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Sent: Tuesday, October 14, 2003 2:46 PM
To: 'regs.comments@ots.treas.gov'
Subject: ATTN No. 03-35

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October 5, 2003

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552

Attention: No. 03-35

MidFirst Bank, Oklahoma City, Oklahoma, OTS docket 14191, appreciates the opportunity to comment on the proposed Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Notice. The merit of the proposed rule is valid, and the risks related to information security are increasing. However, rather than creating a new regulation to address the issue, both the industry and the consumers served by the industry would be better served by the proposal becoming a "best industry practice" as opposed to a mandatory requirement that may not appropriately address every situation.

The financial institution industry (banks and savings associations) has routinely implemented procedures to mitigate risk of customer data being lost, destroyed, or stolen. Institutions that are unable to adequately secure customer information face a competitive disadvantage via defecting customers, public relations problems, and regulatory sanctions. As a result, it is in the industry's and the individual institution's best interest to implement procedures protecting data.

The more stringent the required security procedures, the more burdensome they become and expensive to implement. A customer's access to his personal records also becomes more limited as the security procedures require the customer to provide more identifying and validating information. It is crucial that the information security procedures appropriately balance the security requirements with the need for access by the customer so that the benefits realized are commensurate with the costs and burdens incurred by the industry in implementing regulatory standards.

MidFirst opines that rather than a regulatory mandate requiring a specific response, the security system and response is best left to the individual institution. This will allow institutions to refine procedures that effectively address the particular situation at hand rather than spending unnecessary time responding to a burdensome requirement that may afford minimal benefit to the specific circumstances. The Agencies recognize this issue as they have opined "no useful purpose would be served if notices were sent due to the mere possibility of misuse of some customer information." [*Federal Register* Vol. 68 Number 155 page 47956]

The proposal discusses the general requirements of what is expected; however, the draft lacks clarity and minimum thresholds. For example, the proposal requires customer notification in response to unauthorized access unless the institution reasonably concludes that misuse of the information is unlikely. Terms such as "reasonably" and "unlikely" afford the opportunity for multiple interpretations, differing responses, and inconsistent application of procedures designed to comply with the regulation. MidFirst also suggests that safe harbors be established that encourage institutions to meet the final requirements and that afford protections.

In closing, the financial institution industry exists for our customers, and customers will frequent institutions that offer the best combination of service - rates, products, convenience, fees, and service including procedures designed to protect the customer's information. Information security will remain a priority regardless of the proposed rule as institutions improve means of meeting customer expectations and comply with existing regulations. A regulatory mandate is therefore not the optimum means of improving compliance in this area; however, should the rule be adopted, the requirements must be balanced and clearly outlined.

Should you require additional information, please contact the undersigned.

Sincerely,

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Director of Bank Administration
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