

Board of Governors of the Federal Reserve System, May 4, 2011.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2011-11203 Filed 5-6-11; 8:45 am]

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## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 2011.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Denison Bancshares, Inc. of Holton*, Holton, Kansas; to retain 100 percent of the voting shares of Southview Apartments of Holton, LLC, Holton, Kansas, and thereby engage in community development activities, pursuant to section 225.28(b)(12)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 4, 2011.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2011-11202 Filed 5-6-11; 8:45 am]

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## FEDERAL TRADE COMMISSION

[File No. 102 3160]

### Ceridian Corporation; Analysis of Proposed Consent Order to Aid Public Comment

**AGENCY:** Federal Trade Commission.  
**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before June 2, 2011.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Ceridian, File No. 102 3160” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/ceridian>, by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Tiffany George (202-326-3040) or Jamie Hine (202-326-2188), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 3, 2011), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania

Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 2, 2011. Write “Ceridian, File No. 102 3160” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn’t include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn’t include any sensitive health information, like medical records or other individually identifiable health information. In addition, don’t include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don’t include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>1</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your

<sup>1</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublish.commentworks.com/ftc/ceridian>, by following the instructions on the Web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that Web site.

If you file your comment on paper, write "ACeridian, File No. 102 3160" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 2, 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### **Analysis of Agreement Containing Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Ceridian Corporation.

The proposed consent order 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.

The Commission's complaint alleges that Ceridian is a service provider that, among other things, provides payroll processing, payroll-related tax filing, benefits administration, and other human resource services to business customers. The company operates a Web-based payroll processing service for small business customers in the United States under the name "Powerpay." Ceridian's customers enter their employees' personal information on the Powerpay Web site, which they use to automate payroll processing for their employees.

The complaint alleges that when customers enter their employees' personal information on the Powerpay Web site, the information is sent to computers on Ceridian's computer network for the purpose of computing payroll amounts and processing payroll checks and direct deposits. This personal information, in some instances, consists of name, address, e-mail address, telephone number, Social Security number, date of birth, and direct deposit account number. Such information—particularly Social Security numbers, which do not expire—can be used to facilitate identity theft, including existing and new account fraud, among other things. In addition, direct deposit account information can be used to facilitate theft.

The complaint alleges that Ceridian engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for the personal information it collected and maintained. Among other things, Ceridian: (1) Stored personal information in clear, readable text; (2) created unnecessary risks to personal information by storing it indefinitely on its network without a business need; (3) did not adequately assess the vulnerability of its Web applications and network to commonly known or reasonably foreseeable attacks, such as "Structured Query Language" ("SQL") injection attacks; (4) did not implement readily available, free or low-cost defenses to such attacks; and (5) failed to employ reasonable measures to detect and prevent unauthorized access to personal information. These practices are fundamental security failures. Each has been challenged in prior FTC data security cases, and each could have been remedied using well-known, readily available, and free or low-cost data security measures. In particular, SQL injection has been a well-known vulnerability for nearly a decade and is one of the most basic network vulnerabilities to address.

The complaint alleges that as a result of these failures, hackers executed an SQL injection attack on the Powerpay Web site and Web application. Through this attack, the hackers found personal information stored in Powerpay on Ceridian's network and exported the information of at least 27,673 individuals, including, in some instances, bank account numbers, Social Security Numbers, and dates of birth, over the Internet to outside computers. Given the sensitive nature of the personal information exposed, the company's failure to provide reasonable and appropriate security for this

information is likely to cause consumers substantial injury as described above. That substantial injury is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. The complaint alleges that Ceridian's failure to employ reasonable and appropriate measures to prevent unauthorized access to sensitive personal information is an unfair act or practice, and that the company misrepresented that it had implemented such measures, in violation of Section 5 of the Federal Trade Commission Act.

The proposed order applies to personal information that Ceridian entities within the Commission's jurisdiction collect from or about consumers and employees. It contains provisions designed to prevent Ceridian from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits misrepresentations about the privacy, confidentiality, or integrity of personal information collected from or about consumers. Part II of the proposed order requires Ceridian to establish and maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of such information (whether in paper or electronic format) about consumers, employees, and those seeking to become employees. The security program must contain administrative, technical, and physical safeguards appropriate to Ceridian's size and complexity, the nature and scope of its activities, and the sensitivity of the information collected from or about consumers and employees. Specifically, the proposed order requires Ceridian to:

- Designate an employee or employees to coordinate and be accountable for the information security program;
- Identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks;
- Design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- Develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Ceridian, and require service providers

by contract to implement and maintain appropriate safeguards; and

- Evaluate and adjust its information security programs in light of the results of testing and monitoring, any material changes to operations or business arrangements, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part III of the proposed order requires Ceridian to obtain within the first one hundred eighty (180) days after service of the order, and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of sensitive consumer, employee, and job applicant information has been protected. Two Ceridian subsidiaries, Ceridian Stored Value Solutions, Inc. and Comdata Network Inc., are excluded from this requirement to the extent that they do not advertise, market, promote, offer for sale, or sell any product or service relating to payroll, taxes, or human resources. Part III does not apply to payment cards provided to employers by Comdata Network Inc. that are not linked to accounts maintained by individual employees. Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Ceridian to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third-party assessments and supporting documents, Ceridian must retain the documents for a period of three years after the date that each assessment is prepared. Part V requires dissemination of the order now and in the future to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Ceridian submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII 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.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 2011-11183 Filed 5-6-11; 8:45 am]

**BILLING CODE 6750-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1355-NR]

RIN 0938-AQ31

#### Medicare Program; Hospice Wage Index for Fiscal Year 2012

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of CMS ruling.

**SUMMARY:** This notice announces a CMS Ruling that was signed on April 14, 2011 regarding CMS’s determination to grant relief to any hospice provider that has a properly pending appeal (as defined in the Ruling) in any administrative appeals tribunal (that is, the Provider Reimbursement Review Board (PRRB), the Administrator of CMS, the Medicare fiscal intermediary hearing officer, or the CMS reviewing official) that seeks review of an overpayment determination for any hospice cap year (the period November 1 to October 31, 2011) by challenging the validity of the beneficiary counting methodology set forth in 42 CFR 418.309(b)(1).

**DATES:** *Effective Date:* This notice of CMS ruling is effective April 14, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lori Anderson, (410) 786-6190; Randy Thronset, (410) 786-0131.

**SUPPLEMENTARY INFORMATION:** The CMS Administrator signed Ruling CMS-1355-R on April 14, 2011. The text of the CMS Ruling is as follows:

**CMS Rulings** are decisions of the Administrator that serve as precedential final opinions and orders and statements of policy and interpretation. They are published under the authority of the Administrator of the Centers for Medicare & Medicaid Services (CMS).

**CMS Rulings** are binding on all CMS components, on all Department of Health & Human Services (HHS) components that adjudicate matters

under the jurisdiction of CMS, and on the Social Security Administration (SSA) to the extent that components of the SSA adjudicate matters under the jurisdiction of CMS.

This Ruling provides notice of CMS’s determination to grant relief to any hospice provider that has a properly pending appeal (as discussed herein) in any administrative appeals tribunal (that is, the Provider Reimbursement Review Board (PRRB), the Administrator of CMS, the Medicare fiscal intermediary hearing officer, or the CMS reviewing official) that seeks review of an overpayment determination for any hospice cap year (the period November 1 to October 31) ending on or before October 31, 2011 by challenging the validity of the beneficiary counting methodology set forth in 42 CFR 418.309(b)(1). In this regard, such a provider’s hospice cap determination (as defined under 42 U.S.C. 1395f(i)(2)) for any cap year ending on or before October 31, 2011 and for which a timely appeal has been filed and is otherwise properly pending (as discussed herein) will be recalculated using a patient-by-patient proportional methodology for counting the number of Medicare beneficiaries as opposed to the methodology currently set forth in 42 CFR 418.309. This Ruling requires the appropriate Medicare contractor to identify each covered appeal and recalculate the aggregate cap. This Ruling also holds that, in light of the required recalculation, the pertinent administrative appeals tribunal will no longer have jurisdiction over the covered appeal and, therefore, directs the pertinent administrative appeals tribunal to remand each qualifying appeal to the appropriate Medicare contractor. Moreover, the Ruling explains how CMS and the contractor will recalculate the hospice provider’s cap overpayment determination to account for beneficiaries who receive hospice services from the same hospice provider in multiple cap years using a methodology (the “patient-by-patient proportional methodology”) that will allocate an individual beneficiary to multiple cap years based on the number of days the beneficiary receives service from the hospice in a given cap year relative to the total number of days in all cap years the beneficiary receives services from the hospice (or any hospice).

#### Medicare Program

##### Hospice

Hospice Appeals for Review of an Overpayment Determination.