



American Financial Services Association

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The Market Funded Lending Industry

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August 8, 2000

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Manager, Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street NW
Washington, DC

Dear Sir or Madam:

The American Financial Services Association ("AFSA"¹) appreciates this opportunity to comment on the Proposed Interagency Guidelines Establishing Standards for Safeguarding Customer Information.

Our comments are limited to one central theme regarding non-consumer business accounts. AFSA opposes the proposal of the agencies to include business clients records within the scope of the proposed Interagency Guidelines Establishing Standards for Safeguarding Customer Information.

Our member institutions would not implement additional information security programs for non-consumer business accounts if they were required to do so for consumer accounts. Therefore, the proposed expansion of "customer" to include business clients would impose a significant additional burden on those lenders.

Current state and federal law requires that "consumer" accounts be segregated for special treatment to meet the requirements of numerous consumer disclosure, reporting, and consumer protection laws, so segregating those accounts for additional information security requirements is consistent with those existing laws. With limited exceptions, the federal and state credit laws and regulations apply only to consumer transactions.

The law correctly assumes that sophisticated business people are capable of handling their own business transactions, without governmental protection. Business transactions are typically

¹ The American Financial Services Association (AFSA) is the trade association for a wide variety of market-funded providers of financial services to consumers and small businesses. AFSA members are important sources of credit to the American consumer, providing approximately over 20 percent of all consumer credit. AFSA's membership includes credit card Issuers which offer bank cards, charge cards, credit cards or private label cards. AFSA members include some of the largest credit card issuers in the U.S. AFSA members include lenders affiliated with FDIC insured state and national banks and federal savings banks which engage in both consumer and commercial lending.

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negotiated between the parties, allowing the business customer to bargain for confidentiality agreements, if it is important to that business customer. While consumers may have legitimate expectations of privacy in their personal affairs, neither business people or society as a whole expects business information to have the same level of confidentiality.

Past experience has shown that applying consumer protection to business transactions has been a mistake, creating expensive limitations for business transactions that do not serve any public need. A good example is the 1968 to 1981 applicability of the federal Truth-in-Lending law to agricultural credit.

The proposed Guidelines are proposed to meet the requirements of the federal Financial Services Modernization - Gramm-Leach-Bliley Act. Section 509(4) of that law and the implementing regulations issued by the Federal Trade Commission (16 CFR 313.1(b) and 3(e)) and the federal banking agencies (12 CFR 40.1(b); 40.3(e); 216.1(b); 216.3(e); 332.1(b); 332.3(e) and 573.1(b) and 573.3(e)) all expressly exclude business customers from the scope, requirements and limitations of that law's privacy provisions.

AFSA urges that this proposal to encompass business accounts not be adopted. We appreciate this opportunity to comment on the proposal. If you have any questions, please call me at 202-466-8606. Thank you for your consideration.

Sincerely,



Robert E. McKew
Vice President & General Counsel