

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Sunbelt Lending Services, Inc., File No. 0423153

The Federal Trade Commission (“Commission”) has accepted a consent agreement, subject to final approval, from Sunbelt Lending Services, Inc. (“Sunbelt”). Sunbelt is a mortgage broker with headquarters in Clearwater, Florida. Sunbelt collects sensitive customer information, including customer names, social security numbers, credit histories, bank account numbers, and income tax returns, and is a “financial institution” subject to the Gramm-Leach-Bliley Act’s Standards for Safeguarding Customer Information Rule, 16 C.F.R. Part 314 (“Safeguards Rule”) and Privacy of Consumer Financial Information Rule, 16 C.F.R. Part 313 (“Privacy Rule”).

The proposed consent agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter concerns Sunbelt’s alleged violations of the Safeguards and Privacy Rules. The Safeguards Rule, which became effective on May 23, 2003, requires financial institutions to implement reasonable policies and procedures to ensure the security and confidentiality of customer information, including:

- Designating one or more employees to coordinate the information security program;
- Identifying reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information, and assessing the sufficiency of any safeguards in place to control those risks;
- Designing and implementing information safeguards to control the risks identified through risk assessment, and regularly testing or otherwise monitoring the effectiveness of the safeguards’ key controls, systems, and procedures;
- Overseeing service providers, and requiring them by contract to protect the security and confidentiality of customer information; and
- Evaluating and adjusting the information security program in light of the results of testing and monitoring, changes to the business operation, and other relevant circumstances.

The Privacy Rule, which became effective on July 1, 2001, requires financial institutions to provide customers with clear and conspicuous notices that explain the financial institution’s information collection and sharing practices and allow customers to opt out of having their information shared with certain non-affiliated third parties.

The Commission’s proposed complaint charges that Sunbelt failed to implement the protections required by the Safeguards Rule and, specifically, that it failed to: (1) identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of

customer information; (2) implement information safeguards to control the risks to customer information and regularly test and monitor them; (3) develop, implement, and maintain a comprehensive written information security program; (4) oversee service providers and require them by contract to implement safeguards to protect respondent's customer information; and (5) designate one or more employees to coordinate the information security program. The proposed complaint also alleges that Sunbelt failed to provide its online customers with the notice required by the Privacy Rule.

The proposed order contains provisions designed to prevent Sunbelt from future practices similar to those alleged in the complaint. Specifically, Part I of the proposed order prohibits Sunbelt from violating the Safeguards Rule or the Privacy Rule. Part II of the proposed order requires that Sunbelt obtain, within 180 days after being served with the final order approved by the Commission, and on a biennial basis thereafter for ten (10) years, an assessment and report from a qualified, objective, independent third-party professional, certifying that: (1) Sunbelt has in place a security program that provides protections that meet or exceed the protections required by the Safeguards Rule and (2) Sunbelt's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of consumer's personal information has been protected. This provision is substantially similar to comparable provisions obtained in prior Commission orders under Section 5 of the FTC Act. *See Tower Records*, FTC Docket No. C-4110 (June 2, 2004); *Guess?, Inc.*, FTC Docket No. C-4091 (July 30, 2003); and *Microsoft Corp.*, FTC Docket No. C-4069 (Dec. 20, 2002).

Part II of the proposed order requires Sunbelt to retain documents relating to compliance. For the assessments and supporting documents, Sunbelt must retain the documents for three years after the date that each assessment is prepared.

Parts III through VI of the proposed order are reporting and compliance provisions. Part III requires dissemination of the order now and in the future to persons with supervisory responsibilities. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Sunbelt submit compliance reports to the FTC. Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.