

**Summary of Presentation by the
National Association of Insurance Commissioners (NAIC)
GLB Interagency Meeting on the ANPR on Privacy Notices
January 26, 2004
Office of the Comptroller of the Currency**

Participants:

Audrey M. Samers, Deputy Superintendent and General Counsel, State of New York Insurance Department

Blair W. Cappuccio, Financial Services Policy Analyst, NAIC

Comments:

Forty-nine states have enacted privacy regulations pertaining to the insurance industry. The 50th state, Alaska, is working on privacy regulations now. Currently, 26 states have safeguarding regulations for insurance companies. The New York Insurance Department examines for compliance with New York State privacy regulations. Most insurance companies do comply. There has not been much public outcry about privacy notices. Ms. Samers reported that they hear anecdotally most customers do not read them.

NAIC has had a Privacy Working Group for the past three and a half years. About a year and a half ago, this working group formed a NAIC Privacy Notice Subgroup comprised of consumers, industry, and NAIC members on how to improve the privacy notices. This was a nine-month project that culminated in the "Report on Improving Privacy Notices," with recommendations but no requirements. Ms. Samers provided a copy of this March 2003 Report.

In response to the ANPR questions, 11 Subgroup members met by conference call to discuss these questions prior to this meeting and provide preliminary answers to the Agencies. NAIC intends to submit a formal response after their meeting in March.

In NAIC's view, the most important goals of the GLB privacy notice for consumers is to inform consumers about their rights, enable them to make an informed decision to opt-in or opt-out, provide for the exercise of their rights, and enable consumers to easily compare companies' policies. NAIC believes that a short form, if effective, would inform consumers on each business's privacy policy and would permit easy comparisons among businesses. However, they added a caveat that the federal short form could open up the privacy debate in each state. Also, it would be more difficult to make amendments in those states where legislation, not just regulatory changes, are required.

The Notice Subgroup participants liked Appendix A best, particularly the Yes/No responses to standard questions. In particular, participants liked the large type, good title ("Important Privacy Information"), and explanations of the exceptions. The participants suggested that Appendix A could be improved by shrinking the type to get the last box onto page 1, leaving page 2 with the opt-out. They suggested that the Agencies add the language from Appendix B to explain "companies in our corporate family, such as our securities broker-dealer and our credit card bank" since few people understand the concept. The reference to

“safeguards” should allow consumers an opportunity to request additional information on specific safeguarding policies. They said that the use of the phrase “other sources” to describe where companies get customer information is too open-ended. For the description about joint offerings, participants thought it would be useful to note whether the joint partner has agreed not to share information for other purposes.

Participants liked Appendix B second best, but found the print too small. Participants did not like Appendix C as its headings and flexibility are basically what we see today. While Appendix C might provide some improvement over current privacy notices that are even longer, this approach is not as good as one that contains Yes/No check-off boxes. The flexibility in Appendix C would inhibit easy comparisons by consumers of the businesses’ privacy notices. Finally, participants did not think that Appendix D offered consumers enough information.

When asked whether there was any empirical data, research, surveys, testing, or anecdotal experiences they could provide to help shape the GLB notice content or format, Ms. Samers said the NAIC regulators do not have empirical data. She stated that funding precluded such research. Ms. Samers said that the one area of complaints in New York relates to the use of Social Security numbers, and suggested there may be a need for legislation in this area.

In general, the NAIC regulators think it is a good idea to have a layered privacy notice. They believe a short notice alone would not be sufficient, and that the long notice should be available by request, such as through an 800 number.

NAIC Privacy Notice Subgroup

Report on Improving Privacy Notices

**As Adopted by the NAIC Privacy Issues Working Group
March 10, 2003**