Information Collection Comments
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Ladies and Gentleman:

Commercial Federal Bank (CFB) welcomes the opportunity to comment on the "Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice" ("Proposed Guidance").

CFB is a $13 billion federal savings bank, headquartered in Omaha, Nebraska, and is regulated by the Office of Thrift Supervision. CFB operates 191 branches across seven states, including Arizona, Colorado, Iowa, Kansas, Missouri, Nebraska, and Oklahoma.

CFB supports the development of the Proposed Guidance and believes an effective response program is a key part of a comprehensive information security plan. We believe the identified components of a Response Program within the Guidance are appropriate and necessary. Financial Institutions must be capable and ready to handle and respond to a situation that could create harm or inconvenience to its customers.

Regulatory Notification

The Proposed Guidance states: "The institution should promptly notify its primary Federal regulator when it becomes aware of an incident involving unauthorized access to or use of customer information that could result in substantial harm or inconvenience to its customers." CFB believes the guidance needs to provide further clarification as to when notification is required to be provided to regulatory and law enforcement agencies. As proposed, the guidance is not clear on when Regulators should be notified. It is CFB's opinion that the notification to Regulators should be similar to the requirement of reporting an incident to customers. Such as, if the institution concludes that risk is low, misuse of the information is unlikely to occur and the appropriate mitigation steps have been taken, no reporting to Regulator Agencies should be required.

Flagging Accounts

The Proposed Guidance states: "The institution should immediately begin identifying and monitoring the accounts of customers whose information may have been accessed or misused." CFB believes the proposed language in this statement is ambiguous. The guidance should be clarified to identify what constitutes a triggering event to begin flagging accounts and should recommend for how long such flagging should continue. Premature flagging of accounts could

create an unnecessary burden. CFB also believes that the flagging and monitoring of account should be on a risk-based approach.

Customer Notification

CFB believes that any consideration of the appropriateness of customer notification must include consideration of the content of the notice and the advice to be given to the customer. CFB believes an appropriate response to a security breach affecting customer information should depend on the specific factors of that breach. Flexibility must be built into an institution's response program to allow for decisions that are in the best interests its customers. A response must balance the risks of illegitimate use of compromised data against the risks that the response could lead to greater customer cost and/or inconvenience. CFB believes the Proposed Guidance could be enhanced in order to reduce the likelihood that the Guidance will cause institutions to react to security breaches incompletely or inappropriately and have reputation risk implications.

Notification Examples

Finally, the Proposed Guidance provides several examples of when customer notification should be given and when notice is not expected. These examples attempt to clarify what constitutes a triggering event. CFB believes that if an appropriate risk-based approach to customer notification is followed, these examples provide too broad of a situation analysis and could lead to inappropriate notification.

Thank you for the opportunity to comment. If you have any questions or would like to discuss the comments provided above, please contact me by phone at (402) 554-9296 or by email at GaryFillman@Commercialfed.com.

Sincerely,

Gary R Fillman
Compliance Manager
Commercial Federal Bank