

March 23, 2001

Mr. John Mogg
Director General
Internal Market Directorate General
European Commission
Rue de la Loi 200
B-1049 Brussels
Belgium

Dear Mr. Mogg:

We are writing to reinforce our concerns over the proposed standard contract clauses as described in the Treasury-Commerce joint letter on February 16, 2001.

Over the last year, U.S. financial institutions have been implementing new consumer privacy protections mandated by the Gramm-Leach-Bliley Act of 1999. In the coming months, the U.S. Treasury Department would like to resume negotiations with the EU Commission on the adequacy of data protections provided by U.S. laws governing the financial services sector.

We are concerned future negotiations for the financial services sector may be adversely affected by the Commission's proposal to adopt standard clauses for contracts governing data transfers from firms in the EU to firms in other countries. The standard clauses incorporate duties and liabilities that are not found in the directive. We recognize the model contracts are not the only means to meet the requirements of the directive. Still, we believe there is a serious danger the adoption of the standard clauses as drafted will create a de facto standard that would raise the bar for U.S. and foreign firms that might be covered by other agreements - including any arrangement resulting from Treasury's financial services negotiations.

In short, we share the concern of a number of multinational firms that the adoption of the proposed standard clauses will introduce uncertainty about the use of contracts.

The proposed standard clauses are not a workable alternative model. They impose unduly burdensome requirements that are incompatible with real world operations. While revisions and improvements have been made since the standard contract clauses were presented for comment in September 2000, the revision process has not been transparent to those seeking participation.

We urge the Commission to provide more time for an open exchange of views with the private sector, impacted countries, and other stakeholders, especially given the above concerns. In light of our broad concerns and specific implications for future Treasury negotiations on adequacy, it is our view that the Commission should defer consideration of the standard contract clauses.

It is in the interest of both the U.S. and the EU to ensure that neither side adopts new measures that will weaken the prospects for reaching an agreement on an adequacy finding for the U.S. financial services sector. We appreciate your consideration of our views and look forward to further discussions on these issues in the coming months.

Sincerely,

Donald V. Hammond
Acting Under Secretary (Domestic Finance)

Bernard Carreau
Acting Under Secretary for International Trade