May 11, 2008

Ms. Nancy Morris
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, DC 20549-1090

RE: Comment on Proposed Amendment to Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Personal Information

Dear Ms. Morris:

Thank you for the opportunity to submit comments on the Commission's proposal to amend Regulation S-P.

I believe the Commission's effort to improve the way financial service firms protect and safeguard client information is of utmost importance in light of today's sophisticated technology and those that are willing to go to almost any length to attempt to steal and use personal client information for their own benefit.

With that being said, I also believe there are limits to what can and should be expected of an industry comprised of businesses that come in all shapes and sizes. If the most significant problem lies with online accounts, the amendments should focus on this area, rather than the broad-brush approach of radically adding to the procedures for each and every firm within our industry. It may be that many large firms already have processes in place that closely align with the proposed new rules. I would assume, however, that there are very few small firms that do.

If we are required to name a specific individual (or even job title) as responsible for our Information Security, this position will no doubt be offloaded to either the Chief Compliance Office, someone in senior management or an owner of the firm, who already wears multiple hats. If this route were taken, inevitably the person designated would probably not have the necessary skills to adequately perform this function. The only alternative would be to hire a consultant or another employee with requisite experience to perform the required tasks.

When you add the possibility of adding the cost of a consultant or new hire to the proposed requirements that will expect firms to: document and evidence all safeguarding processes, training, testing, verify third parties are protecting your client data, document areas where problems are detected or controls are weak, breaches, disposal of records (both at the firm and remote offices) etc. the expense of such a proposition goes through the roof. As most small firms are "introducing brokers" and do not carry customer accounts, these new requirements seem to be extremely burdensome when compared to the related risks presented by such firms.

The cost estimates provided for small firms indicate an estimate of $18,000 in the first year and roughly $10,000 for ongoing annual expenditures. I believe these estimates to be woefully understated. If a consultant or even an in-house employee is given this responsibility, there will certainly be an expectation to be paid for the effort (I haven't hired anyone for $10,000 in the last 20 years). The amount of work necessary to document the process every step of the way, including follow up testing and then documenting that testing was done, and that third party provider verification has been performed, and follow up documentation to verify third parties are continuing to adequately safeguard records (and I'm not even clear how I would test this for the over 100 third party relationships we have with outside mutual fund and insurance companies), somehow verifying and documenting our remote offices are disposing of client data properly, etc. would all require many more hours than are estimated in the analysis of the cost to firms.

Additionally, when this type of "documenting" and "evidencing" is required in a small firm, it is usually one of the senior personnel of the firm that will perform this task. Not only is there a significant expense to the firm in the time and resources of that person being used to perform these tasks – but there is an even greater cost when you consider the time that person is away from their normal duties and what would otherwise have been accomplished by them in that time. Although this is hard to quantify, an example would be a small broker-dealer where there is only one Principal – who is also a producing manager. If this individual is required to perform all of the tasks enumerated throughout the proposed amendments, it is possible that the cost to the firm could run into the tens or even hundreds of thousands of dollars, not only related to missed opportunities, but also the possible serious reduction in time available for strategic planning and customer service.

I would ask that the Commission perform an analysis of where the most prevalent breaches of customer data have taken place, and focus more specifically in that area than the more broad-brush approach that is currently being considered. I would ask that the Commission consider exemptions for small firms that are not carrying customer accounts, as our clearing firms will already be responsible to comply with the rules for the customer accounts they carry on our behalf. I would ask that the Commission consider allowing firms to use a more "principles based" approach to dealing with safeguarding of their client information – so that it may better reflect the size and resources of the firm. Much of the prescriptive nature of the proposed amendments would be better received as guidance with each firm given the opportunity to determine, firm by firm, what system works best for their individual business.

Finally, with respect to notification to either our Designated Examining Authority (DEA) or the SEC, it would seem that minor breaches would not be the types of notices that either the DEA or the SEC would be interested in receiving. I would suggest that a minimum account number (such as 1,000 client accounts) or potentially a minimum account value(s) of $250,000 or some other barometer would reduce the number of filings to just those that would be of most interest to and be more in line with the types of breaches that may require further assistance and support from the SEC or the DEA.
I would respectfully ask that the proposed rules allow for proper time to investigate and determine the extent of the problem, without an imposition to report "promptly" prior to the firm's completion of its investigation into the issue. It seems that Form SP-30 may expect more of a "final analysis" to be provided, which will typically not be available if reported "promptly".

As a co-owner of a small broker-dealer and SEC registered investment adviser (dual registrant), I appreciate the opportunity to comment on these proposed amendments. If the Commission moves forward with this proposal in any form close to the current amendments, I would ask that you consider a relatively lengthy timeline for the implementation date to allow small firms the opportunity to develop systems and hire appropriate people, if necessary, to meet compliance with new rules and requirements in this area.

Sincerely,

Deborah Castiglioni
CEO
Cutter & Company, Inc.