



NASAA

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NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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**By Email: rule-comment@sec.gov**

September 12, 2008

Florence E. Harmon  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Regulation S-P: Privacy of Consumer Financial Information and  
Safeguarding Personal Information, File No. S7-06-08**

Dear Ms. Harmon:

The North American Securities Administrators Association, Inc. (NASAA)<sup>1</sup>, welcomes the opportunity to comment on the Commission's proposed amendments to Regulation S-P.<sup>2</sup>

The proposed amendments would revise Regulation S-P by imposing more specific requirements for responding to information security breaches and safeguarding information, broadening the scope of the information covered by the safeguarding and disposal provisions, tightening controls, and providing more information when there are security breaches. In addition, the proposed amendments provide a new exemption from the current notice and opt-out requirements for a representative or agent who moves from one firm to another ("new exemption").

In its comment letter on the initial Regulation S-P proposal, NASAA commended the Commission's efforts in establishing regulations to implement the privacy provisions under the Gramm-Leach-Bliley Act ("GLBA").<sup>3</sup> The use and dissemination of sensitive personal and financial information has been an area of continuing concern for state securities regulators and

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<sup>1</sup> NASAA, the oldest international organization devoted to investor protection, was organized in 1919. NASAA is the association of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA serves as the forum for state securities regulators and their cooperative efforts to protect investors and to promote fair and open capital markets.

<sup>2</sup> *Part 248 - Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Personal Information*, SEC Rel. No. IA-2712, File No. S7-06-08 (Mar. 4, 2008) (Proposing Release).

<sup>3</sup> *See* letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission from Bradley W. Skolnik, Indiana Securities Commissioner and NASAA President dated March 31, 2000.

we support strengthening Regulation S-P and the Commission's goal of maintaining consistency with regulations and guidance issued by other regulatory agencies.

Protecting consumers from unwanted access to personal information and identity theft is paramount. However, we do not believe that firms that prevent a departing representative from retaining basic customer contact information (name, address, telephone number and email address) are doing so in an effort to prevent identity theft. Rather, we find that some firms attempt to use Regulation S-P as a means to prevent consumers from moving their accounts to another firm, and limit their choice of registered representatives to those affiliated with the firm.

As the Commission noted in the Proposing Release, and as we have seen with the use of the "Protocol for Broker Recruiting", there is little to no risk of identity theft or misuse of the information when a departing representative retains basic contact information. Moreover, we do not believe permitting a departing representative to retain limited contact information in order to inform consumers that the representative has relocated to a new firm constitutes unwanted access. To the contrary, we believe that investors expect their representative to have retained this basic information and further expect to receive notice from the representative of his/her relocation. To that end, the new exemption is a benefit to consumers, but only to the extent it is widely available. We are concerned that giving firms the discretion to determine which departing representatives, if any, will be allowed to retain basic contact information is fostering a regulatory framework that impedes the portability of investor accounts. It is disconcerting that firms can effectively prevent consumers from being properly informed and given an opportunity to transition with the departing representative. Additionally, it is troubling that after effectively impeding consumers from maintaining a continuous relationship with a representative, some firms merely relegate those consumers to call centers that often fail to provide the same level of individualized service as a designated representative.

Accordingly, we urge the Commission to revisit the proposed new exemption to permit representatives to retain basic contact information for the clients that they have serviced. We believe such an exemption will afford consumers the benefit of being properly informed regarding a relocation of their financial professional and the opportunity to retain the portability of their account(s).

Thank you for your consideration of NASAA's position. Should you have any questions regarding the comments contained in this letter, please do not hesitate to contact Rex Staples, NASAA General Counsel at [rs@nasaa.org](mailto:rs@nasaa.org) or 202-737-0900.

Sincerely,



Karen Tyler  
NASAA President  
North Dakota Securities Commissioner