

# THE BANKERS ROUNDTABLE ,,



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April 14, 1998

Mr. Donald S. Clark, Secretary  
Federal Trade Commission  
Room H-159  
Sixth Street & Pennsylvania Avenue, NW  
Washington, DC 20580



Re: Privacy Guidelines 1998-P954807

Dear Mr. Clark:

The Bankers Roundtable (“the Roundtable”) and the Banking Industry Technology Secretariat (“BITS”) appreciate the opportunity to respond to the Federal Trade Commission’s (“the Commission”) notice requesting industry guidelines and principles regarding online information practices. 63 *Federal Register* 10916 (March 5). The Commission has asked interested parties to submit copies of information practices and guidelines for inclusion in a Commission report on the effectiveness of self-regulation as a means of protecting consumer privacy on-line. This letter supplements a previous letter dated March 30, 1998, a copy of which is attached.

The Bankers Roundtable is a national association that promotes the business of banking and encourages the development of sound banking and financial policies and practices. Membership in the Roundtable is reserved for the 125 largest banking companies in the United States. Member companies hold approximately seventy percent of the nation’s commercial banking assets and employ more than one million individuals.

The Banking Industry Technology Secretariat, a division of The Bankers Roundtable, was created to foster the growth and development of electronic banking and commerce in an open environment that will encourage greater choices in banking software, access devices, and the development of more efficient processing capabilities for the benefit of bank customers. BITS board of directors is made up of chief executive officers of some of the largest U.S. bank holding companies, as well as representatives from the American Bankers Association and the Independent Bankers Association of America.

## **Roundtable, BITS and Industry Activities**

The Bankers Roundtable, BITS, and our member companies understand the importance that consumers place on privacy of financial information. Accordingly, the Roundtable and BITS have undertaken a series of activities to promote an environment that encourages a strong privacy culture among member institutions. As early as 1996, in its publication *Banking and Technology: Statement of Industry Principles* (a copy of which is enclosed), the Roundtable adopted the policy that "Banking organizations will inform users of electronic services of consumer obligations and rights and methods for protecting their privacy. "

### Privacy Principles and Implementation Plan

The Roundtable, BITS and other trade associations representing the banking industry have developed and on September 18, 1997 adopted eight principles to assure consumers that their privacy rights are secure when transacting business with commercial banks. A copy of those principles is enclosed. Additionally, the Roundtable and BITS approved and endorsed a Privacy Principles Implementation Plan designed to assist member institutions in informing, educating, and obtaining agreement to comply with the principles from employees, customers, vendors and related parties. A copy of the principles, implementation plan and the related press statement are attached to this letter.

The Roundtable and BITS have actively encouraged member institutions to adopt and implement the privacy principles. Additionally, the Roundtable and BITS have recommended to member institutions that they post the principles on their web sites. The Roundtable has made the principles available to interested parties on its web site at [www.bankersround.org/public/privacy.html#PrivacyIssues 1](http://www.bankersround.org/public/privacy.html#PrivacyIssues1).

Evidence suggests that the industry has made significant progress in promoting these guidelines. For example, Microsoft Corporation, a major software vendor to banking institutions, has announced that it will support the consumer privacy principles advocated by the Roundtable and BITS.

### Commission Activities

The Bankers Roundtable has communicated with its members regarding

the necessity of advising consumers of bank policies regarding the treatment of customer information, as well as the efforts by the Commission to randomly survey web sites to ascertain whether customers using such sites have been advised as to how their private, personal information is being collected and used.

Additionally, BITS has actually performed its own surveys of member websites, reporting the results back to its Board for the purpose of encouraging greater compliance with industry privacy principles.

#### Other Roundtable and BITS Activities

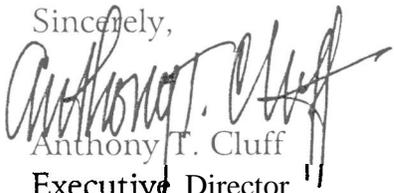
Further, the Roundtable and BITS have undertaken a variety of other activities to promote and protect customer privacy in an on-line environment. For example, the Roundtable has undertaken preliminary efforts to develop a handbook to provide in-depth suggestions and guidance for member institutions to implement the privacy principles throughout their organizations. Also, BITS has commissioned a study regarding consumer attitudes towards privacy, security and trust as they relate to electronic commerce. (A copy of this study will be provided to the Commission upon its completion.) Finally, BITS currently is exploring the feasibility of a mark that ensures that qualifying institutions provide adequate protection to customer data.

#### Conclusion

In conclusion, the Bankers Roundtable, its Banking Industry Technology Secretariat division, its member companies, and other industry associations have been active in developing and implementing principles to address the issues of on-line consumer privacy. Additionally, under the direction of its respective board of directors, the Roundtable and BITS continue to actively monitor and react to consumer opinions, government actions and other industry developments regarding collection and protection of personal data and information. The Roundtable and BITS believe that privacy safeguards can and should be achieved through private-sector actions, such as those that have been taken to date in the form of industry privacy principles and the associated implementation plan. The goal of protecting customer privacy is one the banking industry takes seriously as a good business practice and important customer objective.

Thank you for considering our comments. If the Roundtable, BITS or any of our member companies can be of further assistance, please do not hesitate to contact us.

Sincerely,

  
Anthony T. Cluff  
Executive Director  
The Bankers Roundtable

  
Catherine A. Allen  
Chief Executive Officer  
The Banking Industry Technology  
Secretariat

#### Attachments

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# BANKING INDUSTRY TECHNOLOGY SECRETARIAT

THE BANKERS ROUNDTABLE

March 30, 1998

Martha Landesberg, Attorney  
Division of Credit Practices  
Federal Trade Commission  
Sixth Street & Pennsylvania, Ave., NW  
Washington, DC 20580

Dear Ms. Landesberg:

This letter is sent to you in response to the Federal Trade Commission (FTC) post in the March 5, 1998 issue of the Federal Register (Volume 63, No. 43) in which the Commission requested industry groups to voluntarily submit copies of information practice guidelines and principles for inclusion in the FTC report to Congress on the effectiveness of self-regulation as a means of protecting consumer privacy on-line. We are pleased to respond to your request.

Enclosed you will find a copy of the Banking Industry Privacy Principles as approved by the Banking Industry Technology Secretariat (BITS), The Bankers Roundtable (TBR) consumer Bankers Association (CBA), Independent Bankers Association of America (IBAA) and American Bankers Association (ABA) in September of 1997, a copy of the BITS Privacy Principles Implementation Plan also approved in September 1997, and an associated press release. Also enclosed is my testimony to Congress on September 18, 1997, before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services, House of Representatives.

With the announcement by the FTC that the Commission is conducting a survey of commercial web sites to determine privacy practices concerning disclosure of customer information, we have been working closely with BITS and TBR banks to assist them in posting privacy related information on their web sites. We are surveying the banking sites ourselves and are providing the banking industry with information about our findings. We encourage you to continually monitor the sites as we are seeing frequent changes and improvements as banks become more aware of this issue.

The Banking Industry Technology Secretariat has also been conducting consumer research on "Consumers' Attitudes About Security, Privacy and Trust" as well as research on privacy and security marks. We would be pleased to discuss our findings with you should that be helpful.

The banking industry has a long history of protecting customer privacy. That commitment extends to the new environment of electronic commerce including the Internet. Please contact us if we can provide you with any additional information.

Sincerely,



Catherine A. Allen  
CEO, BITS

Enclosures

BANKING  
INDUSTRY  
TECHNOLOGY  
SECRETARIAT  
THE BANKERS ROUNDTABLE

*PRIVACY PRINCIPLES IMPLEMENTATION PLAN*

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**ADOPTING A PLAN FOR IMPLEMENTING PRIVACY PRINCIPLES**

Each bank will approve a plan for implementing The Banking Industry Privacy Principles at the level of the Board of Directors or the Office of the Chair, with subsequent notification of this action to the Board.

**COMMUNICATING WITH BANK CUSTOMERS**

It is important to communicate the bank's policies related to customer privacy to the bank's customers. How that is done should be left to each bank to decide and may include use of existing channels.

**ADVISING AND TRAINING EMPLOYEES**

All employees should be informed and educated about the bank's plan for implementing The Banking Industry Privacy Principles. How this is done will be decided by each bank.

**ESTABLISHING A PRIVACY MARK**

There may be need and value in having a banking industry privacy mark that assures the public that terrain safeguards have been met. The Banking Industry Technology Secretariat will explore this possibility and make recommendations to the BITS Board of Directors.

### **CONTRACTING WITH THIRD PARTY VENDORS**

Each bank will obtain agreement from third party vendors, on a case-by-case basis, to comply with the bank's privacy principles.

### **INFORMING CUSTOMERS OF THIRD PARTY OPT-OUT**

Where a bank provides information to unrelated and unaffiliated third parties for their independent use for marketing or similar purposes, the bank will notify customers of their right to opt-out from the bank providing customer information to those third parties.

### **COMPLYING WITH PRIVACY PRINCIPLES**

Banks will apply their own internal process to assure compliance with the bank's privacy principles.

### **ADDRESSING BREACHES OF POLICY**

Breaches of policy will be addressed internally on a case-by-case basis by each bank.

### **MAINTAINING ACCURATE CUSTOMER DATA**

Each bank will establish and maintain procedures by which customers can correct inaccurate customer information.

*Approved September 11<sup>th</sup>, BITS Board of Directors*

*Approved September 12<sup>th</sup>, The Bankers Roundtable Board of Directors*

# **FOR IMMEDIATE RELEASE TO THE PRESS**

September 18, 1997

For Information contact:

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## **BANKING INDUSTRY UNITES ON CUSTOMER PRIVACY**

In an action designed to assure the American public that its personal privacy rights will be protected when conducting business with commercial banks, four national banking organizations today announced their joint agreement on a uniform set of privacy principles.

The American Bankers Association (ABA), The Bankers Roundtable (Roundtable) together with its division -- the Banking Industry Technology Secretariat (BITS), the Consumer Bankers Association (CBA) and the Independent Bankers Association of America (IBAA) announced on September 18th that they have endorsed a common set of privacy principles. These organizations represent virtually every commercial banking institution in the nation. They have developed these principles for the use of their member banking organizations in meeting customer needs to protect the use of personal information.

The organizations have taken this action at this time for several significant reasons.

- First, America's commercial bankers recognize the importance individual place on personal privacy. A survey by *Money Magazine*, summarized in its August 1997 edition, concluded that privacy fears are "widespread." Nearly three-fourths of the consumers surveyed "are somewhat or very" concerned about threats to their privacy. Moreover, a 1995 Equifax-Harris Poll found that 80 percent of American consumers believe that, at least to some extent, they have "lost all control over how personal information about them is circuited and used by companies."

*This joint action is designed to demonstrate the commitment of bankers to address customer concerns about personal privacy.*

- Second, America's commercial bankers understand that the public's privacy concerns are focused on financial records such as bank or brokerage account information. The *Money Magazine* survey indicated that eighty-three percent (83%) of those surveyed expressed their greatest privacy concern as the unauthorized release of financial records, compared to the 70 percent who feared the unauthorized release of medical records.

*This joint action addresses the expressed concerns of the American public. As banks implement these principles, bank customers will know that they have increased information and security with regard to their personal information across the nation and should receive such assurances no matter where they bank*

- Third, commercial bankers know that personal privacy concerns accelerate in an increasingly technologically sophisticated world. It is estimated, for example, that there now are about 5 billion records in the U.S. that contain personally identifiable information. This helps explain why the *Money Magazine* survey shows that more than two-thirds of those polled are more worried about their personal privacy now than five years previously.

*This joint action, therefore, is designed to address customer concerns. The principles are also intended to emphasize that the safeguards benefit the banking public now, at the inception of new technologies (such as computer banking smart cards, etc) for delivering banking and financial services.*

- Finally, bankers appreciate that their relationship with the customer is dependent in large part upon trust, which bankers understand entails the responsible treatment of personal information.

*This joint action demonstrates banker responsibility in appropriately treating personal information to retain the trust of the American public.*

The uniform set of privacy principles endorsed today by the banking industry's principal commercial banking organizations builds upon the work previously undertaken in this area by the ABA, CBA and others.

The principles, which focus upon privacy concepts universally recognized both in the U.S. and abroad, relate to eight separate areas:

- Recognition of a customer's expectation of privacy.
- Use, collection and retention of customer information.
- Maintenance of accurate information.
- Limiting employee access to information.
- Protection of information via established security procedures.
- Restriction on the disclosure of account information.
- Maintaining customer privacy in business relationships with third parties.
- Making an institution's privacy principles known to the customer.

Commercial bankers and their national associations **further** emphasize to the **American** public that personal **information in** banker files is to be treated responsibly **in** accordance with the Privacy Principles.

### ***Further Initiative to Ensure Customer Privacy***

In parallel with the **privacy** principles, BITS **developed** a **plan** for implementing the principles. The BITS Board of Directors, made up of the Chairs of the largest banks in the United States, as well as **representatives of the ABA and IBAA**, approved and endorsed a “Privacy Principles Implementation Plan” on September 11\*. The Bankers Roundtable followed immediately by **unanimously voting** to approve the plan.

Frank Cahouet, Chair of the Board of The Bankers **Roundtable** and Chairman, President, and CEO of **Mellon** Bank Corporation, said, “I am pleased to announce this strong action on the part of BITS and The Bankers **Roundtable** to protect customer privacy.” Frank **Wobst**, Chairman of the BITS Board of Directors and Chairman and CEO of Huntington **Bancshares**, said, “The banks are **taking** the high ground **by** committing to protect customer’s rights.” Allan Woods, Executive Vice President and CIO, **Mellon** Financial Services, and Chair of the BITS Privacy Guidelines Implementation Working Group, stressed the importance of the implementation plan, saying, “The **banking** industry has **long been** the customer’s trusted **friend**. It is **significant** that BITS and The Bankers Roundtable are taking the lead to ensure customer privacy in the rapidly growing world of electronic commerce.”

The approved Privacy Principles Implementation Plan states that:

- . A **plan** for implementing the privacy principles **will be** approved at the **level** of the Board of Directors or the Office of the Chair of the bank;
- . Bank policies related to customer privacy **will be** communicated to bank customers;
- . Employees will be informed and educated about the **bank’s** plan to **implement** the privacy principles;
- . Banks will obtain agreement **from** third party vendors on a case-by-case basis to comply with the bank’s privacy principles;
- . Where a bank provides information to unrelated and unaffiliated third parties for their independent use for marketing or similar purposes, the bank will notify customers of their **right** to **opt-out** from **the bank** providing customer information to those third parties; and
- . Banks will establish and maintain procedures by which customers can correct inaccurate customer information.

In taking steps to implement a strong set of safeguards of customer privacy, the banks reinforce their **commitment** to self-monitoring and self-regulation. BITS will undertake research on consumer attitudes towards privacy, security and trust in the context of electronic banking. BITS **will** work with the banking industry to track progress and communicate to the public about these and other initiatives of the banking industry to protect customer privacy and **seine** the public good.

\*The **American Bankers Association (ABA)** is the **only national** trade and professional association serving the entire banking **community**, from **small community banks** to large bank holding companies. ABA members represent approximately 90 percent of the commercial banking industry's total assets, and about 94 percent of ABA members are community banks with assets of less than \$500 million.

The Bankers **Roundtable** is a national association **whose** membership is open to the nation's 125 largest banking companies, **hold** approximately seventy percent of the country's commercial banking assets, and operate in virtually every state. The primary mission of the Roundtable is to achieve public policies that enable banks to be more efficient and competitive in support of the nation's **economy**. The Banking Industry Technology Secretariat (BITS), a division of the **Roundtable**, was created to foster the growth and development of electronic banking and commerce in an open environment that will encourage greater choices in banking software, access devices, and the development of more efficient processing capabilities for the benefit of bank customers. **The** BITS Board includes the Chairmen of 11 large U.S. bank-holding companies and representatives of the **ABA** and **IBAA**.

The Consumer Bankers Association (CBA) is the **recognized** voice on **retail** banking issues in the nation's capital. **Member** institutions are the leaders in consumer, auto, home equity and education finance, electronic retail delivery systems, privacy, bank **sales of** investment products, small business services and community development. CBA was founded in 1919 to provide a **progressive** voice in the retail banking industry. CBA members hold more than 900 bank and thrift **charters** with total assets of more than \$2.9 trillion.

The Independent Bankers **Association** of America (IBAA) represents 5,500 independent **community banks** nationwide with more than 15,000 locations that hold **nearly \$375** billion in insured deposits, **\$445** billion in assets, and more than **\$240** billion in loans for consumers, small businesses and farms in communities they serve. IBAA maintains its web site at [www.ibaa.org](http://www.ibaa.org). Its consumer hotline is (888) 500-5338.

**9-1s-97**

Attachment

## PRIVACY PRINCIPLES

1. **Recognition of a Customer's Expectation of Privacy.**  
Financial institutions should **recognize** and respect the privacy **expectations** of **their customers** and explain **principles of financial privacy** to their customers in an appropriate fashion. This **could be accomplished**, for example, by **making** available **privacy** guidelines **and/or** providing a series of questions and **answers about financial privacy** to those customers.
2. **Use, Collection and Retention of Customer Information**  
Financial institutions should collect, **retain** and use information **about** individual customers only where the institution reasonably **believes** it would be useful (and allowed by law) to **administering** that organization's business and to provide products, services and other opportunities to its customers.
3. **Maintenance of Accurate Information**  
Financial institutions should **establish procedures** so that a customer's financial information is accurate, **cut-rem** and complete in accordance with reasonable commercial standards. Financial institutions should also respond to requests to correct inaccurate information **in a timely manner**.
4. **Limiting Employee Access to Information**  
Financial institutions should **limit employee** access to personally identifiable information to those **with a business reason for knowing** such information. Financial institutions should educate their employees so that they will understand the importance of confidentially and customer privacy. Financial institutions should also take appropriate discipline measures to enforce employee **privacy** responsibilities.
5. **Protection of Information via Established Security Procedures**  
Financial institutions should maintain appropriate **security** standards and procedures **regarding** unauthorized access to customer information.
6. **Restrictions on the Disclosure of Account Information**  
Financial institutions should not reveal specific information **about** customer accounts or other personally identifiable data to unaffiliated third parties for their independent use, except for the exchange of information with reputable information reporting **agencies** to maximize the accuracy and security of such information or in the performance of bona fide corporate due diligence, unless 1) the information is provided to help complete a customer initiated **transaction**; 2) the customer **requests** it; 3) the disclosure is required by/or allowed bylaw (e.g., subpoena, investigation of **fraudulent activity**, etc.); or 4) the customer has been informed about the possibility of disclosure for marketing or similar purposes **through a** prior communication and is given the opportunity to decline (i.e., "opt out").

7. **Maintaining Customer Privacy in Business Relationships with Third Parties**  
If personally **identifiable** customer information is provided to a **third party**, the financial institutions **should insist that the third party** adhere to similar **privacy principles** that provide for keeping such **information confidential**.
  
8. **Disclosure of Privacy Principles to Customers**  
**Financial institutions** should devise methods of providing a **customer with an understanding** of their privacy **policies**. Customers **that** are concerned about financial **privacy** will **want** to know **about** an institution's treatment of **this** important issue. Each financial institution **should create** a method for making available its **privacy policies**.