



Citizen Action of New York is a grassroots consumer membership organization that works for economic, racial, social and environmental justice, with over 20,000 members, 5 regional grassroots chapters and 9 member organizations. Citizen Action is the New York affiliate of USAction, a national coalition of social action organizations that works to improve the lives of Americans.

In 2000, Citizen Action of New York launched the Campaign to Protect Consumer Privacy because private health and financial information may not be as private as most people believe. Citizen Action of New York is working to give consumers control over how companies share and sell the financial and health information they've collected about individual consumers.

Consumers' Privacy Concerns

Consumers want to know what information corporations are collecting about them. Corporate notices to consumers must be easy to understand and available at the time consumers begin shopping for a financial product, insurance policy or health service.

Consumers want corporations to get their permission before they give personal financial and health information to another company. Consumers do not expect that companies will be giving information about their car loan or medical history to another company that is a member of the same mega financial conglomerate. Consumers do not want telemarketing companies using their personal information to develop more sophisticated marketing plans.

Consumers want to be able to review and correct the information that corporations have collected about them. In addition, consumers want to know whether corporations have a good track record on protecting the privacy of the information they collect.

Consumers want corporations to use reliable and verifiable technology and procedures to protect the confidentiality of the information they collect about consumers. While the advent of the computer and Internet have many benefits for consumers, the ease of sharing huge quantities of information and the incidence of hacking pose new threats to consumer privacy.

Consumers want strong state and federal privacy laws and regulations with rigorous enforcement. The government must conduct routine audits to determine whether corporations are complying with privacy requirements. There should be stiff sanctions to punish privacy violators and consumers should have the ability to sue companies that fail to protect their confidential information.

New Report: *Your Privacy is Important to Us?*

Citizen Action of New York recently did a study for USAction looking specifically at financial privacy notices required by the GLBA (1999 Gramm-Leach-Bliley Financial Modernization Act). This study was designed to determine whether:

1. The privacy notice from each of the fifteen banks that issue the most credits cards complied with the federal law and regulations. Each bank received a grade from A to F.
2. The privacy notice - even if it was in strict compliance with federal regulations - is adequate to allow consumers to make an informed choice about how to protect their financial privacy.

Each privacy notice was graded on 16 topics, grouped into three categories:

1. Is the notice clear and understandable?
2. How easy is it for a consumer to exercise privacy rights?
3. How comprehensive is the information provided to consumers?

This study reveals how difficult the financial privacy notices are for consumers to read and use. Even simple things like the title of the financial privacy notice can be very misleading unless you are a very astute and persistent consumer. There are some financial institutions that make it easier than others to exercise the "opt out" rights that exist under the GLBA.

Information about obtaining a copy of the full report, *Your Privacy is Important to Us?* is available by calling 518-465-4600, faxing 518-465-2890, e-mailing mail@citizenactionny.org, checking the website www.citizenactionny.org, or sending a written request to Citizen Action of New York, 94 Central Avenue, Albany, NY 12206.

Here's a link to Citizen Action's website with more information about the campaign:

**[Campaign to Protect Consumer Privacy](http://www.citizenactionny.org)
www.citizenactionny.org**

See the next section for a copy of Appendix 2, the Scoring Tool, developed and used to evaluate the financial privacy notices in the report, *Your Privacy is Important to Us?*

Your Privacy is Important to Us?

A USAction Report

Prepared by Citizen Action of New York

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APPENDIX 2

Scoring Tool

The scoring tool detailed below describes the criteria for grades issued in each topic of the report card. The scoring scale for topic, category and overall grades is listed at the end of this appendix. A narrative explanation of each topic can be found in Appendix 1 starting on page 17 of the report. A full copy of the report card can be found in Appendix 3 on pages 31-32.

Introductory Category: Privacy Notice is Available to the General Public

No points given for passing this category; failure in this category means the privacy notice receives an overall failing grade.

- The notice is available, over the web or through the mail, to the general public before they make decision to become customers—Pass
- The notice is not available either through the mail or over the Internet to consumers before they are customers—Fail

Category I: Clear and Understandable Notice

The federal regulations require that banks write their privacy notices in a format that is “clear and conspicuous.” In order to help define this term, the regulations define two separate terms, “reasonably understandable” and “designed to call attention to the nature and significance of the information,” with examples of each. The following topics grade the banks on whether their notices are clear and understandable..

Clear, Concise Sentences—4 points possible

- The privacy notice has an average sentence length of 20 words or less—A (4 pts.)
- The privacy notice has an average sentence length of 21-25 words—C (2 pts.)
- The privacy notice has an average sentence length of 26 or more words—F (0 pts.)

Bulleted Lists Whenever Possible—4 points possible

- All lists are bulleted, and bulleted lists are stated in short phrases—A (4 pts.)
- Most lists are bulleted, and bulleted lists are stated in short phrases—B (3 pts.)
- Some lists are bulleted, and bulleted lists are stated in short phrases—C (2 pts.)
- Few or no lists are bulleted, and/or bulleted lists are stated in long phrases or sentences—F (0 pts.)

Reading Grade Level—4 points possible

- 8th grade level-----A (4 pts.)
- 9th grade level-----B (3 pts.)
- 10th grade level-----C (2 pts.)
- 11th grade level-----D (1 pt.)
- 12th grade level-----F (0 pts.)

Reading Ease—4 points possible

- The privacy notice has a Flesch Reading Ease score of 50 or above---A (4 pts.)
- The privacy notice has a Flesch Reading Ease score in the range of 45-49—B (3 pts.)
- The privacy notice has a Flesch Reading Ease score in the range of 40-44—C (2 pts.)
- The privacy notice has a Flesch Reading Ease score of 39 or below—F (0 pts.)

Title of the Notice—4 points possible

- The privacy policy notice title reflects its importance and reflects the consumer's right to opt-out—A (4 pts.)
- The notice is called "Privacy Policy," "Privacy Notice," or a similar term—C (2 pts.)
- The notice's title fails to reflect its importance in regard to right to opt-out—F (0 pts.)

Using bold lettering, italics, and underlining—4 points possible

- All of the important information is bolded, italicized or underlined—A (4 pts.)
- Most of the important information is bolded, italicized, or underlined—B (3 pts.)
- Some of the important information is bolded, underlined, or italicized—C (2 pt.)
- Little or no important information is bolded, italicized, or underlined and/or misleading information is emphasized—F (0 pts.)

Category II: Exercising the Right to Opt-out

The most important aspect of the privacy notice is alerting consumers to their right to opt-out of having their private financial information shared. Therefore, notices were graded based on the ease with which customers can find and utilize the right to opt-out.

Conspicuous Placement of Opt-out—4 points possible

- The opt-out directions are easily distinguished from the surrounding text and the title of the section makes it clear consumers have the right to opt-out—A (4 pts)
- The opt-out directions are easily distinguished from the surrounding text, but the title of the section does not make it clear that consumers have the right to opt-out—C (2 pts.)
- The title of the section makes it clear that consumers have the right to opt-out, but the opt-out directions are not distinguished from the surrounding text—D (1 pts.)
- The opt-out directions are not easily distinguished from the surrounding text and the section title does not make it clear that consumers have the right to opt-out—F (0 pts.)

Number of Places “Opt-Out” Appears—4 points possible

- The term “opt-out” appears in all section headings where it is discussed and within the text of the sections as well—A (4 pts.)
- The term “opt-out” appears in all of the section headings in which it is discussed or within the text of the sections—C (2 pts.)
- The term “opt-out” does not appear anywhere within the privacy notice—F (0 pts.)

Clear Introductory Paragraph—4 points possible

- The bank mentions customers' right to opt-out of sharing their personal financial information within the first paragraph and the first paragraph contains no misleading information—A (4 pts.)
- The bank mentions the term opt-out within the introductory paragraph, but it also includes misleading information—C (2 pts.)
- The bank does not mention the customer's right to opt-out within the first paragraph of the notice and it misleads the customer—F (0 pts.)

Variety of Opt-Out Methods (toll-free phone number, mail-in form, Internet, TDD, personal visit to a local branch, hand written letter, or e-mail)—4 points possible

- 6-7 methods are listed--A (4 pts.)
- 4-5 methods are listed--B (3 pts.)
- 3 methods are listed-----C (2 pts.)
- 2 methods are listed-----D (1 pt.)
- 1 method is listed-----F (0 pts.)

Ease of Opting-Out—4 points possible

- It is possible to opt-out through a mail-in form, a toll-free phone number, and the Internet—A (4 pts.)
- It is possible to opt-out using two of these three methods: Internet, mail-in form, or a toll-free telephone number—B (3 pts.)
- It is possible to opt-out using either a mail-in form or toll-free phone number, but not both—C (2 pt.)
- It is possible to opt-out via the Internet, but neither a mail-in form nor a toll-free phone number are options—D (1 pts.)
- There is no provision to opt-out through Internet, mail-in form or toll-free phone number—F (0 pts.)

Opt-Out for Joint Accounts—4 points possible

- An individual opt-out directive applies to all individuals that are members of the account—A (4 pts.)
- An individual opt-out directive only applies to the individual who makes the directive, unless otherwise specified—C (2 pts.)
- An individual opt-out directive applies to only the individual who opts-out, and there is no mention of opting out for others—D (1 pt.)
- The privacy notice does not state to whom an opt-out directive applies in cases of joint account—F (0 pts.)

Category III: Comprehensiveness of Information Provided

Privacy notices are only as effective as the information they provide to the customer. Therefore, the amount of information that banks provided to customers in their privacy notices was examined.

Extent of Information Provided—4 points possible

- The notice names all affiliates and provides a detailed list of examples regarding the information that is shared—A (4 pts.)
- The notice names some affiliates and provides a detailed list of examples regarding the information that is shared—B (3 pts.)
- The notice discloses categories of affiliates and provides a detailed list of examples regarding the information that is shared —C (2 pts.)
- The notice names some affiliates and provides a vague or limited list of examples regarding the information that is shared—D (1 pt.)
- The notice meets the federal requirements for disclosure of categories of affiliates and information shared, but does not fulfill the spirit of the regulations because it fails to give consumers enough useful examples and descriptions about what information is shared—F (0 pts.)

Opportunity to review and correct information collected—4 points possible

- Consumers may obtain a copy of all of the information a corporation has gathered about them and request that changes be made where it is incorrect—A (4 pts.)
- Consumers may check the information as it comes in their bills, and on other credit reports, and request that changes be made if it is incorrect—C (2 pt.)
- There are no guidelines stated in the notice for how consumers can verify the information the bank has collected about them and how to address possible incorrect information—F (0 pts.)

Categories of non-public information collected—4 points possible

- The notice lists the categories of information that a company collects, and provides a detailed list of examples for each category—A (4 pts.)
- The notice lists the categories of information they collect, and provides a list of examples that explains some of the intrusive information that is collected—C (2 pts.)
- The notice meets the federal requirements by listing the categories of information collected, but provides consumers with few examples that

do not illustrate the intrusive nature of some of the information collected—F (0 pts.)

Ongoing Legal Sharing of Information—4 points possible

- The privacy policy notice makes it clear, easy-to-find and easy-to-understand that even after customers exercise their right to opt-out, the company can continue to legally share some or all of their customers' private financial information (a) with affiliates, (b) with companies under contract to provide business services, (c) with companies who sign a joint marketing agreement with the bank, and (d) with law enforcement agencies---A (4 pts.)
- The notice meets the federal requirements to indicate all the ways that the company can legally continue to share some or all of its customers private financial information, presents some additional information to illustrate the type of information sharing that will continue even after the customer opts-out, and provides the information in a way that a diligent reader can understand and find—C (2 pts.)
- The notice meets the federal requirements to indicate all the ways that the company can legally continue to share some or all of its customers private financial information but fails to communicate this information in a way that the average consumer can easily understand and easily find---F (0 pts.)

Scoring Scale

Topic letter grades and points

- A = 4 points
- B = 3 points
- C = 2 points
- D = 1 point
- F = 0 points

Overall and category averages and letter grades

- 3.6-4.0 average = A
- 2.7-3.5 average = B
- 1.7-2.6 average = C
- 1.0-1.6 average = D
- Below 1.0 average = F