parties to which it

discloses nonpublic personal information nor should the final rule make the financial institution a guarantor for the compliance obligations of non-affiliated third parties in its dealings with non-affiliated third parties. The relationship between the financial institution and its third party nonaffiliates is contractual. To the extent the final rule desires to address these arrangements, the rule should only require financial institutions to include in these contracts provisions providing for the appropriate limits on the reuse of nonpublic personal information.

Nonaffiliated third parties receiving nonpublic personal information about consumers should be subject to the same limits and restrictions that govern the financial institution that initially collected the information. The final rule should clarify that nonaffiliated third parties can avail themselves of the statutory exceptions implemented by Sections 313.9, 313.10 and 313.11 of the Proposed Rule.

Section 313.13 Limits on Sharing of Account Number Information for Marketing Purposes.

Consent. Customers should always be allowed to consent to their financial institution's sharing of their account number or similar form of access number or access code with nonaffiliated marketers. This approach allows customers to make their own decisions about the sharing of their account numbers. Customers who perceive benefits from such action would grant consents, others would withhold their consent if the benefits were not sufficiently enticing.

Exceptions The Statement of Managers referenced in the Commission's comment allows the Commission to create appropriate regulatory exceptions to the limitation on sharing account numbers for marketing purposes. While the GLB Section 502 (d) prohibiting the sharing of account number information is plain, there still may be need for some exceptions to the bright line rule under the GLB Act Section 502(d). For instance, a service provider should be able to receive a checking account number and the receipt of this information should not be considered sharing. The provision of encrypted account numbers should be permissible under appropriate circumstances.

Even if customers do not consent, the financial institution should still be permitted to share the numbers in an encrypted form. The final rule should clarify that institutions may provide account numbers or similar forms of access numbers or access codes to nonaffiliated third party marketers in encrypted form if the financial institution does not provide the third party with the key to decrypt the number. Such an approach is consistent with the purposes of the GLB Act in strictly maintaining the confidentiality of customer account numbers. By using encrypted account numbers, many financial institutions will be able to serve their customers' needs and demands more effectively.

The Proposed Rule should also clarify that identification numbers assigned by financial institutions are not account numbers or similar form of access numbers or access codes and the term account number does not include customer identification numbers assigned by the financial institution provided the financial institution number cannot be used by the nonaffiliated third party marketer to post a debit against the customer's account.

Section 313.16 Effective Date; Transition Rule

The Proposed Rule has been reviewed and we are working to implement the provisions as quickly as practical. However, requiring financial institutions to meet the November final compliance date for notice to existing customers would result in an overwhelming barrage of privacy policies and "opt-outs" being sent to consumers at the same time holiday mail is received. Additionally, the early part of the new year is busy for consumers who receive tax and related mailings.

There is a tremendous system resource effort that will be required to comply with this proposed regulation. Not only will Ford Credit be required to reprogram its own internal systems to comply with this regulations, we also must work with third party vendors and partners to ensure proper interoperability. For example, every car dealership through which an institution offers indirect auto financing must reprogram their systems to comply with the new law and Ford Credit and other financial institutions must ensure that the changes are compatible with their own systems. All of this must be accomplished at a time when system resources are already strained by a backlog of upgrades that had been postponed while institutions prepared for potential Year 2000 issues. The Proposed Rule will also require training of personnel to promote proper compliance. Accordingly, we recommend a phase-in compliance with the notice and "opt-out" requirements until August 12, 2001.

We ask for consideration for further public comment on the regulations once the comments submitted in response to this notice of proposed rulemaking are considered. It may be helpful to keep the process moving if the next version of the Proposed Rule takes the form of an interim final rule, and providing an additional ninety day comment period to allow interested parties to provide the Commission further feedback on the new regulations. This process to solicit further comments is appropriate given the importance of these rules to consumers of financial services and to financial institutions themselves.

CONCLUSION

Privacy is a very important, serious issue facing all of us today both as members and regulators of the financial services industry and, just as importantly, as individuals. It is essential that the final rule is one that is workable, understandable and well conceived to ensure the needs and expectations of all involved are addressed and resolved in appropriate fashion.

A handwritten signature in black ink, appearing to read "David L. Korman", with a long horizontal flourish extending to the right.

David L. Korman