

January 29, 1997

Mr. William W. Wiles
Secretary
Board of Governors of the Federal Reserve System
20th. Street and Constitution Avenue NW
Washington, DC 20551

Re: Public availability of information about consumers Docket No R-0953

Dear Secretary Wiles:

Please accept this comment letter on behalf of the Securities Activities of Banks Committee of the North American Securities Administrators Association ("NASAA")¹ in response to the notice and request for comments of the Board of Governors of the Federal Reserve System on issues to be addressed in a proposed consumer information study revised by the Economic Growth and Regulatory Paperwork Act of 1996. We welcome this opportunity to provide input on this subject.

The use and dissemination of sensitive personal and financial information has been an area of continuing concern for state securities regulators. We receive complaints from customers who have been solicited by broker-dealers that appear to have extensive information about the consumer's financial transactions. In some cases, the information was provided by the consumer's bank in order to market securities to the consumer. We are also concerned about the increased incidence of identity fraud, where consumer information is used to obtain credit cards or loans in another person's name without that person's knowledge or consent.

We applaud the Federal Reserve Board's efforts to examine the possibility of providing consumers with the choice to limit the dissemination of personal information by a financial institution. At the same time, we hope the Federal Reserve Board's recommendations will acknowledge the needs of law enforcement and regulatory agencies for access to databases containing consumer information for legitimate law enforcement and regulatory purposes. The remainder of this letter contains information responding to the questions posed in the Federal Reserve Board's release.

What should be considered sensitive consumer information for the purposes of the study? Social Security numbers, mothers' maiden names, prior addresses, and dates of birth are all potentially sensitive consumer identification information.

¹ In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

What information is currently used to identify individuals and what databases make that information publicly available?

Social security number are the most common piece of identifying information. A number of public records databases are searchable by name or social security number including databases available through Lexis and West Publishing. A search by name can often produce a date of birth, social security number and prior addresses.

How is the information obtained, for what uses, and under what restrictions on use?

Identifying information is obtained in a wide variety of consumer transactions, including applications for credit and opening a financial accounts. This information may be transmitted in person, by telephone, through the mail, or over the Internet. Generally the consumer furnishing the information has no ability to restrict the use to which the information is put.

Industry guidelines concerning compilation, sale, or use of identifying information.

We are aware of few industry guidelines or regulations on the use of identifying information. One exception is that banks obtaining such information in the course of their banking activities are usually restricted in their disclosure of that information. Similar restrictions do not appear to apply to banks' use of identifying information obtained in the course of activities outside the traditional banking sphere.

Use of identifying information for financial fraud.

Identity theft through the use of publicly available information is only the latest variation on the ongoing financial fraud theme. Public availability of identifying information is only one tool for committing financial fraud. Financial fraud is also possible because many loan and other financial transactions are concluded without any personal contact. Consumers receive many unsolicited credit card or loan applications in the mail from banks and other lenders. On-line loan applications are now available in some areas. Identity theft has long been possible through the use of stolen credit cards and identity cards.

Legislative changes to protect sensitive information.

The kinds of identifying information currently used in financial and consumer transactions are inherently insecure. Social security numbers are used in all transactions involving income tax consequences. Prior addresses and mothers' maiden names may be available through various public sources, including newspapers and telephone books.

This information may be available for various legitimate purposes unrelated to financial fraud. One solution to the problem of misuse of publicly available identifying information may be the development of identifiers to be used solely for the purpose of identification and not for other purposes. Legislation to allow or facilitate the use of

digital signatures or something similar could provide an alternative to the insecure means of identification used currently .

Legislative changes to limit use of identifying information.

We suggest that, through legislation, consumers be given the ability to restrict the use that is made of the identifying information they provide in a credit, consumer, or other transaction. Further, consumers should be given the ability to restrict the distribution of information about the transaction itself, with certain exceptions. One exception might be where a public filing is necessary to complete the transaction (for example, recording a mortgage or deed, filing an automobile title transfer, or making a UCC filing). Another might be, in credit transactions, that the creditor may provide information to credit bureaus on whether a loan is being paid according to its terms. Consumers should be informed of any use that will be made of their identifying information or information about their transaction that is not essential to the completion of their transaction.

Sincerely yours,

Denise Voigt Crawford, Chair
NASAA Securities Activities of Banks Committee