PRIVACY OF CONSUMER FINANCIAL INFORMATION

DEFINITIONS

Definitions (Section 716.3)

Affiliate
Any company that controls, is controlled by, or is under common control with another company.

Examples:
(i) An affiliate of a federal credit union is a credit union service organization (CUSO), as provided in 12 CFR Part 712, that is controlled by the federal credit union.
(ii) An affiliate of a federally-insured, state-chartered credit union is a company that is controlled by the credit union.

Clear and conspicuous
A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

Examples:
(i) Reasonably understandable. You make your notice reasonably understandable if you:
  (A) Present the information contained in the notice in clear, concise sentences, paragraphs and sections;
  (B) Use short, explanatory sentences or bullet lists whenever possible;
  (C) Use definite, concrete, everyday words and active voice whenever possible;
  (D) Avoid multiple negatives;
  (E) Avoid legal and highly technical business terminology wherever possible; and
  (F) Avoid explanations that are imprecise and readily subject to different interpretations.
(ii) Designed to call attention. You design your notice to call attention to the nature and significance of the information in it if you:
  (A) Use a plain-language heading to call attention to the notice;
  (B) Use a typeface and type size that are easy to read;
  (C) Provide wide margins and ample line spacing;
  (D) Use boldface or italics for key words; and
  (E) In a form that combines your notice with other information, use distinctive type size, style, and graphic devices, such as shading or sidebars.
(iii) Notices on web sites. If you provide notices on a web page, you design your notice to call attention to the nature and significance of the information in it if you use text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text graphics, hyperlinks or sound) do not distract attention from the notice, and you either:

(A) Place the notice on a screen frequently accessed by consumers, such as a home page or a page on which transactions are conducted; or
(B) Place a link on a screen frequently accessed by consumers, such as a home page or a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

Collect
To obtain information that you organize or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

Company
Any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

Consumer
An individual who obtains or has obtained a financial product or service from you, that is to be used primarily for personal, family or household purposes, or that individual's legal representative.

Examples:
(i) An individual who provides nonpublic personal information to you in connection with obtaining or seeking to obtain credit union membership is your consumer regardless of whether you establish a member relationship.
(ii) An individual who provides nonpublic personal information to you in connection with using your ATM is your consumer.
(iii) If you hold ownership or servicing rights to an individual's loan, the individual is your consumer, even if you hold those rights in conjunction with one or more financial institutions. (The individual is also a consumer with respect to the other financial institutions involved). This applies, even if you, or another financial institution with those rights, hire an agent to collect on the loan or to provide processing or other services.
(iv) An individual who is a consumer of another financial institution is not your consumer solely because you act as agent for, or provide processing or other services to, that financial institution.
(v) An individual is not your consumer solely because he or she is a participant or a beneficiary of an employee benefit plan that you sponsor or for which you act as a trustee or fiduciary.

Consumer reporting agency
The same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

Control of a company

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;
(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or
(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the NCUA determines. With respect to state-chartered credit unions, NCUA will consult with the appropriate state regulator prior to making its determination.

Example: NCUA will presume a credit union has a controlling influence over the management or policies of a CUSO, if the CUSO is 67% owned by credit unions.

Credit union
A federal or state-chartered credit union that the National Credit Union Share Insurance Fund insures.

Customer
A consumer who has a customer relationship with a financial institution other than a credit union.

Customer relationship
A continuing relationship between a consumer and a financial institution other than a credit union.

Federal functional regulator
(1) The National Credit Union Administration Board;
(2) The Board of Governors of the Federal Reserve System;
(3) The Office of the Comptroller of the Currency;
(4) The Board of Directors of the Federal Deposit Insurance Corporation;
(5) The Director of the Office of Thrift Supervision; and
(6) The Securities and Exchange Commission.

Financial institution
Any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activity as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

Examples of financial institutions may include, but are not limited to: credit unions; banks; insurance companies; securities brokers, dealers, and underwriters; loan brokers and servicers; tax planners and preparation services; personal property appraisers; real estate appraisers; career counselors for employees in financial occupations; digital signature services; courier services; real estate settlement services; manufacturers of computer software and hardware; and travel agencies operated in connection with financial services.

Financial institution does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

Financial product or service

Any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

Financial service includes your evaluation or brokerage of information that you collect in connection with a request or an application from a consumer for a financial product or service.

Member

A consumer who has a member relationship with you. For purposes of this part only, it will include certain nonmembers.

Member relationship

A continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family or household purposes. As noted in the examples, this will include certain consumers that are not your members.

Examples:

(i) A consumer has a continuing relationship with you if the consumer:

- (A) Is your member as defined in your bylaws;
- (B) Is a nonmember who has a share, share draft, or credit card account with you jointly with a member;
- (C) Is a nonmember who has a loan that you service;
- (D) Is a nonmember who has an account with you and you are a credit union that has been designated as a low-income credit union; or
- (E) Is a nonmember who has an account in a federally-insured, state-chartered credit union pursuant to state law.

(ii) A consumer does not, however, have a member relationship with you if the consumer is a nonmember and:

- (A) The consumer only obtains a financial product or service in isolated transactions, such as using your ATM to withdraw cash from an account maintained at another financial institution or purchasing travelers checks; or
- (B) You sell the consumer's loan and do not retain the rights to service that loan.

Nonaffiliated third party means any person except:
(i) Your affiliate; or
(ii) A person employed jointly by you and any company that is not your affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

Nonpublic personal information
(i) Personally identifiable financial information; and
(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

Nonpublic personal information does not include:
(i) Publicly available information, except as included on a list described in paragraph (q)(1)(ii) of this section; or
(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information, other than publicly available information.

Examples of lists:
(i) Nonpublic personal information includes any list of individuals'names and street addresses that is derived in whole or in part using personally identifiable financial information, other than publicly available information, such as account numbers.
(ii) Nonpublic personal information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived using personally identifiable financial information, other than publicly available information, either in whole or in part, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a credit union, other than publicly available information.

Personally identifiable financial information
Any information:
(i) A consumer provides to you to obtain a financial product or service from you;
(ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or
(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

Personally identifiable financial information does not include publicly available information.

Examples:
(i) Information included. Personally identifiable financial information includes:
    (A) Information a consumer provides to you on an application to obtain membership, a loan, credit card or other financial product or service;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;
(C) The fact that an individual is or has been one of your members or has obtained a financial product or service from you;
(D) Any information about your consumer if it is disclosed in a manner that indicates that the individual is or has been your consumer;
(E) Any information that a consumer provides to you or that you or your agent otherwise obtain in connection with collecting on a loan or servicing a loan;
(F) Any information you collect through an Internet ''cookie'' (an information collecting device from a web server); and
(G) Information from a consumer report.

(ii) Information not included. Personally identifiable financial information does not include:
(A) A list of names and addresses of customers of an entity that is not a financial institution; and
(B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

<u>Publicly available information</u>

Any information that you have a reasonable basis to believe is lawfully made available to the general public from:
(i) Federal, state or local government records;
(ii) Widely distributed media; or
(iii) Disclosures to the general public that are required to be made by federal, state or local law.

Reasonable basis. You have a reasonable basis to believe that information is lawfully made available to the general public if you have taken steps to determine:
(i) That the information is of the type that is available to the general public; and
(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that your member or consumer has not done so.

Examples:
(i) Government records. Publicly available information in government records includes information in government real estate records and security interest filings.
(ii) Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or site operator requires a fee or a password, so long as access is available to the general public.
(iii) Reasonable basis:
(1) You have a reasonable basis to believe that mortgage information is lawfully made available to the general public if you have determined that the

information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(2) You have a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if you have located the telephone number in the telephone book or have been informed by the consumer that the telephone number is not unlisted.

You

A federally-insured credit union.