

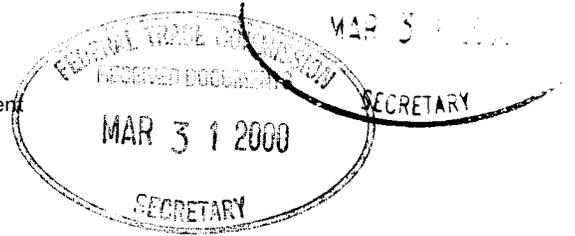


601 Second Avenue South
Suite 3000
Minneapolis, MN 55402-4302

612 973-4444
612 973-4330 Fax

March 30, 2000

Susan E. Lester
Executive Vice President
Chief Financial Officer



Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th and C Streets, NW.
Washington, DC 20551

Communications Division
Office of the Comptroller of the Currency
250 E Street, SW.
Washington, DC 20219

Docket No.: R-1058

Docket No.: 00-05

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429

Manager, Dissemination Branch,
Information Management & Services
Division
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552

Attention: Comments/OES

Docket No.: 2000-13

Jonathan G. Katz, Secretary
Securities & Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580

File No. S7-6-00

Re: Comments on Proposed Rulemaking
Privacy of Consumer Financial Information

Dear Sirs and Madams:

I write on behalf of U.S. Bancorp and its financial services subsidiaries to express our comments regarding the proposed regulations promulgated pursuant to Title V of the Gramm-Leach-Bliley Act (the "Act") pertaining to privacy of consumer financial information. U.S. Bancorp is a financial services holding company with assets of approximately \$82 billion based in Minneapolis, Minnesota. Through just over 1000 branches located in 16 central and western states and our direct delivery channels, we provide a broad set of commercial and consumer financial products and services.

We appreciate the opportunity to comment on the proposed privacy regulations, and we strongly support the agencies' efforts to provide a consistent approach to implementing regulations to address the public's concerns and expectations with respect to privacy. Maintaining our customers' trust is important to us, and we have long considered consumer privacy to be a priority. We have taken a lead role in the financial services industry by recently providing all of our 6.5 million consumer customers with written notice of our privacy policy and the opportunity to "opt out" of direct marketing programs. In June of last year, U.S. Bancorp became the first major bank to end the practice of direct marketing of non-financial products.

We invite your attention to the following issues, which we deem to be most important to our ability to provide quality and cost-effective services to our customers while safeguarding their privacy:

Clarification of the Definitions of "Nonpublic Personal Information" and "Publicly Available Information"

The proposed rule is overly broad and goes beyond the mandate of the Act, in that it treats any personally identifiable information of a consumer as "financial information" if it is obtained by a financial institution in connection with providing a financial product or service to the consumer. The final rule should reflect the narrower definition of "financial information" intended by Congress, which includes only information that describes an individual's "financial condition," such as an individual's assets and liabilities, income, account balances, payment history and overdraft history. In particular, the mere fact of a relationship between a customer and a financial institution, without any indication of the nature of the relationship, should not be considered "financial information" because it reveals no information whatsoever regarding the customer's "financial condition."

Similarly, the final rule should make clear that mere identification information (e.g., name, address, telephone number, driver license number) is not "financial information" under the rule. Demographic information should also be excluded.

As a related matter, we urge the adoption of the "Alternative B" definition of "publicly available information." Information that is otherwise generally available from public sources should not become "nonpublic personal information" merely because it is provided to a financial institution by a consumer or customer or from some other third party source instead of directly from a public source.

Redisclosure and Reuse of Information

We agree that a financial institution that discloses nonpublic personal information to a nonaffiliated third party should take steps to ensure that the third party understands that the reuse or redisclosure of such information is restricted. Such steps should include confidentiality provisions and other restricting clauses in the contracts between the institution and the third party.

However, institutions should not be required to monitor or police third party use of information. In addition to the practical difficulties of auditing third party compliance, such reuse of information is already restricted by law. It would be very difficult (and probably financially burdensome) for an institution to obtain the contractual rights necessary to monitor third party compliance, and even more difficult to implement such compliance monitoring assuming such rights were obtained.

Exceptions to Prohibition of Sharing Account Numbers

The final rule should provide exceptions to the prohibition of Section __.13, to allow continuance of some established industry practices that pose no privacy concerns to consumers. Failure to provide such exceptions will significantly increase costs without providing additional consumer protection.

The greatest risk to consumers relating to sharing of account numbers arises when a third party is marketing products of its own and has direct access (that is, the ability to impose a charge or debit) to a consumer's account. This risk does not exist in, and the final Rule should provide exceptions for, the sharing of account numbers with third parties who are performing pure service functions (e.g., statement printing and/or mailing) or who are marketing the products of a financial institution on that institution's behalf.

Finally, Section __.13 of the final rule should make exceptions for two situations involving encrypted account numbers. First, there should be a complete exception for provision of an encrypted account number to a third party who does not have the decryption key. Second, provision of the account number itself or the key to an encrypted number should be allowed if the consumer has authorized a purchase from the third party.

Need for Uniformity

We commend the agencies for their efforts thus far in issuing similar proposals. We urge the agencies to continue to exercise their best efforts to adopt uniform final rules. Uniformity of federal regulations is especially important given the likelihood of inconsistent state laws. Although uniformity is a major concern for financial institutions, it is also important from the consumer perspective. Uniformity of regulation will make it much easier for consumers to understand the obligations of banks and other financial institutions regarding their financial information and the protections they may expect.

Again, we greatly appreciate the opportunity to comment on this important proposal. Please feel free to contact our Associate General Counsel, Don Johnson, at (651) 205-1915 or me if we can provide any additional information.

Sincerely,

