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Experian  
955 American Lane  
Schaumburg, IL 60173

847 598 8194 Telephone  
847 598 8196 Facsimile  
www.experian.com

October 9, 2001

Secretary  
Federal Trade Commission  
Room 159  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Subject: Comments on Proposed Safeguards Rule - 16 CFR part 314

Dear Mr. Secretary:

Experian Information Solutions, Inc. ("Experian") submits the following comments to the notice of proposed rulemaking and related proposed rules promulgated by the Federal Trade Commission (the "FTC") pursuant to Section 501(b) of the Gramm-Leach-Bliley Act (the "GLB Act"). Experian offers these comments to the FTC on behalf of itself and its affiliates.

Experian, as operator of a credit reporting system regulated under the Fair Credit Reporting Act (15 USC § 1681 et seq., the "FCRA"), is a member of the Associated Credit Bureaus, Inc. ("ACB"). The ACB has separately commented on the proposed rules. Experian fully supports and agrees with the ACB comments.

An overarching concern is that the FTC may inadvertently create redundant, and inevitably conflicting, regulatory burdens. Pursuant to the GLB Act, each of the Department of the Treasury, Office of the Comptroller of the Currency ("OCC"), Board of Governors of the Federal Reserve System ("FRB"), Federal Deposit Insurance Corporation ("FDIC") and Department of the Treasury, Office of Thrift Supervision ("OTS") (collectively, the "Agencies") have joined in issuing the Interagency Guidelines Establishing Standards for Safeguarding Customer Information

(the "Guidelines"). The Safeguards Rule should be as similar as possible to the Guidelines, in all respects. Where an entity might be covered by the Safeguards Rule and indirectly by the Guidelines, it should be clear that compliance with one constitutes compliance with the other. Exceptions should be crafted wherever possible for existing regulatory schemes that already require an entity to keep data confidential and secure.

To that end, we have two main comments. First, the final Safeguards Rule should be limited in scope to the "customer information" of the subject financial institution. This is in keeping with the mandate of Section 501(a) of the GLB Act "that each financial institution has an affirmative and continuing obligation to respect the privacy of *its customers* and to protect the security and confidentiality of *those customers'* nonpublic personal information." (Emphasis added.) The Agencies specifically recognize this limitation in the Guidelines, as should the FTC. Not only is this in keeping with the enabling legislation, this will decrease the instances where a financial institution will face redundant compliance obligations. Customer information will be protected by the requirements in place in the Guidelines and contained in the proposed rule that require the implementation of security measures by contract when data is transferred to service providers. There is no reason to impose Safeguards Rule requirements directly on a financial institution that receives the customer information of another financial institution as a service provider.

Second, the Commission should also take care in promulgating the final rule to avoid creating regulatory schemes redundant with existing law and regulation outside of the GLB Act. A myriad of data privacy and security laws and regulations are now in effect. In particular, the FCRA requires that consumer reporting agencies such as Experian maintain the security of the data in its consumer reporting database. Under that act, consumer reporting agencies must have reasonable procedures in place for assuring that a consumer report is only furnished to those persons that have a permissible purpose under the FCRA for its use. Compliance with this and related provisions necessarily entails the employment of safeguards and

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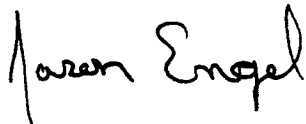
security measures, a number of which are specifically mandated by the FCRA (see FCRA Section 607(a)). The Commission should recognize this, as well as the other regulatory schemes mentioned in the Supplementary Information to the proposed rule, in crafting the final Safeguards Rule. As a matter of policy, financial institutions subject to the FCRA should be particularly excepted from any coverage of the proposed rule. We also see this as mandated by Section 506(c) of the GLB Act, which states that "nothing in this title shall be construed to modify, limit or supercede the operation of the [FCRA]."

In keeping with the above, the proposed rule should not require a financial institution to obtain contractual commitments regarding security from its service providers that are subject to other safeguards standards, including the FCRA.

Experian also supports a transition period to allow the continuance of existing contracts with service providers. As suggested in the Supplementary Information to the proposed rule, such an exception properly should parallel Section 313.18(c) of the Privacy Rule.

If you have any questions or would like to discuss any comments further, please feel free to contact me at 847/598-8194.

Respectfully submitted,



Jason Engel  
Vice President and  
Assistant General Counsel