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VIA E-MAIL AND OVERNIGHT DELIVERY

October 9, 2001

Mr. Donald S. Clark
Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

RE: "Gramm-Leach-Bliley Act – Privacy Safeguards Rule,
16 CFR Part 314 -- Comment of USA Education, Inc.

Dear Sirs and Madams:

This letter is submitted on behalf of USA Education, Inc. and its subsidiaries, including the Student Loan Marketing Association (collectively "Sallie Mae") in response to the Federal Trade Commission's ("FTC") notice of proposed rulemaking relating to Standards for Safeguarding Customer Information (the "Proposed Rule") to be issued under Title V of the Gramm-Leach-Bliley Act (the "GLB")-published at 66 Fed. Reg. 41162.

Sallie Mae is the nation's largest provider of education financing and largest holder of loans under the Federal Family Education Loan Program (the "FFELP"), a federally sponsored education loan program. We own or manage approximately \$72 billion of federally insured student loans and operate through 2 principal subsidiaries:

- the Student Loan Marketing Association, a government sponsored enterprise, which acts as a secondary market for FFELP loans, and
- Sallie Mae Servicing L.P. which is the nation's largest servicer of FFELP loans with nearly 7.2 million borrower accounts.

To help more students and families plan and pay for college, Sallie Mae actively partners with many of the nation's leading lenders, schools and guarantor agencies. In achieving that goal, we share information with these institutions as loan disbursement provider, application service provider, guarantor servicer or loan servicer.

We agree with the concepts embodied in the Proposed Rule and urge the FTC to adopt the Proposed Rule in final form ("Final Rule") without substantial revisions. However, we do have several general comments. These comments are intended to preserve current industry practices that have proven beneficial to students and their families while still maintaining adequate protections for "customer information".

In General

Coordination with other Safeguard Rules

Sallie Mae applauds the FTC for its desire to ease compliance with the Proposed Rule by following the general approach of the Banking Agency Guidelines¹ and the safeguarding standards of the other federal agencies². We also appreciate the regulatory flexibility reflected in the Proposed Rule. In our view, this approach will facilitate compliance and produce more meaningful protection of customer information.

However, we remain concerned that there exist multiple Safeguards Standards that could cause costly and duplicative compliance problems. For example, a typical guaranteed student loan transaction involves:

- a bank who is making the loan to the student and is subject to the Banking Agency Guidelines,
- an agency who is guaranteeing the loan and is subject to the FTC's Final Rule,
- a school who is confirming the student's eligibility and who is subject to the Family Educational Rights and Privacy Act ("FERPA"), and
- Sallie Mae and one or more of its affiliates acting on behalf of the lender, the guarantor and the school as loan disbursement agent, guarantor servicer and loan servicer.

In this case, Sallie Mae, who itself is a financial institution covered by your Proposed Rule, will be subject to three sets of requirements. Such a scenario, in our opinion, would only add costly compliance burdens under which an entity such as Sallie Mae would have to identify within our information security program where the information originated, identify what regulations the originating entity is subject to and test our compliance against those standards. That program would have to repeat these measures for each originating entity even where there is only one student loan transaction.

The Commission notes in the preamble to the Proposed Rule that, in the case of affiliates of entities subject to the Commission's rule that are covered by another agency's Safeguards Standards, it does not intend to duplicate the existing requirements on the affiliate. We believe this principle should be expanded to include service providers. As an equally effective alternative, the Final Rule can state affirmatively that where the service provider is directly subject to a set of Safeguards Standards, whether it is your FTC Rule, the Banking Agency Guidelines or the SEC's Guidelines, that compliance with that particular set of Safeguards Standards would constitute compliance with the Commission's Final Rule. We feel that no safeguards are lost when the

¹ See the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, 12 CFR Part 30 et al.

² The other agencies responsible for establishing safeguards standards are the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC").

customer information is disclosed to Sallie Mae in any of its various capacities if the information is protected by our compliance with your Final Rule..

We recognize that this approach may require the Commission to delegate and/or coordinate its activities with other federal agencies. Nonetheless, we believe this approach represents a workable solution that meets the objectives of the GLB Act, while at the same time relieving financial institutions and their service providers of the burden and uncertainty involved in having to comply with the rules of more than one regulator.

Other Comments.

Comment on Paragraph (a) - Requirement that each Financial Institution Designate an Employee or Employees.

Proposed paragraph (a) requires each financial institution to designate an employee or employees to coordinate its information security program in order to ensure accountability for achieving adequate safeguards. We are concerned that a company that is made up of several separate financial institutions would be required to designate several different employees - one or more from each of its financial institution subsidiaries. As an alternative, we believe that the FTC would promote more meaningful compliance if the Final Rule expressly permits a holding company to name one or more of its employees or agents to manage the program on a corporate wide basis.

Comment on Paragraph (d) - Requirement that Financial Institutions Require Service Providers to "Implement and Maintain Safeguards".

We recognize the importance of ensuring that "customer information remains protected when it is shared with another entity to carry out processing, servicing or other functions on behalf of a financial institution". However, we do not believe requiring specific contractual language is necessary to ensure such protection. A contract requiring a service provider to comply with all federal and state laws applicable to the transaction or services achieves the same result. Maintaining the contractual language requirement merely promotes contractual form over safeguarding function.

Comment on Section 314.5 - Effective Date.

You have also requested comment on the appropriate amount of time for covered entities to come into compliance with the Commission's final rule. The proposed rule states that the final rule will be effective one year from the date of its issuance. While we believe that a one-year period is sufficient for all entities to comply with the final rule, we also strongly believe the period should not be shortened.

Lastly, we note that the Banking Agencies gave entities subject to their jurisdiction 29 months to accomplish this task. We recommend that, if you retain the requirement that contracts contain specific language, a similar period be granted to entities subject to the Commission's jurisdiction. Specifically, we would suggest that any requirement to amend existing contracts not become effective until 2 1/2 years following publication of a final rule.

We appreciate this opportunity to comment on the Proposed Rule. If you have any questions concerning this letter or if you would like additional information, please do not hesitate to contact me at 703-810-7677.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark L. Heleen', written over a horizontal line.

Mark L. Heleen
Associate General Counsel