

## *Advocacy Submits Comments on the FTC's Proposed Rulemaking on Standards for Safeguarding Customer Information*

On April 4, 2019, the Federal Trade Commission (FTC) published a proposed rule to amend the *Standards for Safeguarding Customer Information* (Safeguards Rule). On July 31, 2019, the Office of Advocacy submitted a letter to the FTC regarding the Safeguards Rule.

- In May 2003, the FTC implemented the Safeguards Rule pursuant to the Gramm Leach Bliley Act. The Safeguards Rule requires a financial institution to develop, implement, and maintain a comprehensive information security program that consists of the administrative, technical, and physical safeguards the financial institution uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.
- On April 4, 2019, the FTC published the NPRM on Standards for Safeguarding Customer Information (“Safeguards Rule”). The proposal contains five main modifications to the existing rule. It 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, adds provisions designed to improve the accountability of financial institutions' information security programs, exempts small businesses from certain requirements, expands the definition of “financial institution” to include entities engaged in activities that the Federal Reserve Board determines to be incidental to financial activities and includes the definition of “financial institution.”
- Trade associations told Advocacy that the proposal is overly prescriptive and creates a high burden for small entities without any data on how it will lower risks to consumers. They also stated that the changes impose national bank data security standards on companies with only a few offices.
- Advocacy expressed concerns about the lack of data on the potential impact and stated that data would allow the FTC to thoroughly assess the impact of this action on small entities.
- Although the FTC has exempted some small entities from a portion of the proposed rule, Advocacy is concerned that the proposal will be unduly burdensome for small entities. Advocacy asserted that the best alternative for assuring that the action will not be unduly burdensome is to maintain the status quo for small entities, as defined by the SBA size standards, until FTC can ascertain the potential impact. Another alternative would be to establish a safe harbor for small entities.

For more information, visit Advocacy’s webpage at <https://advocacy.sba.gov> or contact Jennifer Smith at 202-205-6943.

