

May 24, 2007

***By Electronic Delivery***

<p>Office of the Comptroller of the Currency 250 E Street, SW. Mail Stop 1-5 Washington, DC 20219 Attention: Docket Number OCC-2007-0003</p>	<p>Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, NW. Washington, DC 20551 Attention: Docket No. R-1280</p>
<p>Robert E. Feldman Executive Secretary Federal Deposit Insurance Corporation 550 17th Street, NW. Washington, DC 20429 Attention: Comments</p>	<p>Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS-2007-0005</p>
<p>Mary Rupp Secretary of the Board National Credit Union Administration 1775 Duke Street Alexandria, Virginia 22314-3428</p>	<p>Federal Trade Commission Office of the Secretary Room 135 (Annex C), 600 Pennsylvania Avenue, NW. Washington, DC 20580 Attention: FTC File No. P034815</p>
<p>Eileen Donovan Acting Secretary of the Commission Commodity Futures Trading Commission Three Lafayette Centre 1155 21st Street, NW. Washington, DC 20581</p>	<p>Nancy M. Morris Secretary Securities and Exchange Commission 100 F Street, NE. Washington, DC 20549-1090. File Number S7-09-07</p>

Re: Proposed Model Privacy Form

Ladies and Gentlemen:

This letter is submitted on behalf of Wolters Kluwer Financial Services (“WKFS”) in response to the Interagency Proposal for Model Privacy Form under the Gramm-Leach-Bliley Act (“Proposal”) published in the Federal Register on March 29, 2007. The Proposal requested public comment on all aspects of a proposed Model Privacy form. WKFS appreciates the opportunity to comment on this very important matter.

WKFS provides compliance solutions including deposit, lending, and IRA documents, disclosures, software, training, and support services to over 12,000 financial institutions, including more than 80 percent of banks in the U.S. In addition, many core processors and software developers use WKFS' compliance-related documents and other components in their products. Included in WKFS' solutions is the production of customized privacy disclosures that meet the requirements of Title V of the Gramm-Leach-Bliley Act ("GLB").

WKFS supports the agencies in their promulgation of the proposed Model Form. We believe, however, that certain clarifications are necessary in order to carry out the purposes of the Financial Services Regulatory Relief Act of 2006 that called for the creation of the Model Form as well as the Gramm-Leach-Bliley Act that is the statutory basis for the privacy disclosure requirements. The proposed limitations on adding any information to or varying the format of the Model Form means that if certain situations are not anticipated and addressed in the final rule, there will be no flexibility to adjust to them later, short of a lengthy rulemaking process. This could greatly affect the useability of the Model Form.

### **Clarifications Regarding Content**

**State Laws.** Section 507 of GLB provides that state laws, regulations, orders and interpretations are not preempted unless they are inconsistent with GLB and that such provisions that give greater protection to consumers are not considered to be inconsistent. Several states now have laws granting additional protection to consumers and some require additional language on privacy disclosures. The proposed Model Form indicates that State laws may give "additional rights", but it does not make provision for any required state-specific language.

In light of the limitations on any unapproved modifications to the Model Form, the agencies should clarify how financial institutions doing business in those states can comply with state requirements while still availing themselves of the Safe Harbor protection provided by the Model Form. There should be a provision allowing state-specific language or addenda to be added to the Model Form. The final rule should also specify whether institutions doing business nationwide can create a single addendum covering all state-specific requirements nationwide or whether they must they do so on a state-by-state basis.

**Collection of Information.** Section 503(b)(2) of GLB provides that privacy disclosures are required to include "the categories of nonpublic personal information *that are collected by the financial institution*" [emphasis supplied]. The Model Form proposal indicates (in footnote 26) that the disclosures will contain examples of information "typically" collected rather than the specific information that is actually collected by each particular institution.

The disclosure of Categories of Information Collected in current Sample Clause A-1 follows the requirements of GLB more closely than the Model Form. A version of that Sample Clause should be used, and modified as applicable, reflecting the practices of the particular financial institution. This would track the GLB requirements.

**Service Providers.** Section 502(b)(2) of GLB provides an exception to the opt-out requirements for providing nonpublic personal information to a third party who is a service provider for the institution, which may include joint marketing with another financial institution. The proposed Model Form provides for disclosure for joint marketing agreements, but does not mention other service providers.

If the disclosure on page 2 of the proposed Model Form labeled “Joint marketing” is intended to include the listing of other service providers as well, it would be best to include “or other service providers” on the label for that row of the disclosure and clarify the issue in the guidance for filling out the form. If that space is not intended to cover other service providers, there should be clarification as to how the disclosure of the names of other service providers under Section 502(b)(2) can be done when the Model Form is used.

**Prior Opt-out.** The clause on the opt-out page that says “Unless we hear from you, we can begin sharing your information 30 days from the date of this letter” suggests that a former opt-out does not remain effective. It might be helpful to consumers, as well as more accurate, to put a statement on the form that if they have already opted-out and do not wish to change their choice, it is not necessary to send another opt-out since the earlier opt-out is effective until it is revoked.

**Contact Information.** Additional information should be allowed in this space, including a logo, which would fit logically with institution contact information.

### **Clarifications regarding Format**

**Lengthy or Multiple Institution Names.** The proposed Model Form has a number of places where the name of the financial institution or group of affiliated institutions is supposed to be inserted. Some of these are in places on the form where there is very little space for anything but a short name. Some provision should be made to accommodate lengthy names or multiple names, particularly if there is no shorthand way to describe a group of institutions.

The form should provide for a “Who?” section on page one of the form to go along with the “Why?”, “What?” and “How?” sections. This would allow for the use of an abbreviated institution name in the areas with little space and would provide a detailed listing of the names of all institutions included in that abbreviated name. This would accommodate the current regulatory approach of allowing joint notices with other financial institutions “as identified in the notice” that is in section .9(f) of the various regulations implementing the GLB requirements. If space on the page is a concern, the left-hand column could be narrowed and the right-hand column widened to reduce the number of lines needed for text in the right-hand column.

**Taglines and Barcodes.** Vendors, such as WKFS, that produce disclosures and other compliance documents for financial institutions generally include a “tagline” at the bottom of each page. This is a line in a relatively small type size that identifies the vendor and contains other useful information, such as the date that the particular version of the form was created. This allows for identification of the vendor if issues arise and also allows the institution to determine whether a particular copy of their privacy notice is the most recent version, as opposed to an outdated one. In

addition, institutions with automated document control often use barcodes on documents to track that required forms are given

A clarification should be made to the proposal saying that taglines are allowed to be added to the bottom of each page of the Model Form. To minimize the space needed for the tagline, the final rule should allow the tagline to be printed in a size less than the 10-point font that is required for the substantive information on the disclosure. Six-point type would be adequate for this purpose. Barcodes, which are usually 5/6ths of an inch should also be allowed for document control.

**Delivery with Other Information.** Since there are strict requirements regarding the number and layout of pages, several issues arise regarding the delivery of the notices.

- Some institutions deliver their current privacy notices as a part of a brochure that can include other disclosures such as Funds Availability, Electronic Funds Transfers, and Truth in Savings as well as account terms and conditions. Can the Model Form be given as an attachment to such a brochure at account opening?
- For annual mailings, can it be included in a mailing with other information?
- Can there be a cover page to explain what is being mailed?
- Can it be included as a part of another document, such as a newsletter or account statement?
- Can it be stapled to another document?
- Can it be folded? If so, can it be made into a self-mailer by folding and printing the mailing information on the back?

**Printing on Both Sides of the Page.** The current proposal allows printing on only one side of the page. Allowing printing on front and back would reduce the number of pages and the expense of production of the forms. It would also allow institutions that don't share to put their information on one page, while institutions that do share would have a separate page for their opt-out.

## **Conclusion**

In conclusion, WKFS supports the concept of the new Model Form and believes that resolving the issues presented in this comment letter will result in substantial improvement to the form. The fact that the Safe Harbor for compliance will eventually be withdrawn from the existing sample clauses makes it all the more important for the Model Form to be as useable as possible.

If you have any questions concerning these comments, or if we may be of any assistance in connection with this matter, please do not hesitate to contact me at (320) 240-5769.

Sincerely,

Theodore D. Dreyer  
Senior Attorney