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THE FINANCIAL SERVICES ROUNDTABLE

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RICHARD M. WHITING
EXECUTIVE DIRECTOR
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(3)

November15, 2000

The Honorable Donna A. Tanoue
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W., Room 6028
Washington, D.C. 20429

The Honorable Ellen C. Seidman
Director
Office of Thrift Supervision
1700 G Street, N.W., 5th Floor
Washington, D.C. 20552

The Honorable Alan Greenspan
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Room 2046
Washington, D.C. 20551

The Honorable John D. Hawke
Comptroller
Office of the Comptroller of the Currency
250 E Street, S.W., Mail Stop 9-1
Washington, D.C. 20219-0001

Dear Chairman Tanoue, Director Seidman, Chairman Greenspan and Comptroller Hawke:

On behalf of the member companies of The Financial Services Roundtable[1], I wish to bring to your attention a potentially serious compliance problem that has arisen as a result of the proposed regulations to implement the affiliate information sharing provisions of the Fair Credit Reporting Act ("FCRA"). While the comment deadline on the proposed FCRA regulations is weeks away, we believe that this matter deserves your immediate attention because it affects the

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[1]The Financial Services Roundtable is a national association whose membership is reserved for 100 companies selected from the nation's 150 largest integrated financial services firms. The member companies of the Roundtable engage in a wide range of financial activities, including banking, securities, insurance, and other financial service activities. The mission of the Roundtable is to unify the leadership of large, integrated financial service companies in pursuit of three primary objectives:

- To be the premier forum in which leaders of the United States financial services industry determine and influence the most critical public policy issues that shape a vibrant, competitive marketplace and a growing national economy;
- To promote the interests of member companies in federal legislative, regulatory and judicial forums; and
- To effectively communicate the benefits of competitive and integrated financial services to the American public.

The Roundtable is a CEO-driven association that advocates the interests of integrated financial institutions primarily in the Congress, the federal agencies, and federal courts.

ability of our member companies to distribute the initial privacy notices required by the Gramm-Leach-Bliley Act's ("GLBA") privacy regulations.

As you know, the GLBA privacy regulations require every financial institution to provide an initial privacy notice to all of its customers, even if the institution does not disclose nonpublic personal information about consumers to nonaffiliated third parties. Furthermore, the GLBA privacy regulations provide that this initial notice must include any disclosures that the institution makes regarding the ability of a customer to opt-out of information sharing among affiliates under the terms of the FCRA. Many of our members already have prepared and are in the process of printing their initial privacy notices and have included in those notices information about their current FCRA information sharing practices. Now come new proposed FCRA regulations that address the content and distribution of the FCRA opt-out notices, which, if implemented as proposed, would require revisions to the initial GLBA privacy notices.

In other words, with the publication of the proposed FCRA regulations, institutions that have prepared their initial GLBA privacy notices are faced with a dilemma: proceed with the distribution of their GLBA privacy notices and risk having to distribute revised notices after the FCRA regulations are finalized, or wait and prepare new notices once the FCRA regulations are finalized. Either choice carries significant costs for the institution. Further complicating this dilemma is the uncertain timing for the FCRA regulations. With a comment deadline of December 4th, it is likely that those regulations will not be finalized until February or March 2001, at the earliest, which would make it impossible for many institutions to distribute GLBA privacy notices early enough to satisfy the date already established by federal agencies for full compliance with the GLBA.

There is a solution to this problem. We respectfully recommend that you jointly announce that the proposed FCRA regulations will not be effective until such time as an institution distributes its first annual privacy notice or distributes a revised privacy notice for reasons unrelated to FCRA. Alternatively, you could make the proposal effective in 12 to18 months. Under either alternative, the announcement also should clarify that the new FCRA notice requirements do not apply to any FCRA opt-out notices used by an institution prior to the effective date of the new regulations. Such an announcement would permit institutions to proceed with the distribution of their initial GLBA privacy notices. It also would eliminate any uncertainty over the application of the new FCRA regulations to prior FCRA notices.

We realize that the federal banking agencies have sought to promote consistency between the GLBA privacy regulations and the newly proposed FCRA regulations. However, as proposed, the FCRA regulations actually complicate and delay compliance with the distribution of the initial GLBA privacy notices. Your consideration of these recommended solutions to this problem is appreciated.

Sincerely,

Richard M. Whiting

Richard M. Whiting

cc: The Honorable Roger W. Ferguson, Jr.
The Honorable Edward M. Gramlich
The Honorable Andrew C. Hove
The Honorable Edward W. Kelley, Jr.
The Honorable Laurence H. Meyer