

SCHWARTZ & BALLEN LLP

1990 M STREET, N.W. · SUITE 500

WASHINGTON, DC 20036-3465

(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

M E M O R A N D U M

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To Our Clients and Friends

Re: Interagency Proposal to Consider Alternative Forms of Privacy Notices

The Federal Reserve Board, the Office of the Comptroller of the Treasury, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Trade Commission, the Commodity Futures Trading Commission and the Securities and Exchange Commission (the “Agencies”) are about to request comment on amending the Gramm-Leach-Bliley privacy rules to make the privacy notices more consistent, readable and useful.

Specifically, the Agencies are about to request public comment on whether they should develop a model privacy notice that would be short and simple as well as approaches to developing a notice that would be more understandable and useful to the consumer. In addition, the Agencies are considering soliciting comments on a wide range of issues associated with the format, elements and language used in privacy notices.

Comments will be sought through an Advanced Notice of Proposed RuleMaking. Based upon comments received the Agencies will decide whether to issue a proposed rule that would amend their current privacy regulations.

SHORT-FORM PRIVACY NOTICE

The Agencies will be seeking comment on several approaches to developing a model privacy notice that would be short and simple. Among the approaches that may be considered are:

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- Developing a short notice with a specific format and standardized language that highlights key elements of an institution's privacy policy. Such a form could include a description of how the consumer could obtain a more detailed notice or be provided in combination with the longer notice.
- Developing a short notice with a specific format and standardized language that would address all of the relevant elements listed in a privacy rule.
- Developing a standardized format for privacy notices but allowing financial institutions to provide their own descriptions of their privacy policies and practices or prescribing standardized language that a financial institution could use to design its own notice without specifying the format.
- Developing a simplified opt-out notice that could be used in tandem with a financial institution's current privacy notice.

OTHER CONSIDERATIONS

The Agencies are considering requesting comment and supporting research and documentation on the following features of privacy notices: goals, elements, language, format, mandatory or permissible aspects, and costs and benefits of a short notice. The Agencies are also interested in types of consumer testing that have been or should be used to evaluate privacy notices.

The draft Advanced Notice of Proposed Rulemaking can be found at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.