

Concurring Statement of Commissioner Christine S. Wilson

Regarding Delaying the Effective Date of Certain Provisions of the Recently Amended Safeguards Rule

November 14, 2022

The Safeguards Rule requires financial institutions to develop, implement, and maintain a comprehensive information security program to protect customer information.¹ In 2021, the Commission updated the Safeguards Rule to add several prescriptive requirements that necessitate significant investment to effectively implement.² I voted against the revisions to the Rule, in part, because I feared the new obligations would inhibit flexibility and impose substantial costs, especially on small businesses.³ Despite assurances that financial institutions were already implementing many of the requirements of the amended rule or had sophisticated compliance programs that could easily adopt and pivot to address new obligations, I was concerned that the Commission did not understand fully the economic impact of the proposed changes. It has become clear that the Commission may have underestimated the burdens imposed by the Rule revisions.

While I continue to note my concerns about the revisions to the recently amended Safeguards Rule, I support extending the effective date. Labor shortages of qualified personnel have hampered efforts by companies to implement information security programs. Some estimates place the shortage of cybersecurity professionals in the 500,000 range.⁴ Supply chain issues also have led to delays in obtaining necessary equipment for upgrading systems. These factors are outside the control of financial institutions and have complicated efforts by companies to meet the requirements of the amended Rule by year end.

The revisions finalized in December 2021 did not merely codify basic security practices of most financial institutions. Rather, the modifications imposed new onerous, misguided, and complex obligations. Safeguarding customer information is important. But it is still unclear whether these mandates will translate into a significant reduction in data security risks or offer other substantial

¹ 16 CFR 314.

² The amended Rule was published in the Federal Register on December 9, 2021. 86 Fed. Reg. 70272 (Dec. 9, 2021). As I noted at the time of the Final Rule's publication, I appreciated Staff's diligent work on the Safeguards Rule and commitment to consider input from all relevant parties. Staff's continued commitment to address the serious concerns of parties impacted by the Safeguards Rule is laudable.

³ Dissenting Statement of Commissioner Noah Joshua Phillips and Commissioner Christine S. Wilson, Final Rule Amending the Gramm-Leach-Bliley Act's Safeguards Rule (Oct. 27, 2021), https://www.ftc.gov/system/files/documents/public_statements/1597994/joint_statement_of_commissioners_phillips_and_wilson_in_the_matter_of_regulatory_review_of_the_1.pdf; Dissenting Statement of Commissioner Noah Joshua Phillips and Commissioner Christine S. Wilson, Review of Safeguards Rule (Mar. 5, 2019), https://www.ftc.gov/system/files/documents/public_statements/1466705/reg_review_of_safeguards_rule_cmr_phillips_wilson_dissent.pdf.

⁴ Data gathered under a Commerce Department grant indicates that there are over 500,000 unfilled cybersecurity job openings. The research indicates that nationally, there are only enough cybersecurity workers in the United States to fill 68% of the cybersecurity jobs that employers demand. Cyber Seek, *Cybersecurity Supply/Demand Heat Map*, <https://www.cyberseek.org/heatmap.html> (last visited Nov. 14, 2022).

consumer benefits. Regardless of the Rule's effects, companies should be given the time necessary to correctly implement the Final Rule's burdensome requirements. For these reasons, I support extending the effective date until June 2023.