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Evolution of a Prototype Financial Privacy Notice

A Report on the Form Development Project

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Kleimann Communication Group, Inc.



Executive Summary

The Financial Modernization Act of 1999, also known as the Gramm-Leach-Bliley Act (GLBA), requires financial institutions to provide their customers with initial and annual notices of their privacy policies and practices. The notices must be clear, conspicuous, and accurate statements of the company’s privacy practices, and provide a means for consumers to opt out of certain information sharing when they have the right. Soon after the GLBA went into effect in 2001, researchers reported that the privacy notices were too lengthy, dense in content, and contained complex language; they found that most consumers neither read nor understand privacy notices.

In response to these findings, six of the federal agencies¹ that enforce the GLBA initiated a project to explore the development of paper-based, alternative financial privacy notices—or components of notices—that are easier for consumers to understand and use. In September 2004, the six agencies selected Kleimann Communication Group (Kleimann) for this project entitled the Form Development Project.

Our report presents the research-based rationale for a “prototype” privacy notice iteratively designed over the course of the Form Development Project. The report discusses the methodology used for our qualitative research; presents our findings and analysis from eight test sites; describes the evolution of the prototype through a 16-month iterative process; and outlines key themes that contribute to the success of the project and to the clarity and usability of the prototype.

This report completes phase one of the Agencies’ two-part research project. Phase two, a quantitative study to be planned and contracted separately by the Agencies, will assess the prototype.

¹ The six federal agencies are: Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Trade Commission, National Credit Union Administration, Office of the Comptroller of the Currency, and the Securities and Exchange Commission.

The Project Objective

The project objective was to explore the reasons why consumers don't read and understand privacy notices and to use this research to develop paper-based, alternative privacy notices—or components of notices—that consumers can understand and use. We used a rigorous, research-based design model to gather data and make revisions after each iteration based on consumer input. This process of designing and revising allowed us to continually modify general and specific features of the prototype, such as content, presentation, and wording. The process also allowed us to understand barriers to consumer comprehension and ultimately arrive at a prototype that met the project goals of comprehension, comparability, and compliance.

The Project Goals

The project had three goals:

- **Comprehension.** The prototype must enable consumers to understand the basic concepts behind the privacy notices and understand what to do with the notices. It must be clear and conspicuous as a whole and readily accessible in its parts.
- **Comparison.** The prototype must allow consumers to compare information sharing practices across financial institutions and to identify the differences in sharing practices.
- **Compliance.** The content and design of the alternative privacy notices must include the elements required by the GLBA and the affiliate marketing provision of the Fair and Accurate Credit Transactions Act.

Design Considerations

Within the design, we worked with several considerations and constraints:

- **Neutral and Objective.** The prototype needed to inform consumers about privacy laws and financial institutions' sharing practices in a factual and neutral way. The language could and should not direct a consumer to make any particular decision. Through the course of designing and testing, we stayed away from using inflammatory or potentially provocative words as a means of attracting attention.
- **Format and Design.** The prototype must be paper-based rather than Web-based. To focus on the research goals of comprehension, comparability, and compliance and minimize testing variables, we tested only in black and white, on 8½" x 11" paper, and with a large, readable font.

Methodology

We used a varied, qualitative research-based design process to accomplish the project objective and goals. The financial privacy notice prototype evolved in content and design based on an iterative process of consumer research, rigorous data collection, thorough analysis, and the expertise of the information designers and legal experts.

Qualitative research uses small numbers of participants to explore in a realistic manner how and why consumers understand and make sense of a document. For the Form Development Project, we used four qualitative methods²—focus groups, preference testing, pretest, and diagnostic usability testing—to iteratively develop and refine the prototype according to the goals of comprehension, comparability, and compliance.

Testing

We tested a total of 66 participants over eight test rounds in various locations based on the U.S. census regions and divisions. The testing was conducted over 12 months, as follows:

- Two focus groups with 10 participants in each, 20 participants total (Baltimore, MD)
- Preference testing with 7 participants (Washington, DC)
- Pretest with 4 participants (Baltimore, MD)
- Diagnostic usability testing with 35 participants in five sites (San Francisco, CA; Richmond, VA; Austin, TX; Boston, MA; and St. Louis, MO)

² Focus groups and preference testing provide baseline information on consumers' impressions, attitudes, likes and dislikes about the subject matter and the initial documents. Focus groups tell the researcher what a group of consumers thinks about privacy notices and what they see as barriers to understanding them, but they do not tell the researcher what a consumer will actually do with a notice. Preference testing uses in-depth one-on-one interviews that explore consumers' preferences for certain vocabulary, headings, notice components, and ordering of the information. This testing informs the initial document designs. Conducting a pretest allows for a dry run of the diagnostic usability test, and validates the methodology by testing the moderator's guide and test design. Diagnostic usability testing looks at how the individual participant actually works with a document and elicits his or her immediate reaction to the information content and design to target and diagnose problems. This testing approach allows for more in-depth probing of consumers' attitudes toward the document and, because it is an iterative process, also allows for continual adjustment to the notice content and design with successive test rounds.

Research and Design

Each test session was carefully planned and structured to meet our research goals of comprehension, comparison, and compliance. The following five questions helped guide the development of the prototype content and design. How do we:

1. attract consumers' attention to the notice using only objective and factual language;
2. decide what information to include;
3. ensure that consumers can understand about the sharing of their personal information;
4. ensure that consumers can compare sharing practices across financial institutions; and
5. enable consumers to understand how to opt out.

Prototype Evolution

As with most design development projects, one key challenge was how to select and organize the content of the notice to address these goals and questions. We used the information and elements required by the law, organizing them in different ways throughout the process to arrive at a final organization of the content that worked.

We developed and tested a variety of designs, ultimately structuring the disclosure of information sharing practices in a table format. We learned that we needed to include an educational component in the notice as consumers had no prior understanding of information sharing practices. To do this, we identified the key information that would draw the reader into the notice and provide sufficient information to enable understanding of the disclosure table. Supplemental information, such as definitions and additional information required by the GLBA, was provided on page 2 of the prototype. Testing showed that consumers could work with page 1 alone, although they appreciated the supplemental information on page 2 for further clarification. We also experimented with a prose design of the disclosure information, but the table design worked far better in helping consumers easily access, understand, and compare sharing practices.

The Prototype Notice

The prototype³ has four key components—the title, the frame (key and secondary), the disclosure table, and the opt-out form—that contribute in multiple ways to its effectiveness.

³ The prototype is intended to be used by any financial institution, but for convenience, we used fictional bank names for the notices.

The Title

The title helps consumers understand that the notice is from their bank and that their personal information is currently being collected and used by their bank.

The Frame

The frame is at the heart of ensuring comprehension because it provides basic information about financial sharing practices as a context for consumers to understand the details of their particular bank's sharing practices. The key frame on page 1 provides a context for the consumer and gives key details. The secondary frame on page 2 also includes a series of frequently asked questions, more required information, and more detailed definitions of terms on page 1. The frame is necessary for understanding the disclosure.

The Disclosure Table

The disclosure table is at the heart of the prototype. It not only shows what the individual financial institution is sharing, but also includes seven basic reasons any financial institution can share information. The disclosure table, therefore, enables consumers to understand the details of their financial institution's sharing practices in the context of how other financial institutions can share. It is critical for comprehension and comparability.

The Opt-out Form

The opt-out form identifies how a particular financial institution allows consumers to limit a particular type of sharing.

FACTS		WHAT DOES NEPTUNE BANK DO WITH YOUR PERSONAL INFORMATION?	
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.		
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> ▪ social security number and income ▪ account balances and payment history ▪ credit history and credit scores <p>When you close your account, we continue to share information about you according to our policies.</p>		
How?	All financial companies need to share customers' personal information to run their everyday business—to process transactions, maintain customer accounts, and report to credit bureaus. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Neptune Bank chooses to share; and whether you can limit this sharing.		
Reasons we can share your personal information	Does Neptune Bank share?	Can you limit this sharing?	
For our everyday business purposes— to process your transactions, maintain your account, and report to credit bureaus	Yes	No	
For our marketing purposes— to offer our products and services to you	Yes	No	
For joint marketing with other financial companies	Yes	No	
For our affiliates' everyday business purposes— information about your transactions and experiences	Yes	No	
For our affiliates' everyday business purposes— information about your creditworthiness	Yes	Yes (Check your choices, p.3)	
For our affiliates to market to you	Yes	Yes (Check your choices, p.3)	
For nonaffiliates to market to you	Yes	Yes (Check your choices, p.3)	
Contact Us	Call 1-800-898-9698 or go to www.neptunebank.com/privacy		

Title

Draws consumers into the notice, helping them understand that the information in the prototype is from their own financial institution and that their personal information is being collected and used by the financial institution.

FACTS		WHAT DOES NEPTUNE BANK DO WITH YOUR PERSONAL INFORMATION?
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> ▪ social security number and income ▪ account balances and payment history ▪ credit history and credit scores <p>When you close your account, we continue to share information about you according to our policies.</p>	
How?	All financial companies need to share customers' personal information to run their everyday business—to process transactions, maintain customer accounts, and report to credit bureaus. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Neptune Bank chooses to share; and whether you can limit this sharing.	
Reasons we can share your personal information	Does Neptune Bank share?	Can you limit this sharing?
For our everyday business purposes— to process your transactions, maintain your account, and report to credit bureaus	Yes	No
For our marketing purposes— to offer our products and services to you	Yes	No
For joint marketing with other financial companies	Yes	No
For our affiliates' everyday business purposes— information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes— information about your creditworthiness	Yes	Yes (<i>Check your choices, p.3</i>)
For our affiliates to market to you	Yes	Yes (<i>Check your choices, p.3</i>)
For nonaffiliates to market to you	Yes	Yes (<i>Check your choices, p.3</i>)
Contact Us	Call 1-800-898-9698 or go to www.neptunebank.com/privacy	

Key Frame
Provides a context for the consumer and gives key details about personal information, information sharing practices, and the laws relating to these practices. It is the heart of ensuring comprehension.

FACTS		WHAT DOES NEPTUNE BANK DO WITH YOUR PERSONAL INFORMATION?
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> • social security number and income • account balances and payment history • credit history and credit scores <p>When you close your account, we continue to share information about you according to our policies.</p>	
How?	All financial companies need to share customers' personal information to run their everyday business—to process transactions, maintain customer accounts, and report to credit bureaus. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Neptune Bank chooses to share; and whether you can limit this sharing.	
Reasons we can share your personal information	Does Neptune Bank share?	Can you limit this sharing?
For our everyday business purposes— to process your transactions, maintain your account, and report to credit bureaus	Yes	No
For our marketing purposes— to offer our products and services to you	Yes	No
For joint marketing with other financial companies	Yes	No
For our affiliates' everyday business purposes— information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes— information about your creditworthiness	Yes	Yes (Check your choices, p.3)
For our affiliates to market to you	Yes	Yes (Check your choices, p.3)
For nonaffiliates to market to you	Yes	Yes (Check your choices, p.3)
Contact Us	Call 1-800-898-9698 or go to www.neptunebank.com/privacy	

Disclosure Table
Shows seven basic reasons a financial institution can share, indicates how this bank shares, and identifies whether the consumer can or cannot opt out. Because the disclosure table shows both what any institution can do and what an individual institution does, it allows consumers to compare across institutions.

FACTS		WHAT DOES NEPTUNE BANK DO WITH YOUR PERSONAL INFORMATION?
Sharing practices		
How often does Neptune Bank notify me about their practices?	We must notify you about our sharing practices when you open an account and each year while you are a customer.	
How does Neptune Bank protect my personal information?	To protect your personal information from unauthorized access and use, We use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.	
How does Neptune Bank collect my personal information?	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> ▪ open an account or deposit money ▪ pay your bills or apply for a loan ▪ use your credit or debit card <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>	
Why can't I limit all sharing?	<p>Federal law gives you the right to limit sharing only for</p> <ul style="list-style-type: none"> ▪ affiliates' everyday business purposes—information about your creditworthiness ▪ affiliates to market to you ▪ nonaffiliates to market to you <p>State laws and individual companies may give you additional rights to limit sharing.</p>	
Definitions		
Everyday business purposes	<p>The actions necessary by financial companies to run their business and manage customer accounts, such as</p> <ul style="list-style-type: none"> ▪ processing transactions, mailing, and auditing services ▪ providing information to credit bureaus ▪ responding to court orders and legal investigations 	
Affiliates	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> ▪ <i>Our affiliates include companies with a Neptune name; financial companies, such as Orion insurance; and nonfinancial companies, such as Saturn Marketing Agency.</i> 	
Nonaffiliates	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> ▪ <i>Nonaffiliates we share with can include mortgage companies, insurance companies, direct marketing companies, and nonprofit organizations</i> 	
Joint marketing	<p>A formal agreement between nonaffiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> ▪ <i>Our joint marketing partners include credit card companies.</i> 	

Secondary Frame
 Provides a series of frequently asked questions, more legally required information, and more detailed definitions of the terms on page 1. Together with the information on page 1 and the opt-out form, it addresses all the elements required by GLBA.

FACTS		WHAT DOES NEPTUNE BANK DO WITH YOUR PERSONAL INFORMATION?	
If you want to limit our sharing			
Contact us	<p>By telephone: 1-800-898-9698— our menu will prompt you through your choices</p> <p>On the web: www.neptunebank.com/privacy</p> <p>By mail: mark your choices below, fill in and send form to: Neptune Bank Privacy Department PO Box 36775 Phoenix, AZ 88709</p> <p>Unless we hear from you, we can begin sharing your information 30 days from the date of this letter. However, you can contact us at any time to limit our sharing.</p>		
Mail-in form			
<p>Check your choices</p> <p><i>Your choices will apply to everyone on your account.</i></p>	<p>Check any/all you want to limit: (See page 1)</p> <p><input type="checkbox"/> Do not share information about my creditworthiness with your affiliates for their everyday business purposes.</p> <p><input type="checkbox"/> Do not allow your affiliates to use my personal information to market to me. (I will receive a renewal notice for this use for marketing in 5 years.)</p> <p><input type="checkbox"/> Do not share my personal information with nonaffiliates to market their products and services to me.</p>		
	<p>Your name</p> <p>Your address</p> <p>Account number</p>	<p>Mail to:</p> <p>Neptune Bank Privacy Department PO Box 36775 Phoenix, AZ 88709</p>	

Opt-out Form Identifies how a particular financial institution allows consumers to opt out of a particular kind of sharing if the institution's sharing triggers an opt-out. It is intentionally on a separate page as consumers suggested.

Page 3

Meta-themes

Six meta-themes informed and guided the development of the prototype. To an extent, these meta-themes are universal design principles. The tendency in the design development of a complex product is to say too much, to let design decorate, to attract attention at the expense of balance, to provide the specifics without a context, and to standardize without discrimination. The final prototype—our design and content decisions—grows out of and is grounded in these themes, our particular research methodology, and our research results.

Keep it simple. Our research consistently showed that consumers are overwhelmed by too many words, complex information, and vague words and phrases. In fact, when faced with complex information, they often won't even bother to read. Our evolution of the prototype focused on minimizing burden on the consumer by continually simplifying the notice. We stripped away redundancies, reduced words, used simpler words, clarified meaning, and provided key context information up front. At the same time, we did not oversimplify. A notice that strips away all contextual information will be short, but uninformative. The challenge is to

find the balance between as few words as possible and enough information so consumers understand.

Good design matters. Good design delivers important information in a format that reinforces the content. Our research repeatedly showed that consumers responded positively to the table design, headings, white space, bold text, bulleted lists, a larger font size, and full-size paper. These design techniques, combined with the simplified content, helped consumers better understand the information. They recognized that it looked different from other privacy notices, commenting that it was easier to read and that it looked more inviting. The easy-to-read design created the impression that the bank wanted the information to be read and understood.

Careful design decisions ensure neutrality. The point of privacy notices is to provide information, not direct a decision. They need to deliver information about financial sharing practices in a way that reports the information truthfully. We, therefore, focused on using factual language, objective presentation, and non-inflammatory words. In each round of testing, we listened for comments, reactions, and perceptions from consumers that indicated areas of potential bias in the notice. The iterative testing process allowed us to make design decisions that led to a final notice that is intended to be clear, neutral, and unbiased.

A “whole-to-part” design is critical to comprehension. Our research showed that consumers needed a context for understanding the information in the notice. Most consumers do not have an operational understanding of information sharing. Therefore, the notice needed to provide enough context that consumers could understand the detail both at the general level and at the table level.

The key frame component provides a context about financial sharing laws and personal information so consumers can understand the disclosure table.

The disclosure table frames the bank’s sharing practices by giving reasons financial institutions can share information. Consumers can then distinguish and understand the specific sharing practices of their bank and compare them to other institutions.

Consumers need the context of both the whole and part to understand the critical details. Without context, they understand virtually nothing.

Standardization is highly effective. Standardization of form and content helped consumers recognize the notice and the information in it. As they became familiar with the prototype, they learned where to look for the differences. Standardization reduces cognitive burden because consumers recognize the information without having to continually re-read notices word for word.

The disclosure table is critical. The disclosure table is at the heart of the prototype. It shows consumers how their personal information might be shared, how their particular bank shares it, and what sharing they can limit. Simple, concise, and highly visual, the standardized disclosure table simplifies highly complex and mandatory information into a design that consumers can understand without undue burden. Our research showed that consumers preferred the standardized disclosure table, could understand the disclosure information with greater ease than with the prose design, and could compare accurately sharing practices across financial institutions. The disclosure table, with its whole-to-part structure, is critical to consumer understanding and comparing financial sharing practices.

Ultimately, the prototype derived from eight rounds of testing ensures that the information about financial privacy laws and sharing practices is available to the public in a clear and understandable notice. This report extensively details the evolution of the prototype through each of the test rounds, illustrating how the prototype and its components clearly and conspicuously inform consumers, who can, therefore, make informed choices. That was the crux of the Form Development Project—and its success.

