

May 29, 2007

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Attention: OTS 2007-005

RE: Model Privacy Form
Docket ID OTS-2007-005

Dear Sir or Madam:

Countrywide Home Loans, Inc. ("Countrywide") is pleased to submit comments on behalf of the companies in the Countrywide Financial Corporation family in connection with the Agencies' proposal of a model "Gramm-Leach-Bliley Act (GLBA)" privacy notice under Section 728 of the Financial Services Regulatory Relief Act of 2006. Through its family of companies, Countrywide provides mortgage banking and diversified financial services. As a financial service provider, Countrywide is well aware of its obligations under GLBA and other privacy and data security statutes and regulations, and appreciates the necessity of providing customers with clear and understandable notices regarding its policies and practices.

Countrywide appreciates the time, attention and resources that the Agencies have devoted to the development of a model privacy notice. Countrywide recognizes that this effort predates passage of the Financial Services Regulatory Relief Act of 2006 and stretches back to the earliest days following the passage of GLBA. Countrywide believes that this proposed model form is a positive step towards a more readily understandable document for consumers to use in comparing financial institutions practices in the area of privacy and data security. Nevertheless, we believe that the model form could be improved and modified in such a way as to attract greater numbers of financial institutions to adopt it. Countrywide believes that greater flexibility in content and delivery of the notice, along with a few small changes in the required language will make the notice more understandable to consumers and make it more likely that financial institutions will adopt it. Towards that end, we offer the following comments.

The Model Notice Guidance Should Allow for Inclusion with Other Notices

The proposed model form requirements mandate a stand-alone document, rather than allowing financial institutions the flexibility to incorporate the model form into other documents. The definition of clear and conspicuous in Section 216.3(b)(2)(ii)(E) of Regulation P currently allows use of distinctive type size, style, and graphic devices, such as shading or sidebars when combining the privacy notice with other information. At the inception of a new customer relationship in its retail division, Countrywide provides its

privacy notice as a part of a “handbook” which contains a number of required notices and disclosures. The privacy notice is distinguished from other documents in the handbook through the use of different colored paper stock and other style choices. This bundling of notices enables Countrywide to deliver the required notices in a manner that is easy for the customer to review and still sets the privacy notice apart through the use of distinctive paper and style. Numerous state and federal disclosures are required during the course of originating a mortgage loan. The ability to combine the privacy notice with other disclosures is helpful to financial institutions in trying to communicate all of these required state and federal disclosures in a simple and meaningful way and not overwhelming the consumer with paperwork. The guidance associated with the model notice would preclude this practice going forward and would impose significant new costs and unduly complicate the delivery of required notices and disclosures for Countrywide and other financial institutions that currently use a bundled approach to delivery of some privacy notices, without any real concurrent increased benefit for consumers. Countrywide believes that the final rule should continue to allow “bundling” of the privacy notice with other required notices.

The Agencies Should Reconsider Requiring Three, 8 ½ X 11, Single-Side Pages

Countrywide currently delivers its annual privacy notice in the form of a tri-fold, single sheet of paper that is delivered with either a monthly statement or a year end statement of interest. Requiring financial institutions to utilize 3- 8 ½ X 11 sheets of paper, with information printed on one side of the paper, will dramatically increase the costs of producing and delivering the notice. For example, for annual notices, use of the proposed model form will increase Countrywide’s cost of actual production of the document by 250%, and the cost to deliver the notices via the US Post Office will increase by approximately \$1,422,595 per year without any increases in the size of Countrywide’s customer base. Countrywide does not believe that this increased cost is offset by commensurate improvement in the form of the privacy notice. Countrywide suggests that financial institutions be permitted to use both sides of the page, and/or be allowed to fit the required language into fewer pages. Countrywide believes that this can be accomplished, while maintaining the readability of the model form’s required content and such flexibility could substantially reduce both costs of production and delivery.

The Agencies Should Edit the “Check Your Choices” Language in the Model Forms

For companies that elect not to offer a mail-in opt out, the “Check Your Choices” language in the Disclosure Table and as the title of the opt-out form on page 3 will potentially lead to consumer confusion about how to exercise privacy rights with the financial institution. The active verb “check” suggests that the consumer should mark next to items on page 3 of the model form and return the model form to the financial institution. This may lead customers to mail page 3 of the model form along with payment coupons or to customer service addresses or post office boxes which are not set up to process opt-out requests.

In addition, the “Check Your Choices” language appears to positively encourage customers to opt out or implies that they should. Countrywide believes that this language could cause consumers to believe that they should “check” their choices. This could lead to greater rates of uninformed opt outs. One of the choices that financial institutions should be allowed to present is for the consumer to take no action in order to allow the financial institution to share limited information to market additional products and services to the consumer.

The goal of a model privacy notice should be to educate the consumer about the choices he or she has with respect to his or her information, not to encourage a consumer to exercise the available choices. Greater neutrality in the language used here would facilitate that goal and increase use of the model notice by those institutions that might otherwise choose not to use it because of this concern. Countrywide suggests that the word “check” be eliminated. In addition, financial institutions should be allowed to briefly describe the benefits of continued sharing of data and present taking no action as one of the choices.

The Agencies Should Eliminate the Second Column (“For Our Marketing Purposes”) from the Disclosure Table on Page One of the Model Notice

The language in this column reads: “For Our Marketing Purposes – to offer our products and services to you”. There is no law that mandates that consumers be offered the opportunity to opt out of such sharing. Most financial institutions will answer “Yes” in the box “Does “X” Share?” and “No” in the box “Can you limit this sharing”. Almost all financial institutions outsource certain marketing functions to third party vendors. Countrywide does not believe there is value in presenting this information to consumers in this format. It is likely to confuse the consumer. A consumer may come to believe that he cannot prevent the financial institution from marketing products and services to him, when in fact, under other laws (such as the CAN-SPAM Act and telemarketing “do not call” registries), he can do so.

The Agencies Should Alter Language Used to Describe Consumer Opt Out Choices With Respect to Affiliates So That It Accurately Reflects the Law

Countrywide believes that the current language found in the table on page 1, in the row entitled “For our affiliates to market to you” may mislead or confuse consumers about their right to limit sharing with affiliates for marketing purposes. As this is a reference to the Fair Credit Reporting Act (FCRA) Section 624 opt out right, the column “Can you limit this sharing” could be misleading. Consumers cannot limit the practice of sharing data for marketing purposes under FCRA, but they can restrict a financial institution and its affiliates’ use of that data for marketing purposes. Under Section 624, there is no additional right of consumers to limit sharing of data, rather, only a new right to limit the use of shared data between affiliates for marketing purposes. On page 3 of the model form, Countrywide believes that the Agencies have phrased the consumer’s opt out choice appropriately, indicating that consumers can check a box to indicate, “Do not

allow your affiliates to use my personal information to market to me.” This language should be clarified, again, to remove the possibility of consumer confusion.

The Agencies Should Allow Financial Institutions to Include Language Relating to Applicable State Laws in their Notices

Many financial institutions, including Countrywide, use the GLBA mandated privacy notice to also explain state-specific variations in privacy laws. For example, Vermont law imposes different restrictions on affiliate sharing that are not preempted by the FCRA. In addition, financial institutions often deliver opportunities to opt out of certain marketing practices, like telemarketing or direct mail. These practices should be allowed to continue with the use of the model notice, without forfeiting the right to the safe harbor. The addition of this type of language, long a part of well-regarded privacy notices, will not confuse consumers, but rather provides them with information that is useful and pertinent. The Agencies should continue to allow these practices by clarifying that the safe harbor is still available when financial institutions include this useful information in their notices.

The Agencies Should Clarify that Financial Institutions May Continue Using Truncated Social Security Numbers to Authenticate Customers Making Privacy Choices

The model notice proposes that account number be used to identify customers who wish to communicate opt out choices. It would be helpful if the Agencies clarified that, consistent with other applicable laws, financial institutions would be allowed to utilize a truncated social security number, or other identifier when consumers use an opt out mechanism offered by the financial institution for communicating opt out choices.

Conclusion

Countrywide applauds the Agencies long standing efforts to simplify the GLBA mandated privacy notice requirement and to bring greater standards of clarity and understandability for both consumer and financial institutions alike. Countrywide appreciates the substantial commitment of both time and resources that the Agencies have invested over the past several years and believes that the proposed model notice is a positive step forward. With the modest changes suggested here, Countrywide believes that this good proposal can be made even better and broader industry acceptance and usage can be achieved. Countrywide appreciates the opportunity to comment on this very important matter and would welcome the opportunity to discuss these comments further or answer any questions that you may have regarding our views on this issue. Feel free to contact me at 818-871-5231 with any questions about these comments.

Sincerely,

Christopher G. Weinstock

cc: Steve Taw
Christine Frye
Ryan Barker
Bruce Brooks
Cameron Copeland
David Landau
Heather Kagel
Nathan Mays
Rodney Gould