

**Gottlieb, Mary H**

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**From:** Hurwitz, Evelyn S on behalf of Public Info  
**Sent:** Monday, September 25, 2000 9:57 AM  
**To:** Gottlieb, Mary H  
**Subject:** FW: Consumer Protection for Depository Institution Sales of Insurance; Dockets 00-16, R-1079, 2000-68

-----Original Message-----

**From:** ALAN RACHLIN [mailto:ALAN.RACHLIN@prodigy.net]  
**Sent:** Sunday, September 24, 2000 5:09 PM  
**To:** REGS.COMMENTS@OCC.TREAS.GOV; REGS.COMMENTS@FEDERAL.RESERVE.GOV.treas.gov;  
PUBLIC.INFO@OTS.TREAS.GOV  
**Subject:** Consumer Protection for Depository Institution Sales of Insurance; Dockets 00-16, R-1079, 2000-68

I am Vice-Chair of the E-commerce Committee of the Tort & Insurance Practice Section of the American Bar Association and Chair of its Regulatory Subcommittee. What follows is in response to your request for comments on the Draft Regulation you collectively published in the August 21, 2000 Federal Register, pursuant to the directive contained in Section 305 of the Gramm-Leach-Bliley Act (GLBA). The comments are by individual members of the Subcommittee and should not be construed as the position of the Committee, TIPS, the ABA or any of the organizations employing the Subcommittee members.

You seek comments relative to the definition of "consumer", which, unlike the definition utilized in the Privacy Regulation promulgated pursuant to the directive contained in Title 5 of GLBA, is not restricted to individuals obtaining or seeking to obtain insurance products for personal, family or household purposes. Since the thrust of Section 305 of GLBA is different from the thrust of Title 5 of GLBA, the failure to so limit is appropriate. It is noted, however, that the distinction between "consumer" and "customer" utilized in the Privacy Regulation may also be appropriate here.

You seek comments on whether additional disclosures should be required when a customer leaves the institution's web site and when the institution acts as a "finder". One member of the Subcommittee believes the answer to both queries should be in the affirmative. Another member believes that notification of whether the linked site is one of an affiliated entity should be required, with concomitant disclosure requirements.

One member of the Subcommittee comments that since physical separation is an important concept, it might be in order to require that insurance products may not be purchased through the same portion of the web site where fund transfers to the depository institution may be made. Along these lines, another member of the Subcommittee comments that, while "wherever practicable" is the statutory standard for physical separation, the Regulation, in filling in the interstices, should give more guidance to the depository institution.

You seek comments as to whether the proposed definition of "electronic media" is adequate. One member of the Subcommittee believes the present definition to be adequate and further believes that a more expansive definition, if adopted, would still be consistent with GLBA. You further seek comments as to whether the requirements provide sufficient flexibility for future technological developments. One member of the Subcommittee believes the answer to be in the affirmative, but comments further that there should be a requirement that the prospective customer acknowledge

receipt and understanding of the required disclosures as a condition to proceeding further.

You seek comments on whether the Regulation should include a specific definition of "insurance". One member of the Subcommittee believes there should be such a definition, keyed to the various definitions of insurance products contained in the Internal Revenue Code.

You seek comments on the interplay of the Section 305 GLBA requirements with the E-sign Act. One member of the Subcommittee believes no action should be taken at this time, but recognizes that an amendment of the Regulation may be required after experience has developed under both GLBA and the E-sign Act

You seek comments on whether your Regulation should contain the same or equivalent requirements for electronic advertisements as are required by the Federal Trade Commission guidelines. One member of the Subcommittee does not believe the same level of detail as present in the FTC guidelines is required in your Regulation. Another member of the Subcommittee concurs, but further believes there would not be any added burden to the depository institution in requiring compliance with the FTC guidelines.

One member of the Subcommittee believes that the Consumer Grievance Process should require notification to the customer that some complaints will be referred to the appropriate state insurance regulator and possibly provide the means for the customer to contact that regulator directly.

If you have any question, I may be contacted at (212) 480-2282 during usual business hours.