

June 29, 2010

**By electronic delivery to:**

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex E)  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

**Re: Request for Public Comment on the Federal Trade Commission's Implementation of the Children's Online Privacy Protection Rule**

Ladies and Gentlemen:

The American Bankers Association (ABA)<sup>1</sup> welcomes the opportunity to respond to the Federal Trade Commission's (FTC) request for public comment on the implementation of the Children's Online Privacy Protection Rule (COPPA Rule). ABA commends the FTC for its continuing efforts to protect children from the potential dangers of allowing their personal information to be collected via the Internet. We support using the FTC's ongoing efforts to promote online safety for children.

**Background:**

The banking industry supports the principles of the COPPA Rule and acts to maintain to compliance with the requirements. The COPPA Rule imposes certain restrictions on operators of websites that are directed to children under thirteen years of age or who have knowledge that they are collecting information online from children who are under thirteen years of age. Website operators that fall under these categories must provide a notice to parents and receive a verifiable parental consent before collecting or disseminating personal information of the children. This is an appropriate safeguard to protect the nation's youth.

Since it first became effective on April 21, 2000, generally banks have complied with the COPPA Rule by not directing their websites towards children under thirteen and by not collecting information on that population group. Banks that may collect this type of information are fully subject to all of the requirements regarding obtaining parental consent and permission.

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<sup>1</sup> The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.3 trillion in assets and employ over 2 million men and women.

The banking industry is subject to strict oversight by Federal banking regulators. Banks are subject to regular examinations to ensure that they are compliant with all applicable rules and regulations. Each of the federal financial regulatory agencies has enforcement authority for the COPPA Rule over the financial institutions it supervises. The Federal banking regulators overseeing banks are the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve (the Board). Each of these agencies actively examines banks to ensure that they are complying with the COPPA Rule. Each agency has developed well documented procedures that their examiners utilize to assess bank compliance with the COPPA Rule.<sup>2</sup>

### **Request for Public Comment:**

The request for public comment covered a broad range of topics in 28 separate questions. Since banks generally do not operate websites directed to children under thirteen and do not collect information on those children, the scope of this comment will be limited.

1. *Is there a continuing need for the Rule as currently promulgated? Why or why not?*

Yes, there is a continuing need for this Rule. Since it first became effective, the use of the Internet by children under thirteen has grown dramatically, increasing the risk that their safety may be compromised if personal information is gathered for nefarious purposes. The introduction of new technologies over the past ten years may require that the FTC evaluate whether all of the current hardware (mobile telephones, personal digital assistants, etc...) and communication channels (social media, chat rooms, texting, etc...) are covered appropriately by the COPPA Rule.

Many banks have utilized improvements in technology and the increase in online participation of their customers to develop their Internet based services over the past ten years. Although they have leveraged technology and expanded the overall volume of data exchanged with customers as well as the number of channels that customers use to communicate with them, banks have not broadened their communication plans to include children under thirteen nor have they used these new technologies to gather data on those children.

It is important that any revision to the COPPA Rule maintain the provision that entities that host online sites will not be subject to the Rule if they do not direct their sites or other online technologies towards children under thirteen and do not collect or maintain data on that category of children.

5. *Does the Rule overlap or conflict with any other federal, state or local government laws or regulations? How should these overlaps or conflicts be resolved, consistent with the Act's requirements?*

Financial institutions are examined for compliance with the COPPA Rule by their Federal banking regulators. This does not demonstrate an overlap or conflict, but it illustrates that Federal bank

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<sup>2</sup> Federal Banking Regulator COPPA Rule Examination Procedures,  
FDIC: [http://www.fdic.gov/regulations/compliance/manual/index\\_pdf.html](http://www.fdic.gov/regulations/compliance/manual/index_pdf.html)  
OTS: <http://www.ots.treas.gov/files/422296.pdf>  
OCC: <http://www.occ.treas.gov/handbook/other.pdf>  
Fed: <http://www.federalreserve.gov/boarddocs/supmanual/cch/200601/coppa.pdf>

regulators play a proactive role to see that banks are held accountable for compliance with the COPPA Rule on a regular basis. The fact that banks are subject to statutory privacy and information security requirements covering all of their customers should be kept in mind when FTC is considering any change to the COPPA Rule. ABA recommends that the FTC consult with the federal banking agencies before proposing any change to the COPPA Rule that would cover insured depository institutions.

ABA appreciates the opportunity to provide comments on the COPPA Rule. Banks support the intent of the COPPA Rule to protect the privacy of children and that bank support is confirmed on a routine basis by Federal banking regulators during their examinations. If you have any questions about these comments please contact the undersigned at [skenneally@aba.com](mailto:skenneally@aba.com) or by telephone at (202) 663-5147.

Respectfully submitted,

Stephen K. Kenneally

Vice President, ABA Center for Regulatory Compliance