



NASAA

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March 29, 2004

Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 5<sup>th</sup> Street, NW.  
Washington, DC 20549-0609

via e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Re: File No. S7-30-03; Release Nos. 34-48966, IA 2206, IC-26316;  
Interagency Proposal to Consider Alternative Forms of Privacy Notices Under the Gramm-Leach-Bliley Act

Dear Mr. Katz:

Please accept this comment letter on behalf of the North American Securities Administrators Association, Inc. ("NASAA")<sup>1</sup>. We appreciate the opportunity to comment on the very important issue of improving the privacy notices that financial institutions must provide to consumers under the Gramm-Leach-Bliley Act (GLBA). NASAA has previously submitted comment letters to the Securities and Exchange Commission (SEC) and the Federal Trade Commission (FTC) upon the agencies' initial adoption of privacy rules.

Under Subtitle A of Title V of the GLBA, the authority to enforce the law is provided to the federal functional regulators. The GLBA expressly gives the SEC jurisdiction over any broker or dealer, investment company, or investment adviser registered with the SEC. The FTC is designated as the "omnibus" federal agency with jurisdiction over any financial institution not subject to the jurisdiction of the other listed agencies. Two business entities regulated by state securities regulators fall within the FTC's jurisdiction: (1) investment advisers with under \$25 million in assets under management, and (2) intrastate broker-dealers. Therefore, in addition to state law, the state securities regulators have an interest in the privacy rules adopted by both of these agencies.

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<sup>1</sup> NASAA, the oldest international organization devoted to investor protection, was organized in 1919. It is a voluntary association with a membership consisting of the 66 state, provincial and territorial securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

## **STATES' ACTIVE ROLE IN FACILITATING COMPLIANCE**

NASAA and state securities regulators have been instrumental in facilitating compliance with the privacy provisions in the GLBA. Upon the adoption of rules by the SEC and the FTC, NASAA provided its member states with a comprehensive explanation of the requirements for broker-dealers and state investment advisers under the GLBA. In addition, state securities regulators have provided guidance to state licensed investment advisers regarding their obligations under the GLBA. Further, state regulators routinely review compliance with privacy requirements during examinations of investment advisers and broker-dealers. As evidenced by our active roles in the implementation of the privacy provisions of the GLBA, the privacy of consumer financial information is an important issue for state securities regulators.

## **NASAA SUPPORTS SIMPLIFYING PRIVACY NOTICES**

We applaud the efforts of the federal agencies responsible for administering the privacy provisions of the GLBA<sup>2</sup> (the Agencies) for responding to the concerns that initial privacy notices are long and complex, and fail to notify consumers about how their personal financial information is shared by financial institutions. We agree that the initial privacy notices provided by financial institutions have not been as effective as they could be in educating consumers about how their nonpublic personal information is disclosed.

In providing comments on whether the federal rules should be amended to address the failures of initial privacy notices, we note that the GLBA permits states to adopt their own, more stringent privacy requirements, and that some states have done so. NASAA's comments are not intended to conflict in any manner with any state law requirements regarding notices to consumers on information sharing practices, but instead to provide our support for simplifying the privacy notices required under federal law.

We support the Agencies' attempt to make privacy notices less vague and more informative for consumers. In general, a privacy notice should clearly identify for a consumer:

1. The type of personal information shared;
2. With whom the information is shared; and
3. How to opt-out of sharing.

NASAA supports efforts to make this information available to consumers in a short, concise notice with large print that is easily comparable among financial institutions. We further encourage the exploration of ways to eliminate vague references to the law and extraneous language that offer consumers little information about the sharing of their personal information. We also recommend that the notice be sent to consumers in a separate mailing, easily identified as a privacy notice, and not mingled with coupons, offers, statements, and other information. We encourage the Agencies to continuously evaluate the value of the information to the consumer, in determining the critical information to include in a shortened notice.

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<sup>2</sup> Office of the Comptroller of the Currency, Treasury; Office of Thrift Supervision, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Federal Trade Commission; Commodity Futures Trading Commission; and Securities and Exchange Commission.

## **STATES' ABILITY TO ADOPT MORE STRINGENT PRIVACY REQUIREMENTS**

The GLBA currently permits the states to adopt greater privacy protections under state law. In reliance on the GLBA, some states have moved forward in this area, and others continue to consider the need for greater protections. If the Agencies move forward in proposing a model privacy notice, we suggest the Agencies take into account the potential impact on states, and consider solutions that avoid unnecessary complications for states or financial institutions, or might result in litigation. We support the efforts put forth by the Agencies and other interested parties to identify the problems with the initial privacy notices under the GLBA, and we look forward to continuing to provide input when the proposed rulemaking on this very important issue is published.

Thank you for your consideration of our views. If you have any questions, please don't hesitate to contact me, Christine A. Bruenn, NASAA Past President and Maine Securities Director, or Colleen Monahan, California Corporations Counsel.

Sincerely,

A handwritten signature in cursive script that reads "Ralph A. Lambiase".

Ralph A. Lambiase  
NASAA President  
Connecticut Securities Director