



August 5, 2022

April Tabor
Acting Secretary of the Commission
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW, Ste. CC-5610
Washington, DC 20580

Re: Standards for Safeguarding Customer Information 16 CFR Part 314, Document No. 2021-25736

Dear Secretary Tabor:

This letter is in reference to the Federal Trade Commission's (FTC) Standards for Safeguarding Customer Information rule. The Office of Advocacy respectfully requests that the FTC delay the effective date until December 2023. Please note that the Office of Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration.

On December 9, 2021, the FTC published a final rule to amend the Standards for Safeguarding Customer Information ("safeguards rule"). The rule adds provisions designed to provide covered financial institutions with more guidance on how to develop and implement specific aspects of an overall information security program, such as access controls, authentication, and encryption. It also adds provisions designed to improve the accountability of financial institutions' information security programs, such as by requiring periodic reports to boards of directors or governing bodies. Moreover, the rule expands the definition of "financial institution" to include entities engaged in activities the Federal Reserve Board determines to be incidental to financial activities and exempts financial institutions that collect less customer information from certain requirements. In addition, the final rule defines several terms and provides related examples in the safeguards rule rather than incorporating them from the Privacy of Consumer Financial Information Rule. The effective date of the rule is December 9, 2022.

On July 21, 2022, ACA International, the American Financial Services Association, the Consumer Data Industry Association, and the National Automobile Dealers Association submitted a letter to the FTC requesting a delay the effective date of the Standards for Safeguarding Customer Information rule (Final Rule) until December 2023. A copy of that letter

is attached hereto. In the letter, the trade associations assert that they cannot meet the December 2022 effective date because of the shortage of labor, lack of external resources and necessary equipment and provided data to support their assertions.

Because of the economies of scale, less robust recruiting and human resources budgets, and the waiting period for equipment that is being obtained by the larger companies, the problems that are outlined in the letter are magnified for small entities. Small entities do not have the buying power of large companies or additional resources to pay a premium for equipment. Likewise, as noted in the industry letter, there is a labor shortage for workers needed to implement these safeguards. During a labor shortage, employers with the resources to offer high wages and other incentives are able to attract talent. It is more difficult for small firms that cannot afford the pay scales or incentives to attract talented employees.

In addition, small financial institutions will need to modify their methods for evaluating these risks and the manner that they document them. Small entities must also ensure that the service providers they work with meet many of the requirements of the rule as well as amend contracts to reflect the changes.

Safeguarding customer information is extremely important. However, it is also important for the requirements of the rule to be implemented correctly. The December 9, 2022 effective date does not provide enough time for the requirements to be implemented correctly. Accordingly, Advocacy respectfully requests that the FTC extend the effective date of rule to December 9, 2023.

If you have any questions regarding these comments or if Advocacy can be of any assistance, please do not hesitate to contact me or Jennifer Smith at (202) 205-6943. Thank you for your consideration.

Sincerely,

/s/

Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/

Jennifer A. Smith
Assistant Chief Counsel
for Economic Regulation & Banking