

Electronic Banking Program

CHILDREN'S ONLINE PRIVACY PROTECTION ACT

Background and Summary

The Children's Online Privacy Protection Act of 1998 (COPPA) (15 USC 6501 et seq.) addresses the collection, use, or disclosure of personal information about children that is collected from children through websites or other online services. On November 3, 1999, the Federal Trade Commission (FTC) issued a regulation (16 CFR 312), which implements COPPA. The regulation became effective on April 21, 2000.

Financial institutions are subject to COPPA if they operate a website(s) or online service(s) (or portion thereof) directed to children, or have actual knowledge that they are collecting or maintaining personal information from a child online. COPPA grants each of the federal financial regulatory agencies enforcement authority over the institutions they supervise under 12 USC 1818.

Definitions

The terms "child" or "children" mean individuals under the age of 13.

The term "personal information" means individually identifiable information about an individual collected online, including first and last name, home address, e-mail address, telephone number, social security number, or any combination of information that permits physical or online contact.

COPPA employs several other definitions including "communication," "disclosure" and "verifiable parental consent." For the complete listing of definitions see 16 CFR 312.2.

The following examination procedures should be consulted when examining an institution for whom any part of the company's website is directed to or captures information from children. Appendix D includes the General Requirements of the COPPA regulation as well as a brief synopsis of the specific regulatory sections (e.g. Content, Notice to a Parent, Placement of Notice on website). Use the Questionnaire, the COPPA Worksheet, at the close of this particular section of the examination.

INITIAL PROCEDURES

1. From direct observation of the institution's website or online service and through discussions with appropriate management officials, ascertain whether the financial institution is subject to COPPA by determining if it operates a website(s) or online service(s) that:

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- Is directed to children; or
- Knowingly collects or maintains personal information from children. A thrift knowingly collects or maintains information from a child when it requests age or birth date information on its website and persons under age 13 can and do respond by providing age or birth date combined with other individually identifiable information.

If the institution does not currently operate a website directed to children or knowingly collects information about them, the institution is not subject to COPPA and no further examination procedures are necessary.

2. If the institution is subject to COPPA, determine if it is participating in an FTC-approved self-regulatory program. If yes, obtain a copy of the program, and supporting documentation, such as reviews or audits, which demonstrate the institution's compliance with the program. If the self-regulatory authority (SRA) determined that the institution was in compliance with COPPA at the most recent review/audit, or has not yet made a determination, no further examination procedures are necessary. If however, the SRA determined that the institution was not in compliance with COPPA and the institution has not taken appropriate corrective action, complete the remaining procedures.
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3. If an institution is subject to COPPA, review applicable audit and compliance program materials to determine whether:
 - Internal review procedures address the COPPA provisions applicable to the institution;
 - The audits or reviews performed were reasonable, accurate and include consideration of issues raised by consumer complaints;
 - Effective corrective action occurred in response to previously identified deficiencies;
 - Deficiencies, their causes, and the effective corrective actions are consistently reported to management or the members of the board of directors; and
 - The frequency of compliance review is appropriate for the level of changes to on-line content.
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4. If an institution is subject to COPPA, but does not conduct satisfactory internal audits or compliance reviews, evaluate whether the institution's internal controls are adequate to ensure compliance with COPPA. Consider:
- Who in the organization is responsible for the institution's compliance with COPPA;
 - Process flowcharts to determine how the institution's COPPA compliance is planned for, evaluated, and achieved;
 - Policies, procedures and training programs;
 - How methods of collecting or maintaining personal information from the website or online service are vetted before implementation;
 - How data elements collected from a child are tracked for use and protected;
 - Whether data elements collected from a child are disclosed to third parties and how permission for such disclosure is implemented and tracked;
 - The resolution process for complaints regarding the treatment of data collected from a child; and
 - Any system triggers to alert operations staff about potential COPPA ramifications of web content decisions.
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5. Based on the results of the foregoing, determine which verification procedures, if any, should be completed, focusing on the areas of particular risk. The selection of procedures to be employed depends upon the adequacy of the institution's compliance management system and level of risk identified. It may be most efficient to have management conduct any necessary review, correct any self-identified deficiencies and report to the Region a self-assessment of its COPPA compliance.
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Verification Procedures

1. Through testing or management's demonstration of the website or online service, verify that the financial institution does not condition a child's participation in a game, offering of a prize, or another activity on the child's disclosure of more personal information than is reasonably necessary to participate in the activity [16 CFR 312.7].

2. Obtain a sample of data collected on children including data shared with third parties, if applicable, and determine whether:
 - The financial institution has established and maintained reasonable procedures to protect the confidentiality, security and integrity of personal information collected from a child [16 CFR 312.8 and 312.3];
 - Data are collected, used, and shared in accordance with the institution's website notice [16 CFR 312.4 and 312.3]; and
 - Parental permission was obtained prior to the use, collection or sharing of information, including consent to any material change in such practices [16 CFR 312.5(a)].

3. Through testing or management's demonstration of the website or online service and a review of a sample of parental consent forms or other documentation determine whether the financial institution has a reasonable method for verifying the person providing the consent is the child's parent [16 CFR 312.5 (b)(2)].

4. Review a sample of parent requests for personal information provided by their children and verify that the financial institution:
 - Provided, upon request, a description of the specific types of personal information collected [16 CFR 312.6(a)(1)];
 - Complied with a parent's instructions concerning the collection or disclosure of their child's information. [16 CFR 312.6(a)(2)];
 - Allowed parents to review any personal information collected from the child [16 CFR 312.6(a)(3)]; and

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- Verified that persons requesting information are parents of the child [16 CFR 312.6 (a)(3)].
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5. Complete the COPPA Worksheet on access, clarity and content of electronic notices on the thrift's website or online service. (see the Questionnaire).
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Conclusions

1. Summarize all findings, supervisory concerns and regulatory violations.
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2. For the violation(s) above, determine the root cause by identifying weaknesses in internal controls, audit and compliance reviews, training, management oversight, or other factors; also, determine whether the violation(s) are repetitive or systemic.
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3. Identify action needed to correct violations and weaknesses in the institution's compliance system.
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4. Discuss findings with the institution's management and obtain a commitment for corrective action.
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EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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