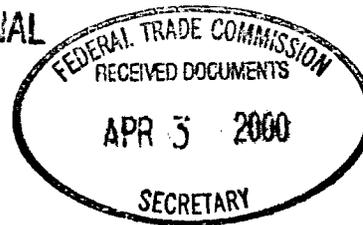


# State Farm Insurance Companies



ORIGINAL



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April 3, 2000

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

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the  
Federal Reserve System  
20<sup>th</sup> Street and Constitution  
Avenue, NW  
Washington, DC 20551  
Attention: Docket No. R-1058

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

The Honorable George Nichols III  
Commissioner and President of the  
NAIC  
Kentucky Department of Insurance  
PO Box 517  
Frankfort, KY 40602-0517

Communications Division  
Office of the Comptroller of  
The Currency  
250 E Street, SW  
Washington, D.C. 20219  
Attention: Docket No. 00-05

Mr. Robert E. Feldman  
Executive Secretary  
Comments/OES  
Federal Deposit Insurance  
Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429

Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 5<sup>th</sup> Street NW  
Washington, DC 20549-0609  
File No. S7-6-00

RE: State Farm Mutual Automobile Insurance Company's Comments on the Proposed Regulations Concerning the Privacy of Consumer Financial Information (OCC Docket No. 00-05; Federal Reserve Board Docket No. R-1058; FDIC RIN 3064-AC32; OTS Docket No. 2000-13).

Dear Sirs and Madams:

State Farm Mutual Automobile Insurance Company and its affiliated companies appreciate the opportunity to address these comments to the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Comptroller of The Currency, the Federal Trade Commission, and the Securities and Exchange Commission ("the Agencies") on the proposed regulations implementing Title V of the Gramm-Leach-Bliley Act.

State Farm is the nation's leading insurer of cars and homes and operates through a "marketing partnership" of exclusive State Farm agents. State Farm also has as an affiliate State Farm Federal Savings Bank.

It is not State Farm's intention to offer "Section-By-Section Comments" on the proposed regulations. State Farm is a member of the American Council of Life Insurers, the Financial Services Roundtable, the National Association of Mutual Insurance Companies, and the Health Insurance Association of America. As members of these associations we have reviewed their comments and agree in substance with the general comments they have provided to the "collective agencies."

At the outset, State Farm would agree that the "collective agency" rulemaking implements Title V of Gramm-Leach-Bliley in a manner faithful to the mandate of Congress to provide a comprehensive privacy protection framework for consumers and their financial institutions. We recognize that Title V requires a financial institution disclose to consumers at the beginning of a customer relationship and annually the financial institution's policy for collecting and sharing what is defined as "nonpublic personal information." We recognize the mandate that a financial institution must give consumers their right to opt out of disclosure of their financial information to nonaffiliated third parties, with some exceptions and safe harbors. Disclosing consumer account number and account access information to third parties for use in telemarketing, direct mail marketing or other marketing is not permitted, nor may a third party receive consumer information unless it agrees to follow the same limitations that apply to financial institutions. Financial institutions in consequence of Title V must follow these new regulatory standards in protecting the confidentiality and security of the consumer's financial information.

State Farm applauds the effort that the Agencies have put into developing the Proposed Regulations and recognizes how the Agencies have attempted to harmonize the consumer privacy goal of Title V of the GLB Act and the need for modern financial institutions to operate efficiently and to follow consumer expectations and concerns in collection, sharing and use of personal information.

We believe it is critical in addressing a privacy policy to State Farm customers that the policy be understandable and consistent.

As an example, a State Farm Life Insurance Company customer purchasing a variable product would come under the rulemaking standards on privacy adopted by Title V of Gramm-Leach-Bliley Act and the privacy standards adopted by the Insurance Regulator in our domestic state and the standards in the state where the policy is issued. In the broad new privacy protections for consumers and their financial information under Gramm-Leach-Bliley Act, we have the broad overlay of the NAIC Model Information and Privacy Protection Act which in one version or another has been adopted to date in 18 states. Illinois, our domiciliary state, has adopted this NAIC Model Privacy Act.

We believe the differences in Title V and the NAIC Model are minimal and have so testified at a public hearing on Title V on March 11, 2000 before the NAIC Privacy Working Group. State Farm shared with the NAIC a chart showing commonality between the NAIC Model Privacy Act and Title V. We have appended that chart to these rulemaking comments for your review and consideration.

We would urge you, the Agencies, to support in the implementation of Title V a rulemaking standard of consistency. Your rules should provide those eighteen states that have adopted the NAIC Model and other states that may opt for this model, guidance on how the provisions of both Title V and the NAIC Privacy Act might be reconciled. Areas which would need to be addressed in the NAIC Model Act would include regulator enactment of information security standards and a provision barring disclosure of account or account/policy number to nonaffiliated third parties. We would hope that the ultimate result would allow companies like State Farm, which offer a number of financial services to its customers, the possibility of using one form to communicate its privacy policy.

### **Urge Six Month Delay in Implementation**

From the standpoint of a financial institution subject to both state and federal agency rulemaking on consumer personal privacy, State Farm would urge a process of consistency using a NAIC State privacy framework largely in place at the state level today.

We remain concerned that the timeframe for implementing Title V and whatever state privacy laws and regulations which might be adopted in the months preceding the November 12, 2000 effective date of Title V will be insufficient for coordinated and consistent implementation (We also share these time frame concerns because of the pending HIPAA regulations on medical privacy). Accordingly, State Farm urges the Agencies to delay implementation of Title V for a minimum of 180 days from November 12, 2000.

### **Specific Concerns**

- Insurance agents and third parties
- Nonpublic personal information- personally identifiable and publicly available information
- Potential inconsistencies between the proposed GLB and HIPAA regulations

### **State Farm Exclusive Agents**

State Farm and the vast majority of insurance companies doing business throughout the various states do business through agents. We generally construe Title V and the Draft Rulemaking to permit sharing of consumer information between the agent and principal insurer.

The definition of nonaffiliated third party in § \_\_\_\_ .3M creates an exception from that definition for a financial institution affiliate, a joint employee of the financial institution and a nonaffiliated third party. This exception creates uncertainty, especially with respect to the status of agents and independent contractors. Since State Farm agents are generally independent contractors and not employees this concern is particularly heightened for our organization.

There may be a number of ways to clarify this relationship. The term “affiliate” could be broadened to include an agent or independent contractor. It might also be argued that the Joint Marketing Exception be broadly construed to include agents and independent contractors. We believe, however, the current exception from the definition “nonaffiliated third party” should be amended by reworking subparagraph (ii) and adding a new subparagraph (iii) reading:

“(ii) A person acting jointly for a financial institution as an employee, agent or independent contractor of the financial institution and any company that is not the financial institution affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(iii) A financial institution officer, director or employee, a temporary financial institution employee, and an agent or independent contractor of the financial institution.”

HIAA in their comments notes that the Agencies should clarify in their rulemaking “health insurers and their captive agents should fall under the “exemptions to notice and opt out requirements for processing and servicing transactions” of § \_\_\_\_ .9, and § \_\_\_\_ .10, thus permitting information to be exchanged among those entities as permitted according to the exception language.”

State Farm generally supports the provisions governing the exceptions to opt out requirements for service providers and joint marketing. We believe the HIAA proposal is helpful with respect to the issue of independent contractors and exclusive agent relationships. We find this change along with the definitional change of “nonaffiliated third party” to be important in offering the necessary clarification between an insurer and its agent.

### **Definition of Nonpublic Personal Information** **Alternative A vs. Alternative B**

State Farm recommends the final rule adopt a definition more closely resembling Alternative B, which is the alternative the Federal Reserve System has selected. Alternative B provides that if information is available from one of the public sources, then it be considered lawfully available to the general public.

Simply stated, under Alternative B if information is available publicly, it does not matter where the financial institution gets the information.

Alternative A is unworkable because it would obligate each financial institution to copy information from public records. The potential for error and omission in transcribing such data is high and would frustrate information practices which emphasize accuracy and completeness of information. Alternative A is therefore not workable.

Alternative B, while better than Alternative A, is still too restrictive. We would contend privacy protection for consumers nonfinancial information is beyond the scope of Title V. The focus is on personal financial information under the GLB Act. Simply because the financial institution formats a list of public information in a listing that varies from public records should not move the information to the category of nonpublic personal information.

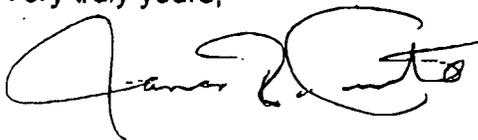
### **Potential Inconsistencies Between the Proposed GLB and HIPAA Regulations**

State Farm as an auto, life, and health insurer will need to access, share and utilize medical and health information. We have submitted our comments to HIPAA on the proposed "protected health information" regulations. We remain concerned regarding the potential overlap and inconsistency between the personal information standards of GLB and the HIPAA regulations. We would incorporate by reference those concerns noted by the HIAA in their submission to the Agencies. We simply reaffirm the breadth of the impact of these inconsistencies between GLB and HIPAA as they apply to other lines of insurance beyond health insurance. It is in this context that we urge the need for coordination between HIPAA and Agency rulemaking, and a delay in the implementation of the GLB for a period of six months from November 12, 2000.

### **Conclusion**

State Farm appreciates the opportunity to submit comments to these proposed regulations. If we may be of further assistance, or if you have any questions regarding the comments made, please contact the undersigned at (309) 766-2127.

Very truly yours,

A handwritten signature in black ink, appearing to read "James R. Tuite". The signature is fluid and cursive, with a large initial "J" and "T".

James R. Tuite  
Associate General Counsel

	Gramm-Leach-Bliley Sec. 501, 502, 503	NAIC Model Privacy Act Sec. 4, 13	Similar
General Disclosure Rule	<b>No disclosure to nonaffiliated 3<sup>rd</sup> parties</b> unless notice given or exception applies. 502(a) <b>Required.</b> 503(a)	<b>No disclosure to anyone</b> unless authorized by this section. 13. <b>Required.</b> 4A.	<b>Yes</b>
Notice of Privacy Practices	<b>Yes</b> – applies to disclosures to nonaffiliated 3 <sup>rd</sup> parties where exceptions do no apply. 502(b)	<b>Yes</b> – applies to disclosures for marketing. 13K (2).	<b>Yes</b>
Disclosures Permitted with No Opt Out Right			
-- Affiliates Generally	<b>Yes</b> for everything. 502.	<b>Yes</b> , but only if permitted by subsections B, C, I, L. 13.	<b>Yes</b>
-- Servicing Transactions	<b>Yes.</b> 502 (e)(1), (3)(A)	<b>Yes.</b> 13 B, C, D, N, O, P, Q, R.	<b>Yes</b>
3 <sup>rd</sup> Party Cannot Disclose to Another Unless Insurer Could	<b>Yes.</b> 502 (c)	<b>Yes.</b> 13 generally for all insurers, agents and insurance support organizations and 13 B, I, J, L for others.	<b>Yes</b>
Disclose Account/Policy Number to Nonaffiliated 3 <sup>rd</sup> Party.	<b>No</b> , other than to consumer reporting agency. 502 (d)	<b>Yes</b> , if disclosure of personal information otherwise allowed. 13	<b>New</b>
Regulators enact information security standards.	<b>Yes.</b> 501(b)	<b>No provision.</b>	<b>New</b>