PRIVACY OF CONSUMER FINANCIAL INFORMATION

REVIEW CONSIDERATIONS

Review Considerations

Review Area	Requirements / Recommendations
Policy / Procedures	Adopt a policy to determine what nonpublic information will be shared with whom and how disclosures will be delivered to members and other consumers.
Initial Privacy Notice to Consumers	If the credit union intends to disclose a consumer's information other than under the exceptions, the credit union must provide to the consumer: • An initial notice of its privacy policies; • An opt out notice (including, among other things, a reasonable means to opt out); and, • A reasonable opportunity, before the credit union discloses the information to the nonaffiliated third party, to opt out.
Special Rule for Loans	A credit union must provide an initial notice to a co-borrower or guarantor on a loan, who has no other member relationship with the credit union, if it shares the nonpublic personal information with nonaffiliated third parties other than as allowed under the exceptions. Credit unions may provide annual notices to the co-borrowers and guarantors jointly.
Initial Privacy Notice to Members	The notice must be clear and conspicuous and accurately reflect the credit union's privacy policies and practices to all members not later than when the member relationship is established. The following is a list of disclosures regarding nonpublic personal information that credit unions must provide in their privacy notices, as applicable: • Categories of information collected; • Categories of information disclosed; • Categories of affiliates and nonaffiliated third

	parties to whom the credit union may disclose information; • Policies with respect to the treatment of former members' information; • Information disclosed to service providers and joint marketers (716.13); • An explanation of the opt out right and methods for opting out; • Any opt out notices the credit union must provide under the Fair Credit Reporting Act with respect to affiliate information sharing; • Policies for protecting the security and confidentiality of information (see also §748.0 and Part 748, App. A); and, • A statement that the credit union makes disclosures to other nonaffiliated third parties as permitted by law under section 716.14 and 716.15. Subsequent notice is permitted when: • The member relationship is not established at the member's election (e.g., in the case of a credit union acquiring the consumer's account through a purchase or merger). • To do otherwise would substantially delay the member's transaction, and the member agrees to the subsequent delivery (e.g., in the case of a student loan or establishing the account by telephone). Subsequent disclosures must be provided within a reasonable time after establishing a member relationship.
Simplified Privacy Notice	If the credit union shares information only under the exceptions available under 716.14 and 716.15, the privacy notice must include the following: • A statement to this effect; • Categories of nonpublic personal information it collects; • Policies and practices the credit union uses to protect the confidentiality and security of nonpublic personal information; and, • A general statement that the credit union makes

	disclosures to other nonaffiliated third parties as permitted by law.
Short-form Notice with Opt Out	The notice must be clear and conspicuous and state that the credit union's full privacy notice is available on request. It must also explain a reasonable means by which the consumer may obtain the notice. A reasonable means might include a toll-free telephone number the consumer may call to request the notice, or for the consumer who conducts business in person, having copies available to provide immediately by hand.
Annual Privacy Notice to Members	Notices must be clear and conspicuous and accurately reflect the credit union's privacy policies and practices and must be provided at least once in any period of 12 consecutive months.
Revised Policy Notices	When a new category of nonpublic personal information is shared or information with a new category of nonaffiliated party is shared, a revised notice and new opt out notice must be given to members.
Opt Out Notice to Consumers	• The opt out notice must state: (a) That the credit union discloses or reserves the right to disclose nonpublic personal information about the consumer to a nonaffiliated third party; (b) That the consumer has the right to opt out of that disclosure; and, (c) A reasonable means by which the consumer may opt out. • The information concerning the consumer's right to opt out must include: (a) All categories of nonpublic personal information the credit union discloses or reserves the right to disclose; (b) All categories of nonaffiliated third parties to whom the information is disclosed; (c) That the consumer has the right to opt out

	of the disclosure of that information; and, (d) The financial products or services to which the opt out direction would apply. • The credit union should comply with the consumer's direction to opt out as soon as is reasonably practicable. • Consumers must be allowed to opt out at any time. • The credit union must continue to honor the consumer's opt out direction until revoked by the consumer in writing (or electronically if the consumer agrees). • Opt out directions should be honored even after the member relationship ends.
Delivery Methods	The following are examples of "reasonable means" for delivery (§ 716.9): • Hand-delivery of a printed copy; • Mailing a printed copy to the last known address of the consumer; • For the consumer who conducts transactions electronically, clearly and conspicuously posting the notice on the credit union's electronic site and requiring the consumer to acknowledge receipt as a necessary step to obtaining a financial product or service; or, • For isolated transactions, such as ATM transactions, posting the notice on the screen and requiring the consumer to acknowledge receipt as a necessary step to obtaining the financial product or service. Insufficient or unreasonable means of delivery include: exclusively oral notice, in person or by telephone; branch or office signs or generally published advertisements; and electronic mail to a member who does not obtain products or services electronically. For annual notices, if the member uses the credit union's web site to access products and services electronically and agrees to receive notices at the

	web site, the credit union may continuously post the current privacy notice on the web site in a clear and conspicuous manner.
Limits on Disclosure	If the information is obtained under 716.14 or 716.15, the credit union must refrain from using or disclosing the information except: • To disclose the information to the affiliates of the financial institution from which it received the information; • To disclose the information to its own affiliates, which are in turn limited by the same disclosure and use restrictions as the credit union; and, • To disclose and use the information pursuant to an exception in 716.14 or 716.15 in the ordinary course of business to carry out the activity covered by the exception under which the information was received. If the information is obtained from a nonaffiliated financial institution other than under one of the exceptions in 716.14 or 716.15, the credit union should refrain from disclosing the information except: • To the affiliates of the financial institution from which it received the information; • To its own affiliates, which are in turn limited by the same disclosure restrictions as the credit union; and, • To any other person, if the disclosure would be lawful if made directly to that person by the institution from which the recipient credit union received the information. A credit union must not disclose an account number or similar form of access number or access code for a credit card, share, or transaction account to any nonaffiliated third party (other than a consumer reporting agency) for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer. The disclosure of encrypted account numbers

	without an accompanying means of decryption, however, is not subject to this prohibition. The regulation also expressly allows disclosures by a credit union to its agent to market the credit union's own products or services (although the credit union must not authorize the agent to directly initiate charges to the member's account.) Also not barred are disclosures to participants in private-label or affinity card programs, where the participants are identified to the member when the member enters the program.
Record Retention	Retain all records associated with the Privacy of Consumer Financial Information and compliance efforts for at least an examination and audit cycle.
Training	Provide training to employees whose duties are affected by the requirements of the regulation.
Updating	Update policies, procedures, disclosures, and notices if there are changes in shared information. Give revised privacy notices and new opt out notice to members.
Internal Review	Conduct an internal review at least annually to assess compliance with the regulation and conformity of an institution's practices with its policies and procedures.