



August 2, 2019

**Submitted Electronically**

Federal Trade Commission, Office of the  
Secretary, 600 Pennsylvania Avenue  
NW, Suite CC-5610 (Annex B),  
Washington, DC 20580

**Re: Safeguards Rule, 16 CFR part 314, Project No. 145407, RIN 3084-AB35.**

Dear Secretary Tabor,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 230 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the Federal Trade Commission's (FTC) notice of proposed rulemaking related to standards for safeguarding customer information (safeguard rule).

While WBA members are regulated by federal banking agencies and thus not generally subject to FTC authority, they still have a significant indirect interest in the safeguard rule. As discussed in greater detail later in this comment letter, Wisconsin banks work with service providers that meet the safeguard rule's definition of financial institution. For that reason, WBA appreciates FTC's efforts to provide more guidance and certainty to financial institutions working to provide adequate safeguards for consumer privacy. However, to maintain flexibility, WBA recommends aligning the rule's standards with the Federal Financial Institutions Examination Council's Interagency Guidelines Establishing Information Security Standards.

The Gramm-Leach-Bliley Act directs federal agencies to implement standards for consumer security requirements. FTC first issued a rule with generalized requirements to provide financial institutions with the flexibility to shape their information security programs to their business and to allow their programs to adapt to changes in technology and threats to the security and integrity of customer information. The safeguard rule states a goal of attempting to provide more detailed guidance as to what an appropriate information security program entails. WBA supports this cause, but is concerned with the approach taken, that more prescriptive rule writing will deviate too far from the already well established risk-based approach.

Instead, to further streamline and avoid overlap, WBA recommends that FTC follow the FFIEC requirements. In an area where standards continuously evolve it is important to permit flexibility. Prescriptive requirements risk more harm than good when reactionary methods are more effective to maintain effective security. Limited cybersecurity professionals are available, and their expertise is best expended on front-line defense and security rather than check-the-box compliance exercises. Guidelines have already been established and outlined in detail in the FFIEC IT Examination Handbook: Information Security Booklet. FFIEC also regularly publishes guidance based on evolving threats and best practices, creating standards are widely used, understood, and have proven effective.

Furthermore, WBA agrees with the dissenting statement of Commissioner Noah Joshua Phillips and Christine Wilson that imposing uniform regulatory requirements across all types of businesses has a disparate impact on smaller businesses because there are scales of economy in regulatory compliance. WBA has many small institutions that would face increased regulatory burden if held to standards not appropriately designed for their size. Additionally, larger institutions have already invested in effective systems. Introducing specific requirements would increase compliance costs across the board without guaranteeing an increase in effective security.

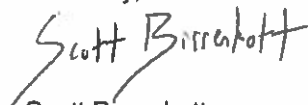
While WBA members generally do not meet the definition of financial institution under the rule, many are affected indirectly through service providers. Wisconsin banks work with credit reporting agencies, merchant processing services, check companies, and firms, all of which provide financial services covered by the rule. For example, one WBA member uses a non-bank affiliate to provide consumer installment lending that is covered by the safeguard rule. As proposed, the safeguard rule would impose specific requirements more burdensome than the FFIEC's similar consumer safeguards. This would give that institution less flexibility and a significant increase in burden required to meet two standards.

At a minimum, WBA requests that if FTC imposes more specific standards, those standards neither require encryption of data at rest nor that data be deleted as soon as it is no longer needed. These two requirements go well beyond what FFIEC requires and would create undue burden, detracting from resources that would otherwise be deployed effectively under more flexible models.

In conclusion, WBA supports the call for enhanced efforts in the realm of data security but recommends a risk-based approach centered around data, analysis, and guidance rather than uniform rulemaking. Flexibility, combined with less-restrictive tools, will assist financial institutions in meeting security needs while enabling them the ability to evolve their programs as needed. More specifically, WBA recommends that FTC consider FFIEC Interagency Guidelines and the FFIEC IT handbook in upgrading its safeguard rule. These standards should be used because they provide a comprehensive, risk-based approach.

We appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Scott Birrenkott". The signature is written in a cursive, slightly slanted style.

Scott Birrenkott  
Assistant Director - Legal