



January 27, 2017

Ms. Cassandra Lentchner
New York State Department of Financial Services
One State Street, New York, NY 10004
CyberRegComments@dfs.ny.gov

RE: Cybersecurity Requirements for Financial Services Companies I.D. No. DFS-39-16-00008-RP

Dear Ms. Lentchner:

Thank you for the opportunity to comment on the Department of Financial Services' (DFS) re-proposed cybersecurity regulations. While this re-proposal is much improved, we again request that DFS pause their independent cybersecurity rulemaking effort, to collaborate with and/or give deference to a process currently underway at the federal level. Given the importance of this issue to our national security, we believe a more uniform, national framework is needed in the regulatory space.

As indicated, DFS has made substantial revisions in its re-proposed rules, published in the New York State Register on December 28, 2016. The largest of these changes reflects a central point our associations made in previous comments:¹ that DFS should move from a prescriptive approach in its requirements and instead adopt a risk-based approach in establishing requirements to protect against cybersecurity threats. As a general matter, this is a welcome improvement over the rules² originally released for comment last fall. Our member companies can best serve consumers if they are permitted to address cybersecurity threats within a framework that is flexible and can evolve and adapt over time to the latest tactics and weapons. Also welcome are the more reasonable implementation time periods announced in the re-proposal. However, we suggest DFS work with industry should implementation of the rule prove even more challenging than currently anticipated.

¹ November 16, 2016, Joint Financial Services Industry Trade Associations Comment Letter to the New York State Department of Financial Services, <http://mba-pc.informz.net/mba-pc/data/images/AdvocacyDocuments/11%202016%20SIFMA%20Response%20to%20NY%20DFS%20Proposed%20Cyber%20Requirements.pdf>

² September 28, 2016, *New York State Register*, <https://docs.dos.ny.gov/info/register/2016/sept28/pdf/rulemaking.pdf>

However, cybersecurity regulations issued by only one state—or by several states—without an effort to converge and coordinate with more broadly accepted cybersecurity requirements will lead to confusion and misalignment across the real estate finance industry. Our member companies cannot separate information technology infrastructures to comply with varying state requirements (which may soon emerge given New York’s efforts in this space), as well as those of the federal government. Rather, each company typically maintains a single technology system to support their business across all states; the cost and complexity of divergent or potentially conflicting requirements set by multiple states will ultimately be passed on to consumers.

Respectfully, regulations established independently by one state—outside of national/uniform alignment could create conflicts and outsized costs that would be disproportionately felt by New York’s small- and medium-sized independent mortgage lenders which operate in multiple states or aspire to do so one day. These unintended obstacles would raise the cost of credit as mortgage lenders attempt to make the necessary operational and technology investments to comply with multiple standards. Divergent state requirements could also lead these companies to simply exit the New York market altogether, which would reduce choice and competition for consumers in the State.

As we have noted above and in our previous comments, we ask DFS to instead consider that the federal government is acting on this issue and has proposed a rule that would have broad national application. In October 2016 three federal agencies—the Federal Reserve, the Office of Comptroller of the Currency, and the Federal Deposit Insurance Corporation—issued a notice of proposed rulemaking on a set of enhanced cybersecurity risk-management and resilience standards that would apply to large and interconnected entities. We urge DFS to pause its rulemaking—to await the results of this interagency effort currently underway. We encourage DFS to collaborate with the joint agencies on this important topic. Alignment will additionally serve as an example to other states that may be considering their own cybersecurity regulations. At a minimum, DFS should build into the final rule a process for alignment with federal regulations when they are finalized, as uniformity nationwide is paramount to an effective American cybersecurity protocol.

Thank you again for this opportunity to comment on DFS’ re-proposed cybersecurity rules.

Sincerely,



Marianne Collins

Executive Director and Chief Operating Officer
New York Mortgage Bankers Association



Pete Mills

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