



July 14, 2014

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

**RE: Amendments to Regulation P, Annual Privacy Notice Requirement,
Docket No. CFPB-2014-0010**

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Ms. Jackson,

The Michigan Credit Union League (MCUL), the statewide trade association representing 98% of the credit unions located in Michigan and their 4.5 million members, appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB's) most recent request for comment regarding amendments to the annual privacy notice requirements under Regulation P.

The MCUL is encouraged by the revisions proposed by the CFPB, which will provide regulatory relief for credit unions. The MCUL agrees that the annual privacy notice is confusing for credit union members, in particular where the credit union has not changed their existing information sharing practices between annual mailings. The MCUL also agrees with the CFPB that the proposed alternative delivery method will reduce information overload. However, the MCUL believes that as proposed, the alternative delivery method is too narrow and should be expanded to provide further relief and avoid confusion, even if an opt-out alternative is provided and certain information shared.

Alternative Delivery Method

The MCUL and its members believe the proposed rule should be expanded to include the availability of all privacy notices electronically, regardless of the type of information shared. Changes to the credit union's privacy policy could be governed under the same notification requirements as the Truth in Savings Act (TISA), which requires a notice of change to be mailed or delivered at least 30 calendar days before the effective date of the change. This notice of change, consistent with TISA, could be provided on or with a periodic statement or another mailing, as long as the changed term is highlighted.

The MCUL does not agree with the CFPB's belief that the alternative delivery method might not be as effective at alerting members of their ability to opt out of certain types of information sharing, as compared to the current delivery method where the financial institution shares beyond the exceptions listed in the regulation. Currently, part 1016.4

of Regulation P requires financial institutions to provide a clear and conspicuous notice that reflects privacy policies and practices when a “customer relationship” is established. Similar requirements are set forth in Regulation E under 1005.7 to disclose information related to electronic fund transfers, including liabilities and confidentiality, including the circumstances when (in the ordinary course of business) the financial institution may provide information concerning the consumer’s account to third parties. There is no annual disclosure requirement for this type of information sharing.

In fact, when members open up accounts at credit unions, they are provided with the terms and conditions that govern that account. When there are changes made to those terms and conditions, the members are provided with updated information pursuant to the requirements within contract law and applicable regulation. With this in mind, it is not surprising that when credit union members receive a privacy notice annually, it is assumed changes have been made, inevitably causing unnecessary confusion.

There is little justification as to why an annual statement message, as proposed in the alternative delivery method wouldn’t be sufficient to remind members of their right to opt out of certain information sharing. Members could either be directed to the credit union’s website where they could limit their sharing and/or call the credit union directly.

Opt-Out Status

The MCUL does not support the proposed requirement that the opt-out notice include the member’s opt-out status. This would require personalized notices to be created, which would be more burdensome for credit unions than the current rule.

Model Form

The MCUL does not object to the use of the model form within the regulation when credit unions choose to use the alternative delivery method. Credit unions generally utilize model forms within the regulation to obtain a safe harbor. The MCUL would suggest that the CFPB attempt to make the format of the model more accessible electronically, so revisions can be made.

Toll-Free Number

The first component of the alternative delivery method in the proposed rule would require the credit union to provide notification in a clear and conspicuous manner that the annual privacy notice is available on its website, and that a hard copy will be mailed if the member calls a “toll free” number to request one. The MCUL has concerns with the requirement of a “toll free” number specifically designated for the purpose of privacy issues. Smaller credit unions may not have the capacity or the means to set up a toll free number, nor would it provide any additional benefit to the member. Generally, many consumers use mobile phones which provide nationwide free calling. Additionally, many credit unions already provide a toll free number for their membership to utilize. There is no rationale provided that would justify the need for a separate phone line, specifically for the request of a paper copy of the privacy notice. This would be a waste of resources for the credit union and not aligned with the proposal’s intent to provide regulatory relief.

“Promptly” Mailing

The MCUL does not believe the CFPB needs to further define “promptly,” as the term will be dependent on the specific operations of the financial institution. Credit unions should be able to provide relevant justification that they have responded to a member’s request as soon as practicable.

Electronic Disclosures

The CFPB sought comment on whether the proposed alternative delivery method is appropriate for customers who already receive privacy notices electronically and whether financial institutions that currently provide the notice electronically would be likely to use the proposed alternative delivery method. From a credit union perspective, members who have requested to receive their statements and subsequent disclosures electronically would receive the privacy notice in the same manner. Even though members have consented to receive disclosures electronically, many credit unions would utilize the alternative delivery method since the addition of a statement message is less burdensome and less confusing for members than providing a separate privacy disclosure notice to members.

Conclusion

The MCUL is supportive of regulatory revisions that provide relief to credit unions and that are less confusing for credit union members. Although the MCUL believes these proposed revisions to Regulation P will provide relief to a significant number of credit unions, we believe the scope could be expanded. The MCUL strongly disagrees with the CFPB’s analysis that the proposed alternative delivery method might not be as effective in alerting members of their ability to opt out of certain types of information sharing as the current delivery method. Providing notification to members through statement messages regarding important account information is permissible under other regulations now overseen by the CFPB, such as TISA and Regulation E. Discounting this method of delivery would be inconsistent and unjustified.

Please feel free to reach out to me if I can be of any further assistance on this topic.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Ross', written in a cursive style.

Ken Ross
Executive Vice President & Chief Operating Officer