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BY ELECTRONIC FILING rule-comments@sec.gov

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F St NE
Washington DC 20549-1090

RE: File Number S7-02-12 Identity Theft Red Flags Rule

Dear Ms. Murphy,

ABOUT THE CONSORTIUM: The Consortium is a consulting firm serving both Broker/Dealers ("BDs") and Registered Investment Advisor ("RIA"). I bring a unique and broad perspective on this topic. I entered my financial services career as a stockbroker in 1978 for a wirehouse. Turning from sales to compliance in 1983, I became a Compliance Officer first for a BD, and then for an RIA. I founded The Consortium in 1989; where I continue to work with firms on compliance, practice management, and marketing.

COMMENTS: I appreciate the opportunity to comment on the proposal. I am in general support of the proposal as it relates to BDs. My comments focus on the RIA exemption.

The Fair Credit Reporting Act of 1970 ("FCRA") defines a financial institution to include certain banks and credit unions, and "any other person that, directly or indirectly, holds a transaction account (as defined in section 19(b) of the Federal Reserve Act) belonging to a consumer." The SEC is not proposing to mention specific entities, but notes that entities under its jurisdiction that may be financial institutions because they hold customers' transaction accounts would likely include broker-dealers that offer custodial accounts and investment companies that enable investors to make wire transfers to other parties or that offer check-writing privileges.

The SEC recognizes that most registered investment advisers are unlikely to hold transaction accounts and thus would not qualify as financial institutions. The proposed definition nonetheless does not exclude investment advisers or any other entities regulated by the SEC because they may hold transaction accounts or otherwise meet the definition of "financial institution."

The SEC solicits comment if the rule should omit investment advisers.

I believe that investment advisers should be omitted, as I cannot foresee any scenario in which an investment adviser would hold transaction accounts. The only exception is where the investment adviser would be dually registered as a broker-dealer or other financial institution subject to the rule, in which case it would have an obligation to comply because of the other operating capacity.

The SEC estimates that 10% of investment advisers are likely to qualify. If the SEC is aware of scenarios in which investment advisers would hold transaction accounts, then the industry would need specific examples of when/how this would occur.

The SEC has already stated that the proposed definition of "creditor" would not include investment advisers because they bill in arrears, i.e., on a deferred basis, if they do not "advance" funds to investors and clients.

If the SEC were to include investment advisers, then they would have an ongoing burden to periodically review for compliance with a rule that is not applicable to their operations.

Sincerely,

Nancy Lininger
The Consortium