

Summary of Presentation by the Credit Union National Association (CUNA)
GLB Interagency Meeting on the ANPR on Privacy Notices
February 17, 2004
Securities and Exchange Commission Conference Room

Participants:

Jeff Bloch, Credit Union National Association
Kathleen Thompson, Credit Union National Association
Claude Kazanski, CUNA Mutual Group
Gwen Baker, National Association of Federal Credit Unions
Brian Knight, National Association of State Credit Union Supervisors

Comments:

The participants generally agreed that credit unions do not see a need for or advocate changes for the Gramm-Leach Bliley Act (GLB) privacy notices currently used. However, credit unions and their representatives are open to suggestions and are willing to review any proposed changes that might be put forward for consideration by the Agencies.

Based on a survey of 5000 credit unions, they said that virtually no credit union members are unhappy with the current notices or have expressed any complaints. Credit unions see no need for annual privacy notices, especially since the privacy policies used by many credit unions do not result in consumers receiving opt-out notices.

Mr. Bloch stated that institutions should provide a copy of their privacy policy upon the creation of an account or customer relationship with a consumer. Then annually, if there has not been a change in an institution's privacy policy, the institution should be permitted to simply advise the consumer in a short notice or statement that the institution's privacy policy has not changed. The statement, which can be included in something like a monthly statement, should indicate how the consumer could obtain a copy of the privacy policy. He stated that, after the initial privacy notice, the institution should provide a privacy notice only if and when it changes its privacy policy. Mr. Bloch recognized that this proposal may require a statutory change.

Mr. Bloch described how credit unions, because of their mutual form of ownership and volunteer management structure, are unlikely to have an incentive to adopt a privacy policy or pursue marketing practices that would be unwelcome to their members. He also explained that, because of their structure, credit unions are not typically part of large financial services holding companies and typically do not have any affiliates other than credit union service organizations. Credit unions typically have joint marketing agreements with financial company service providers, such as CUNA Mutual Group, in order to provide services and products similar to those offered by banks and thrifts. Mr. Bloch said that less than 2% of all credit unions had privacy policies with an opt-out notice.

Most credit union notices are short and simple. There is very little evidence of anyone with a complaint about the current forms. Most current credit union notices are similar and were developed after significant training and discussion within the industry. Most of these notices use the standard language in the regulation, e.g., "non-public personal financial information,"

with some customization at either the beginning or the end of the notices, such as providing information about identity theft.

Mr. Bloch and Ms. Thompson warned against pursuing a shorter notice without paying sufficient attention to the need for clarity. They recommended that the agencies consider establishing a website where consumers can obtain more information about privacy issues and practices. They suggested that this secondary source of information might enable consumers, over time, to become sufficiently familiar with concepts such as joint marketing agreements, such that the privacy notices might one day become as useful as nutrition labels are at present.

Mr. Bloch suggested that the key concern of consumers may not be about what information is collected, but rather what information is disclosed to third parties. In this respect, he speculated that something like Appendix D to the ANPR, which focused on the opt-out right, could be of primary importance. Finally, he said he doubted that consumers do any real comparison shopping among institutions based on differences in the privacy notices.

Ms. Baker described a survey that is still underway, with inconclusive results so far. Preliminary indications from the survey suggest:

- Credit unions do not see a need for a short form.
- Use of a “layered approach” is potentially confusing in the case of credit unions, especially since most are already using a relatively short form.
- Requiring an annual notice is also confusing, especially where there has not been a change in the credit union’s privacy policy.
- If the agencies do go to a short form, it ought to be legally sufficient in itself with no long form also required.

Ms. Baker said most credit unions today are using a form that resembles Appendix B to the ANPR. She said that most credit unions do not share information except for information processing or with affiliated credit union service organizations or pursuant to a joint marketing agreement.

Ms. Baker asked that any short form notice be considered a safe harbor so institutions that use the form are considered in compliance with GLB. She also requested that the agencies provide adequate lead time of at least one year for implementing any new requirements.

Mr. Kazanski urged that the agencies coordinate any new notice requirements with changes mandated by the Fair and Accurate Credit Transactions Act and any other privacy initiatives. He agreed there is no need to change current practices and policies.

Mr. Knight questioned whether there is a need for change at this time. He stated that a change in the GLB privacy notices might result in consumer confusion. He urged the agencies to provide sufficient lead time for institutions to implement any required changes. He also stated that the agencies could help with consumer education.

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February 17, 2004

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National Credit Union Administration
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RE: Alternative Short Notice Format

Dear Ms. Metz:

Thank you for the opportunity to participate in the working group evaluating revisions to GBL Privacy Notices. I would like to provide an alternative short notice format to the ones included as appendices to the ANPR. CUNA Mutual's discussions with credit unions regarding the short notice proposal resulted in strong support for the format found below. The approach taken here is already available under existing regulations. Therefore, we believe statutory and regulatory standards could be met with the following:

[assume logo and address; introductory language]

- We collect your name, address, social security number and other personal information you provide so we may do business with you.
- We disclose your personal information only as permitted by law. Others who may receive your information include:
 - Service providers to run our business (data processors, accountants, etc.).
 - Affiliated companies who administer our business or market products to you.
 - Third party financial companies to jointly market products we authorize.
- We apply security protections to your data and require confidentiality agreements with the third parties who do business with us.

For more information, visit our website at..... or contact [toll free number].

Although many credit unions already distribute simplified notices, perhaps clarification by Interagency Regulators will help others use a draft similar to the one above with greater confidence. CUNA Mutual intends to include the above draft notice in its formal written comments on the ANPR. In the meantime, we thought that you and other interagency representatives might find the above helpful during your discussions on this matter. If you or others have questions, please do not hesitate to contact me at 800-356-2644 x8336.

Sincerely,



Claude Kazanski
Assistant Vice President & Associate General Counsel

February 17, 2004

DISCUSSION POINTS ON PRIVACY NOTICES FROM THE CREDIT UNION NATIONAL ASSOCIATION (CUNA), CUNA MUTUAL, NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS, AND NATIONAL ASSOCIATION OF STATE CREDIT UNION SUPERVISORS

- Credit unions see no need to require changes in the privacy notices unless it is shown that such changes may help consumers. Credit unions are willing to review any specific proposed changes offered by groups representing consumers and then analyze as to whether such changes may be helpful for credit unions and their members.
- Credit unions understand that consumer groups want shorter privacy notices. However, credit union privacy notices are already short and cannot be much shorter without significant changes in the privacy laws. There have been very few complaints from credit union members with regard to the current notices.
- Annual notices are unnecessary if the financial institution is not required to provide an opt-out option. One notice at the beginning of the member relationship with the credit union should be sufficient, as well as an additional notice whenever there is a change in the privacy policy. This should be sufficient especially since credit union privacy notices are short without complex arrangements. Instead of focusing on shortening or changing the language and format of the current notices, an idea to consider is the following process:
 - Current privacy notices are provided when the consumer begins a relationship with a financial institution.
 - If the privacy notice has not changed, the financial institution provides a short, but conspicuous, statement once a year, such as on a statement or newsletter. This statement informs the consumer that they received a privacy notice when they began their relationship with the financial institution, the privacy policy has not changed since they received the original notice, and that another copy is available, with information on how to access it (for example, by mail, website, or other means).
 - If the privacy policy or notice has changed, then the financial institution would send all consumers a copy of the revised notice, as currently required.