



Sheshunoff
CONSULTING + SOLUTIONS

GLBA – Privacy Model Form

In 2009, the OCC, Federal Reserve, FDIC, OTS, NCUA, FTC, CFTC and SEC (the Agencies) amended their rules that implement the privacy provisions of the Gramm-Leach-Bliley Act to adopt a new model privacy form.

Alert Date: March 17, 2010

Status: Mandatory Date for Use of New Safe Harbor Language - January 1, 2011

Links: [Federal Register - Final Rule](#)
[Online Privacy Notice Form Builder](#)

Subtitle A of Title V of the Gramm-Leach-Bliley Act, among other things, requires financial institutions to provide initial and annual privacy notices to their customers. Pursuant to the Financial Services Regulatory Relief Act of 2006, the Agencies are adopting a model privacy notice that financial institutions must utilize in order to take advantage of the safe harbor for compliance.

Is there a “safe harbor”?

Under the new final rule, financial institutions that utilize the new model form may rely on it as a “safe harbor” to provide disclosures under the privacy rules. Consequently, the Agencies (except for the SEC) will no longer allow financial institutions that use the previous “Sample Clauses” to take advantage of the safe harbor after December 31, 2010, and the clauses will be removed from the regulation completely by January 1, 2012.

What model forms are available?

The final rule includes three versions of the model form, plus one additional form that may be used, as follows:

- Model Form with no opt-out
- Model Form with opt-out by telephone and/or online
- Model Form with mail-in opt-out form
- Optional mail-in form

The model notice has very specific requirements, including how it can be incorporated into other documents, font size, spacing, use of financial institution logos, and orientation. In order to ensure that it is meeting all of the requirements, an institution should thoroughly read the instructions to the model form and use the Agencies’ online form builder to prepare the disclosure.

Recommendations for Next Steps

1. Review current privacy notices and determine whether the financial institution wants to utilize the new model form and take advantage of the safe harbor.

2. If the financial institution chooses to use the new model form and take advantage of the safe harbor:

- Revise the institution’s privacy notice to conform to the new model notice.
- By January 1, 2011, add the revised privacy notice to new account opening, loan origination and other processes for establishing customer relationships.
- Use the revised privacy notice for all annual privacy notices that are provided after January 1, 2010.

3. If the financial institution chooses to not use the new model form:

- Be aware that the current safe harbor will be eliminated for any notices with the old sample clause language that are provided after December 31, 2010.