



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 159
Washington, DC 20580

Re: Gramm-Leach-Bliley Act Privacy Safeguards Rule, 16 CFR Part 314-Comment

Dear Secretary Clark:

Please accept this comment letter on behalf of the North American Securities Administrators Association, Inc. ("NASAA").¹ NASAA appreciates the opportunity to provide comment on the proposed rule, "Standards for Safeguarding Customer Information" (Safeguarding Rule). NASAA agrees with the goals of the proposed rule to: insure the security and confidentiality of customer records and information; protect against any anticipated threats or hazards to the security or integrity of such records; and protect against unauthorized access to, or use of, such records or information that could result in substantial harm or inconvenience to any customer.

NASAA's interest in the Commission's Safeguarding Rule is focused on how that rule would impact some of those businesses regulated by state securities regulators. Specifically, these include (1) investment advisers with less than \$25 million in assets under management ("state-level investment advisers") and (2) intrastate securities broker-dealers.

NASAA believes it is important that the standards for safeguarding information be broad and flexible to give financial institutions the latitude to make decisions appropriate to their business operations. Many state-level investment advisers are one or two-person operations and the requirements imposed by the safeguard rule should not be unduly burdensome.

¹ The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

Consistent with NASAA's earlier comment letter to the Federal Trade Commission,² we continue to suggest that the Commission allow investment advisers, not registered with the SEC, and intrastate securities broker-dealers, to comply with the SEC's § 248.30 "Procedures to Safeguard Customer Information and Records" in lieu of complying with the Commission's rule. This approach would result in a predictable and consistent policy for both state and federal investment advisers and will track investment adviser compliance requirements should state advisers have their assets under management exceed the \$25 million threshold, at which time they would register with the SEC and be required to comply with federal securities laws. Conversely, if a federally covered investment adviser were to become a state-level investment adviser they too would not have to alter their safeguarding plan.

We recognize the Commission's attempt to propose flexible requirements that can be adapted to an institution's size and sophistication. Many of the state-level investment advisers also perform other financial services such as selling insurance products or providing accounting services. Because of the flexibility in the Commission's proposed rule, small firms will be able set up safeguarding procedures based on the information they have collected from their customer, rather than setting up a myriad of procedures based on the services they provide.

We also think that placing an affirmative duty in Section 314.4, requiring a financial services company to identify and consider the risks in each relevant area of operations, is a necessary step. The requirement in Section 314.3, "safeguarding customer information" requires that the company establish a written program to protect a customer's information from those risks it identified when complying with Section 314.4. Because the company must put its policy in writing, it will be required to take an honest look at the level of sensitivity of information it requests and how it protects this information. The written requirement encourages a company to take a reasonable approach to protecting a customer's personal nonpublic information, while at the same time not requiring a small business to incur significant expense in developing a plan to protect a customer's important personal information.

NASAA will be following the implementation of the safeguard rule to monitor how it ultimately works in practice. Please contact me or Deborah Fischione House, NASAA's Director of Policy, if we may be of further assistance.

Sincerely,

Christine A. Bruenn
Maine Securities Administrator
Chair, NASAA Privacy Project Group

² NASAA letter to FTC, dated October 10, 2000, on the Advance Notice of Proposed Rulemaking, 16 CFR Part 313.