



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

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July 12, 2000

The Honorable Phil Gramm
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable James A. Leach
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Banking and Financial Services
House of Representatives

Subject: Securities and Exchange Commission: Privacy of Consumer Financial Information (Regulation S-P)

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (Commission), entitled "Privacy of Consumer Financial Information (Regulation S-P)" (RIN: 3235-AH90). We received the rule on June 22, 2000. It was published in the Federal Register as a final rule on June 29, 2000. 65 Fed. Reg. 40334.

The final rule is issued pursuant to section 504 of the Gramm-Leach-Bliley Act (G-L-B Act) and implements notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. The rule also implements section 502, which prohibits a financial institution from disclosing such information to nonaffiliated third parties unless the institution satisfies various notice and opt-out requirements and the consumer has not elected to opt out of the disclosure. Finally, section 503 requires institutions to provide its customers with a notice of its privacy policies and practices.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool, Director, Financial Institutions and Markets Issues. Mr. McCool can be reached at (202) 512-8678.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Margaret H. McFarland
Deputy Secretary
Securities and Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"PRIVACY OF CONSUMER FINANCIAL INFORMATION
(REGULATION S-P)"
(RIN: 3235-AH90)

(i) Cost-benefit analysis

The Securities and Exchange Commission considered the costs and benefits of the final rule. The analysis shows that there will be a one-time cost to the industry (broker-dealers, funds, and registered advisors) of \$53.2 million to draft privacy notices, and an annual cost of \$2.6 million to mail the notices to their customers. Finally, based on the assumption that most of the industry currently has in place procedures to protect customer information, review and revision to assure compliance with the final rule would result in a one-time cost of \$80.6 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis. The analyses comply with the requirements of the Act. The Commission notes that a number of the changes made to the final rule based on comments received will benefit small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The rule, promulgated by an independent regulatory agency, is not subject to title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553.

On March 8, 2000, the Commission published in the Federal Register a Notice of Proposed Rulemaking. 65 Fed. Reg. 12354. A total of 115 comments were received in response to the notice, and the comments are responded to in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that has been reviewed and approved by the Office of Management and Budget. It has been assigned OMB Control No. 3235-0537.

Statutory authorization for the rule

The Commission is adopting Regulation S-P under the authority set forth in section 504 of the G-L-B Act (15 U.S.C. 6804), sections 17 and 23 of the Exchange Act (15 U.S.C. 78q, 78w), sections 31 and 38 of the Investment Company Act (15 U.S.C. 80a-30(a), 80a-37), and sections 204 and 211 of the Investment Advisers Act (15 U.S.C. 80b-4, 80b-11).

Executive Order No. 12866

As an independent regulatory agency, rules promulgated by the Commission are not subject to review under the order.