

*Via Email GLBnotices@ftc.gov*

March 29, 2004

Federal Trade Commission  
Office of the Secretary  
Room 159-H  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

*RE: Alternative Forms of Privacy Notices – Project No. P034815*

Dear Secretary:

Thank you for the opportunity to comment on the advanced notice of proposed rulemaking for alternative forms of privacy notices under the Gramm-Leach-Bliley Act (“GLB”).

### **Information about Household Auto**

Household Automotive Finance Corporation, OFL-A Receivables Corp., and Household Automotive Credit Corporation (collectively “Household Auto”) are issuers of auto-secured consumer loans and purchase motor vehicle retail installment sales contracts from dealers secured by motor vehicles. Household Auto manages over \$9.0 billion in auto credit receivables and its customer base totals well over 650,000. Household Auto employs over 2,100 men and women throughout the United States, and maintains credit processing centers in San Diego, California; Lewisville, Texas; and Jacksonville, Florida.

### **Background Information**

The Federal Trade Commission, jointly with the OCC, OTS, Board of Governors of the Federal Reserve, FDIC, NCUA, CFTC, and SEC (the “Agencies”), are requesting comment on whether the Agencies should consider amending the GLB regulations to allow or require financial institutions to provide alternative types of privacy notices, such as a short form privacy notice, in order to make privacy notices easier for consumers to understand. The Agencies have requested comments on several issues related to the possible short form privacy notices. The Agencies have suggested several different approaches to revised privacy notices, including specific format requirements, standardized language, or combinations of these. Another approach would provide for disclosure of only the opt-out rights of GLB and would force consumers to request privacy notices separately.

We are concerned about the potential adverse impact of some of these suggestions. In particular, we do not think the Agencies should adopt changes to the requirements of GLB that may result in fundamental changes in the way that financial institutions are required to comply with GLB unless there is significant benefit to consumers. In addition, we believe the Agencies should focus on promulgating regulations as required under the Fair and Accurate Credit Transactions Act (“FACT Act”) prior to considering changes to the existing privacy notices, particularly because the upcoming regulations may provide for additional disclosures within the GLB privacy notices. Moreover, we believe that at the time when it is appropriate to improve privacy notices, the Agencies should not require a new “short form” disclosure in addition to the current “long form” privacy notice, but should simplify and standardize the entire privacy notice.

We have the following concerns in response to the Agencies’ notice of proposed rulemaking:

***The Agencies should focus on improving the current privacy notices without mandating a new disclosure.*** There is general consensus for the principle that shorter, simplified notices would benefit consumers, meet consumer needs, and be more effective. This does not require the development of alternative “short” form notices. Rather, it suggests that the requirements applicable to the single GLB privacy notice should be simplified. Agencies should therefore develop ways in which the existing privacy notices may be made more understandable and uniform, without requiring institutions to maintain two sets of privacy notices with little benefit to consumers. There are many ways in which the current single GLB privacy notices can be made simpler and less complex without requiring institutions to maintain two sets of privacy notices.

Here are several specific ways in which current GLB privacy notices can be simplified:

1. It is not necessary to categorize the types of affiliates, or the types of information shared with affiliates. The GLB and the Fair Credit Reporting Act do not require this level of detail, and the regulations can be easily changed to eliminate this category information. Category information about types of affiliates and the types of information shared with affiliates is meaningless, unnecessary, and overly complicated.
2. Other categorization requirements of the regulations are also superfluous and can be easily discarded. For example, it is unhelpful to categorize the companies that perform services on behalf of financial institutions and the categories of information that are disclosed to them. There are many functions for such service providers, and because GLB does not provide consumers with a right to opt-out of information sharing with service providers, the inclusion of this information is confusing and meaningless.

3. Additionally, requiring examples of categories is unnecessary. This information should be made optional.
4. The Agencies could consider the use of standard headings for sections of privacy notices. For example, the privacy notices could include the following four major headings: “How we collect information;” “How we share information with companies affiliated with us;” “How we share information with other third parties;” and “How to Opt out.”

***Separate short form notices may be misleading.*** Privacy notices are not necessarily overly complex or hard to understand (although they may be lengthy). In order to fully meet the disclosure requirements of GLB and provide accurate, meaningful information about privacy practices, financial institutions need to explain those practices. Short form notices would not be an improvement if they provided only partial information, which might ultimately be misleading to consumers. In addition, collapsing the information on a short form privacy statement might lead to potential inconsistencies between the short form and the long form. These risks could lead to consumer confusion, and could subject financial institutions to potential harm as a result.

***Short form notices will be expensive without corresponding benefits.*** Alternative short form notices might be costly to financial institutions if institutions will still be required to maintain long form notices. It appears that the short form would be required annually and a long form would be required on request. As a result, institutions would have to maintain two forms, not one. Moreover, institutions would be required to develop an entirely new business process to provide the long form privacy statement upon request. In most cases, the current privacy notices can be provided on two sides of one piece of paper, so developing a short form privacy statement is not necessarily going to provide any cost savings (and because two sets of privacy notices would be required, there would actually be a cost increase). As a result, we believe the Agencies should not adopt a separate short form privacy statement if that were to require institutions to maintain two forms and provide additional forms upon request. A possible alternative, though not one that we recommend, would be to permit institutions to provide the short form privacy statement in writing to consumers along with a notice that more detailed information could be found at the institution’s website. In this alternative, the Agencies would have to provide that the short form complies with GLB notice requirements.

***FACT Act regulations are more important than adopting new privacy forms.*** The FACT Act includes an entirely new customer opt-out right, which becomes effective six months after final regulations are promulgated prior to September 4, 2004. Under this new opt-out, consumers will be permitted to opt-out of receiving marketing solicitations from a financial institution’s affiliates resulting from the sharing of information that would otherwise be a “consumer report” but for certain exceptions in the definition of consumer report. Significantly, Congress did not remove or repeal the existing FCRA opt-out rights applicable to the sharing of certain credit information. Therefore, consumers will ultimately have two

separate FCRA opt-out rights, in addition to the GLB opt-out right. Disclosure of all of these opt-out rights in the GLB privacy notices will obviously increase the length of the GLB privacy notices. We believe the Agencies should first consider implementation of the FACT Act requirement and any impact on GLB privacy notices, and then address overall simplification goals.

Thank you again for this opportunity to comment on the advanced notice of proposed rulemaking.

Sincerely yours,

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General Counsel

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