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Ms. Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F St. NW
Washington, DC 20549-9303
Rule-comments@sec.gov

Release 34-57427
File Number S7-06-08

Dear Ms. Morris:

Here are my comments on the proposed changes to Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Personal Information. The proposing release brings up several issues concerning privacy of information and security breaches at brokerage firms. I am not expressing an opinion on most of the details in the release. Instead, I am taking up the Commission on its request for "general" comments on page 47 of the release "to suggest other provisions or changes that could enhance the ways in which securities industry participants protect personal information." Currently, there is a glaring omission in many brokerage firm privacy policy disclosures.

Privacy notices should explain an investors choice to be OBO or NOBO.

Many, if not most, brokerage firm privacy statements do not explain the circumstances under which the personal information of customers will be given to the issuers of the securities they hold. In the modern era, most shares are held indirectly in "street name." Investors keep their shares in their brokerage accounts or at custodian banks, and the brokers/custodians keep the shares in their accounts at DTC.

This elegant system vastly simplifies the process of transferring securities. It also means that issuers do not normally know the identities of their shareholders who hold shares in street name. Investors have a choice as to whether or not to let their brokers or custodians pass on their personal information to the issuers. Although financial institutions are covered by the strict privacy policies of GLBA, other issuers (especially some foreign ones) are not necessarily covered by similarly strict privacy rules. Some wealthy investors are extremely careful to guard their financial privacy by minimizing the dissemination of their

personal information. Some fear that information falling into the wrong hands may make them a target of kidnappers. Investors who object to having their personal information passed on to the issuers are known as Objecting Beneficial Owners (OBOs) and those who do not object are known as Non-Objecting Beneficial Owners (NOBO). Most retail investors are oblivious to this distinction.

It seems to me that this use of personal information is exactly the type of use of personal information that Congress intended when it passed Title V of the Gramm-Leach-Bliley Act (GLBA). It is certainly not clear in the language of the statute whether the release of such personal information to issuers is included in the "general exceptions" category. Indeed, brokers routinely use firms such as Broadridge to help them send out required shareholder notices. Furthermore, a plain reading of Regulation S-P would seem to indicate that such information should be in most brokerage firm privacy notices. Alas, it is not.

Regardless of whether the disclosure of a customer's name, address, and the number of shares held to an issuer qualifies legally as a general exception, the GLBA calls for the privacy notices to be "clear and conspicuous." I have read many brokerage firm privacy notices and most of them fail the "clear" test. I am a nerd who enjoys reading complex and boring stuff, and my eyes often glaze over when reading a privacy notice. Most of them say nothing clearly about passing on information about customers' names, addresses, and number of shares owned to the issuers.

It appears that there is a massive lack of compliance with the spirit of GLBA and Regulation S-P in this area. I call on the Commission to work gently with the broker dealer community to bring them quickly into compliance with the spirit of GLBA on this one. Heavy handed *de facto* rule making through enforcement penalties is not the way to go.

Cheers,

Jim

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