



United States General Accounting Office
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Office of the General Counsel

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June 13, 2000

The Honorable Phil Gramm
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable James A. Leach
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Banking and Financial Services
House of Representatives

Subject: Federal Reserve System: Privacy of Consumer Financial Information

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Reserve System (Board), entitled "Privacy of Consumer Financial Information" (Docket No. R-1058). We received the rule on May 22, 2000. It was published in the Federal Register as a final rule on June 1, 2000. 65 Fed. Reg. 35162.

The final rule is issued pursuant to section 504 of the Gramm-Leach-Bliley Act and implements notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. The rule also implements section 502, which prohibits a financial institution from disclosing such information to nonaffiliated third parties unless the institution satisfies various notice and opt-out requirements and the consumer has not elected to opt out of the disclosure. Finally, section 503 requires institutions to provide its customers with a notice of its privacy policies and practices.

The rule is issued jointly with the Office of the Comptroller of the Currency and the Office of Thrift Supervision at the Department of the Treasury, and the Federal Deposit Insurance Corporation. However, the Office of Management and Budget (OMB) did not determine that the rule was a major rule under section 801 for these agencies.

Enclosed is our assessment of the Board's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Board complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool, Director, Financial Institutions and Markets Issues. Mr. McCool can be reached at (202) 512-8678.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Donald J. Winn
Assistant to the Board
Federal Reserve System

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL RESERVE SYSTEM
ENTITLED
"PRIVACY OF CONSUMER FINANCIAL INFORMATION"
(DOCKET NO. R-1058)

(i) Cost-benefit analysis

The Federal Reserve System was not required to perform a cost-benefit analysis in connection with the issuance of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Board prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis for the rule. The analyses comply with the requirements of the Act.

The Board points out that the Gramm-Leach-Bliley Act does not permit exempting small entities from the requirements of the rule. However, the Board will be issuing a small entity compliance guide in the near future.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The rule, promulgated by an independent regulatory agency, is not subject to title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The rule was promulgated through the notice and comment rulemaking procedures of 5 U.S.C. 553. The Notice of Proposed Rulemaking was published in the Federal Register on February 22, 2000. 65 Fed. Reg. 8770. Over 8,000 comments were received by the four agencies that are issuing the joint rule. The preamble to the final rule contains responses to the comments received.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act. The Board of Governors of the Federal Reserve System has approved the collection under its

delegation of authority from OMB (5 C.F.R. 1320 Appendix A.1) and the collection has been assigned OMB control number 7100-0294.

The collection is expected to have 9,500 respondents and a total annual burden of 427,500 hours.

Statutory authorization for the rule

The final rule is issued under authority of 15 U.S.C. 6801 et seq. and section 504 of the Gramm-Leach-Bliley Act (Pub. L. 106-102, Nov. 12, 1999).

Executive Order No. 12866

As an independent regulatory agency, rules promulgated by the Board of Governors of the Federal Reserve System are not subject to review under the Order.