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MINNESOTA LIFE

A Minnesota Mutual Company

March 30, 2000



Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th and C Streets, NW
Washington, DC 20551
Docket No. R-1058

Communications Division
Office of the Comptroller
of the Currency
250 E Street, SW
Washington, DC 20219
Docket No. 00-05

Robert E. Feldman
Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Manager, Dissemination Branch
Information Management &
Services Division
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552
Attention: Docket No. 2000-13

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Proposed Privacy Regulations/Title V of Gramm-Leach -Bliley

Dear Sirs and Madams:

Minnesota Life Insurance Company is domiciled in Minnesota and is authorized to write insurance in 49 states and the District of Columbia. The company provides more than \$209.1 billion of life insurance protection and manages more than \$20.6 billion in assets. We are the nation's leading underwriter of optional group mortgage life insurance.

As we understand it, insurance companies are not subject directly to the privacy rules that your agencies have proposed in order to implement Title V of the Gramm-Leach-Bliley Act of 1999 (GLB). However, the rules will affect other financial institutions with which insurers might have relationships. Furthermore, insurers anticipate that insurance regulators will use the final rules as a blueprint for the rules they develop for the insurance industry. Consequently, we believe that it is in our best interest to raise any concerns that we might have with the proposed regulations.

Our comments are as follows:

1. In § _____3(e)(1) of the proposed rules, the term “consumer” is defined as an individual who obtains or has obtained a financial product or service from a financial institution. Insurers are uncertain as to how this definition would apply to participants in pension and group insurance plans. Generally speaking insurers do not maintain current records on individuals who are participants or insureds under such plans. In many cases an insurer does not maintain any sort of information on these individuals. As a practical matter, insurers would not be able to send annual notices since they would lack current address information.

We believe there are situations in which the financial institutions you regulate do not maintain current information on individuals that have a beneficial interest in an account. As is the case with insurers, financial institutions would not have the means to send annual notices to these individuals. We believe that the financial institutions’ obligation to send an annual notice under such circumstances needs to be clarified. We suggest that the definition of consumer be revised by adding the following example:

“(iv) An individual is not a consumer if in the ordinary course of its business, a financial institution does not maintain current address information on the individual.”

2. § 502(d) of GLB provides that a financial institution may not disclose credit card, deposit or transaction account numbers to unaffiliated third parties for marketing purposes. The proposed rule implementing this provision states,

“§ _____.13 Limits on sharing of account number information for marketing purposes.

A bank must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.”

Neither §502(d) nor the proposed rule contains a definition of the term “transaction account.

This has caused some confusion as to whether or not the prohibition applies to account numbers that have been assigned to closed-end loan accounts. We urge that the agency rules be revised to clarify that the prohibition does not apply to such account numbers.

It is our understanding that the underlying intent of §502(d) is to protect consumers by preventing a practice that is sometimes referred to as "slamming". In slamming, a third party makes a charge against a consumer's account without his or her authorization. In order for slamming to take place, the consumer's account must be such that a third party is able to add unauthorized charges or make unauthorized withdrawals of funds unilaterally.

A third party cannot change the payment due on a closed end loan or add charges to the balance of the loan without the assistance of the lender. Furthermore, any changes in the loan results in notice to the loan customer. There is no way for slamming to take place in connection with a closed end loan account. Accordingly, it is appropriate to exclude these loans from the definition of transaction account.

We suggest that the proposed rule be revised to read as follows:

"§ ____ .13(a)(1) Limits on sharing of account number information for marketing purposes.

A bank must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

§ ____ .13(2) Examples:

(i) You have a transaction account with a consumer when you have an open-end account or a home-equity loan line of credit and amounts can be added or posted to that consumer's loan account balance.

(ii) You do not have a transaction account with a consumer when you have a closed-end mortgage loan or other closed-end installment loan and the posting of transaction amounts to the loan balance is not contemplated.

3. § ____ .16 provides that the privacy rules will become effective on November 13, 2000. This section also provides that no later than thirty days after the effective date, an initial notice must be sent to all consumers who were customers on November 13, 2000.

Financial institutions have a considerable amount of work to do in order to become prepared to comply with the notice requirements. Despite best efforts, there might not be enough time for financial institutions to determine who must receive notices, implement any necessary system and administrative changes, train employees and prepare and process the notices. Furthermore, if every financial institution is required to send notices within the same timeframe, the flood of notices from all of the entities with which they have relationships will overwhelm consumers.

We strongly encourage regulators to give financial institutions a longer period of time in which to deliver initial notices to consumers who were customers on the effective date of the rules. This would ease the burden on financial institutions. It would also lessen the likelihood that consumers will become so confused and frustrated by the notices that they do not make thoughtful and informed decisions about the treatment of their nonpublic personal information.

We recommend that § _____.16(b) be revised as follows,

“Notice requirement for consumers who were customers on the effective date. No later than 180 days after the effective date of this part, you must provide an initial notice, as required by § _____.4 to consumers who were customers on the effective date of this part.”

Thank you for giving us the opportunity to provide comments on the proposed rules.

Sincerely,



Alfrieda Baldwin
Counsel
Law Department

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