

PRESS RELEASE

For immediate release

July 25, 2000

JUSTICE, TREASURY, OMB **SEEK PUBLIC COMMENT FOR STUDY ON** **FINANCIAL PRIVACY AND BANKRUPTCY**

The Clinton-Gore Administration is seeking public comment on privacy protection and the treatment of sensitive financial information such as social security numbers, credit card and bank account numbers in bankruptcy cases. In April, the President announced the Clinton-Gore Plan to enhance consumers' financial privacy, including a study of privacy needs of debtors in bankruptcy. As part of the plan, three federal agencies are now asking the public for their input on how to protect privacy in personal information in bankruptcy cases, particularly in the information age.

The Study is being conducted by the Department of Justice, the Department of Treasury, and the Office of Management and Budget. It will examine how the privacy interests of debtors in personal bankruptcy cases are affected by the public availability of information they submit as part of the bankruptcy process. The Study will also examine the need for public access to information filed in bankruptcy cases. In both the privacy and open access areas, the Study will focus on the impact of changes in business practices and in technology. The agencies' request for public comment will appear in the Federal Register shortly and is currently posted on the web site for the Justice Department www.usdoj.gov.

The Study Agencies are aware of public attention in recent weeks on the troubling practice of organizations in bankruptcy seeking to sell personal data regarding their former customers, in violation of such organizations' privacy policies. In part because of pending regulatory enforcement actions and/or pending legislation, the Study Agencies are not making this subject part of the formal Study. Nevertheless, the Study Agencies invite comments about the effect that a business bankruptcy filing has on consumer/customer information that the business has collected. Comments should not address pending legislative proposals or regulatory activities. After reviewing the comments and any other developments, the Study Agencies will determine whether it is appropriate to examine this issue in greater depth.

* * *

A person who files for bankruptcy provides detailed financial information as part of the schedules filed with the bankruptcy court. This includes a list of bank accounts and identifying numbers, credit card account numbers, social security numbers, balances in bank accounts, balances owed to creditors, income, a detailed listing of assets, and a budget showing the individual's regular expenses. By statute, all documents filed with the court are open to any member of the public.

In the past, access to public court record data has as a practical matter been quite limited. The people who obtained individual case files from the courts were those willing to spend considerable time, effort, and sometimes money. The development of electronic databases and other technologies, however, raises the potential that anyone can access sensitive data found in other people's bankruptcy files right from their own home. Aggregation and electronic distribution of bankruptcy data could lower costs, but it also could make information easily available to neighbors, employers, marketers and predators looking for those most likely to be lured by scams.

Bankruptcy trustees, the people responsible for administering bankruptcy cases, have access to the public record information, and often end up with substantial other sensitive data about debtors. Some trustees will get debtors' tax returns, an account of their routine living expenses, and their payment schedules to creditors -- all of which may be necessary to administer bankruptcy cases. Trustees most often provide this information to creditors, attorneys, and other entities with a direct and legitimate interest in the case. However, there are no well-defined limits on the trustee's authority to provide this information to others, nor on the authority of such third parties to use, sell, or transfer this information. In addition, some trustees and creditors are considering compiling information contained in bankruptcy records electronically for easier administration of bankruptcy cases in which they have a claim.

The DOJ / Treasury / OMB study will focus on the privacy and open access issues in both the public record data and also the data held by trustees administering bankruptcy cases.

Deadline for Submissions

The notice directs submissions to be sent in writing or in electronic form to: Leander Barnhill, Office of General Counsel, Executive Office for United States Trustees, 901 E Street, NW, Suite 780, Washington DC 20530. Electronic submissions should be sent by email to USTPrivacyStudy@usdoj.gov.

The Executive Office for United States Trustees is a component of the Justice Department that monitors the administration of bankruptcy cases nationwide.