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BANKERS of AMERICA**

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March 29, 2004

Public Information Room
Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Attention: Docket No. 03-27

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2003-62

Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Re: Docket No. R-1173

Robert E. Feldman, Executive Secretary
Attention: Comments/Executive
Secretary Section
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Becky Baker, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Federal Trade Commission
Office of the Secretary
Room 159-H
600 Pennsylvania Avenue, NW
Washington, DC 20580
Re: Alternative Forms of Privacy
Notices, Project No. P034815

Jean A. Webb, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 5th Street, NW
Washington, DC 20549-0609
Attention: File No. S7-30-03

Re: Alternative Forms of Privacy Notices

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on possible amendments to the current privacy rules

¹ ICBA represents the largest constituency of community banks in the nation and is dedicated exclusively to protecting the interests of the community banking industry. We

implementing sections 502 and 503 of the Gramm-Leach-Bliley Act. The amendments would be designed to allow or require financial institutions to provide alternative forms of privacy notices, such as a short form privacy notice, that would be easier for consumers to understand and should reduce regulatory burden for financial institutions.

Overview

The ICBA supports the development of a short-form privacy notice to facilitate consumer understanding of individual financial institutions' privacy policies and procedures. However, since banks have developed and revised privacy notices over the past three years to meet existing compliance standards, the ICBA strongly urges that the use of any new alternative privacy notice be optional and not mandatory. This is especially critical for smaller institutions that are only likely to share information as permitted by existing exceptions such that they are not required to offer consumers an option to opt out from information sharing and, as a result, are likely to already have shorter notices.

If an optional short form alternative notice is developed, it should be one that can be used in lieu of the existing long form, as it would be burdensome and confusing for financial institutions to be required to have both a short form privacy notice and a long form privacy notice. And it is equally important to develop model language to help consumers understand that not all banks are required to offer the right to opt out since they only share information as permitted by one of the statutory exceptions.

Background

The Gramm-Leach-Bliley Act (GLBA) requires banks and other financial institutions to send customers annual privacy notices that describe the bank's policies and practices for disclosing nonpublic personal information to both affiliated and non-affiliated third parties. In addition, where applicable, the notice must describe how a customer can opt out from information sharing with non-affiliated third parties.

Under current rules, privacy notices generally must include the following information: (1) categories of nonpublic personal information the bank collects; (2) categories of nonpublic personal information that the bank discloses; (3) categories of affiliates and nonaffiliated third parties to which the bank discloses nonpublic personal information; (4) categories of information disclosed about former customers; (5) a separate statement about information disclosed for joint marketing purposes; (6) an explanation of the consumer's right to opt out from disclosure of nonpublic personal information to nonaffiliated third parties (including an explanation about how to exercise that right); (7) an explanation about the bank's information sharing with affiliates; (8) the bank's policies and procedures for protecting the confidentiality and security of nonpublic personal information; and (9) any disclosures that the bank makes "as permitted by law," such as disclosures for government reports or to complete transactions.

aggregate the power of our members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.

When privacy notices were first developed and distributed in 2001, critics complained about their length and complexity. To begin to address these problems, the regulatory agencies held a forum in December 2001 to discuss how to make privacy notices more effective. The agencies are now considering options for a more streamlined notice format that will meet consumers' needs and at the same time reduce burden.

Development of a Short Form Notice

Generally, the ICBA believes that the purpose of a privacy notice should be to explain to customers the bank's policy of collecting non-public personal information about consumers, how the bank might share that information and, where applicable, how the customer can opt out from that information sharing.

The ICBA has long advocated the creation of a short-form privacy notice. Anecdotal evidence suggests that few consumers read privacy notices, and a short form notice would more be likely to be read, making it both more useful and more in keeping with its intended purpose.

However, many banks have already developed and established procedures to comply with existing requirements, and any change in existing procedures will require redesign of forms, retraining of staff, and possibly reprogramming of software that is currently in place to ensure compliance with new requirements. Therefore, the ICBA believes that if the agencies develop a short-form privacy notice, use of the short form should be optional and not mandatory.

Moreover, since any new notices will not be the result of substantive changes to a bank's privacy policies and procedures, it will be important that consumers understand that the change is merely a change in format to facilitate comparison of privacy policies and not a change in privacy rights. Therefore, it will be vitally important for the agencies to take steps to educate the public about any changes to ensure that the general public understands why the notices are being changed and what significance the changes portend for individual consumers.

Utility of Existing Privacy Notices for Consumers. The ICBA believes that the current privacy notices are somewhat useful for bank customers, as they disclose the bank's information sharing practices. However, they are only somewhat useful because the sample language and required disclosures can often be confusing for bank customers. Community bankers report that the majority of their customers are not especially concerned about the disclosures in the privacy notice. Rather, most community banks have established trust and confidence with their customers that serve as the foundation for the relationship and the privacy notice merely reaffirms a pre-existing trust and confidence.

It has been suggested that a simpler form would allow customers to shop and compare privacy practices and policies between different institutions. Since the great majority of bank customers are more likely to shop based on fees and the location of a bank branch rather than a bank's privacy policies, the ICBA questions how extensively

