

## CONSUMER PRIVACY POLICY NOTICE FINAL RULE

### SUMMARY:

The Office of Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of the Thrift Supervision issued a joint final rule on June 1, 2000 in the [Federal Register, Volume 65, No. 106, Page 35161 through 35236](#). The rule is effective November 13, 2000. However, compliance is optional until July 1, 2001. The rule was issued pursuant to Section 504 of the Gramm-Leach-Bliley Act, and provides that a financial institution must provide its customers with a notice of its privacy policies and practices and prohibits a financial institution from disclosing non-public personal information about a consumer to non-affiliated third parties unless the institution satisfies various notice and opt out requirements and the consumer has not elected to opt out of the disclosure. The texts of the agencies regulations are very similar and differ only in the citations of authority for each agency's rule making and definitions, which differ among the agencies.

### COVERAGE:

The scope of this regulation extends to consumers who obtain financial products or services primarily for personal, family, or household purposes from a financial institution. It does not apply to information about companies or individuals who obtain financial products or services for business, commercial, or agricultural purposes.

### DEFINITIONS:

The following is a partial listing of summarized definitions, which are important when considering the rule:

- a. Affiliate means any company that controls, is controlled by, or is under common control with another company.
- b. Clear and conspicuous means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice should you short explanatory sentences or bullet lists whenever possible. Use definite concrete everyday words. Avoid multiple negatives. Avoid legal and highly technical business terminology whenever possible, etc.
- c. Consumer means an individual who obtains or has obtained a financial product or service from a bank that is to be used primarily for personal, family, or household purposes or that individual's legal representative.
- d. Customer means a consumer who has a customer relationship with a lender.

- e. Customer relationship means a continuing relationship between a consumer and a lender under which the lender provides one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes.
- f. Non-public personal information includes personally identifiable financial information in any list description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available. It does not generally include publicly available information.

### **GENERAL REQUIREMENTS OF REGULATION:**

A lender must provide a clear and conspicuous initial notice that accurately reflects its privacy policies and practices. It must provide this notice to a customer not later than when the lender establishes a customer relationship. It must provide this notice to the consumer before the lender discloses any non-public personal information about the consumer to any non-affiliated third party lender. The lender is not required to provide an initial notice to the consumer if the lender does not disclose any non-public personal information about the consumer to any non-affiliated third party other than authorized by the regulation. An example of a customer relationship is when a lender originates a loan or purchases the servicing right to a consumer's loan.

Subsequently, a lender must provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve consecutive months during which that relationship exists. A lender may define the twelve-month consecutive period but the lender must apply it to the customer on a consistent basis.

The opt out provision that a lender provides must be reasonable. This can be done via check-off boxes, an included reply form, an electronic reply, and/or providing a toll free telephone number that consumers may call to opt out. An unreasonable opt out is if the lender does not provide a reasonable opt out. For example, requiring the consumer to write his or her own letter to exercise the opt out right would be unreasonable.

## **EXCEPTIONS:**

There are several exceptions to the required notice and opt out requirements. The requirements do not apply if the lender discloses non-public personal information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with the servicing or processing of a financial product or service that a consumer requests or authorizes. Other exceptions include consumer consent, prevent actual/potential fraud and response to judicial process.

Lenders must obtain agreements from all of lender's non-affiliated third party service providers that they will not use the non-public personal information provided by lender for purposes other than those authorized by the lender. Our **P&P agreement** to you and a blank agreement for you to use for other service providers are attached.

Attached is a **model disclosure** form based upon Appendix A to the regulation. It can be used as guidance for a lender to prepare their own customized notice. A **sample bank** and **sample mortgage lender** notice is also attached. The policies of the lender should control over the format of the attached notice. The notice should follow the policy.

# CONSUMER PRIVACY POLICY NOTICE

LENDER: ABC Mortgage Company

DATE: 08/08/00

LOAN NO: 123456789

BORROWER(S): Jack Went Upthehill, Jr. Jill Went Upthehill

MAILING ADDRESS: 1234 Pale of Water Anytown TX 76013

PROPERTY ADDRESS: 1234 Pale of Water Anytown TX 76013

We collect nonpublic information about you from the following sources:

Information we receive from you on applications or other forms;

Information about your transactions with us, our affiliates, or others; and

Information we receive from a consumer reporting agency.

We may disclose the following kinds of nonpublic personal information about you:

Information we receive from you on applications or other forms, such as your name, address, social security number, assets and income.

Information about your transactions with us, our affiliates, or others such as your account balance, payment history, parties to transactions, and credit card usage.

Information we receive from a consumer reporting agency, such as your credit worthiness and credit history.

We may disclose all of the information that we collect, as described above.

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

We may disclose nonpublic personal information about you to the following types of third parties:

Financial service providers, such as mortgage bankers, securities broker-dealers and insurance agents

Non-financial companies, such as retailers, direct marketers, airlines and publishers

Others, such as non-profit organizations

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

Information we receive from you on applications or other forms, such as your name, address, social security number, assets and income.

Information about your transactions with us, our affiliates, or others, such as your account balance, payment history, parties to transactions and credit card usage.

Information we receive from a consumer reporting agency, such as your credit worthiness and credit history.

We may disclose all of the information we collect, as described above to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may call the following toll-free number 1-800-###-####.

We restrict access to nonpublic personal information about you to

those employees who need to know that information to provide products or services to you.

We maintain physical, electronic, and procedural safeguards that comply with federal standards to guard your nonpublic personal information.

Custom Line 1

Custom Line 2

Custom Line 3

\_\_\_\_\_  
Signature Jack Went Upthehill, Jr.

\_\_\_\_\_  
Signature Jill Went Upthehill