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M E M O R A N D U M

March 7, 2019

To Our Clients and Friends

Re: Federal Trade Commission Proposed Rules under the Gramm-Leach-Bliley Act

The Federal Trade Commission (FTC) is requesting public comment on proposed rules amending the Safeguards Rule and Privacy Rule under the Gramm-Leach-Bliley Act (GLBA) applicable to financial institutions subject to the FTC's jurisdiction. The Safeguards Rule requires a financial institution to develop, implement, and maintain a comprehensive information security program. The Privacy Rule requires a financial institution to disclose to customers its information-sharing practices and permits customers to opt-out of information sharing with certain third parties. The FTC stated that the purpose of the proposed rules is to respond to marketplace trends and technological developments that reduce the effectiveness of the Safeguards Rule and Privacy Rule.

The proposed amendment to the Safeguards Rule is intended to enhance the FTC's information security program requirements. For instance, it requires a financial institution to encrypt all customer data, use access controls to ensure unauthorized users do not access customer information, and implement multifactor authentication. The proposed rule also requires financial institutions to submit periodic reports confirming compliance with these requirements to their boards of directors.

The proposed amendment to the Privacy Rule removes all provisions that do not apply to motor vehicle dealers. This proposed change would implement the Dodd-Frank Act changes, which narrowed the FTC's rulemaking authority to cover only certain motor vehicle dealers and transferred the FTC's remaining GLBA rulemaking authority to the CFPB.

Both proposed rules broaden the definition of "financial institution" in the Safeguards and the Privacy Rules. As a result, companies such as "finders" that engage in activities that are financial in nature or incidental to financial activities would be subject to the Safeguards and Privacy Rules.

Comments are due 60 days after publication in the *Federal Register*.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.