



The Oak Tree Advantage

▶ EVERYONE NEEDS A LITTLE PRIVACY

Genelle Rich, President



Collecting and sharing of personal information has been something that we, as consumers and web surfers, have all grown accustomed to when dealing with businesses. Disclosing how you use and share your customers' information is imperative to good business practice. Privacy settings have made headlines recently as social networking sites feel the heat from their millions of users. And on the business front: from retail outlets to financial institutions, user information has been passed around for reasons such as monitoring credit history, legal information, account maintenance, and marketing purposes.

Regulation P is set to make things much more clear to consumers when it comes to Privacy Policies. Come January 1, 2011, the existing descriptions of your financial institution's privacy policies will change. The new forms will fill an 8.5 x 11 sheet of paper (or two) with the disclosures presented in a tabular layout with a font size not less than 10 points. It is clear and concise stating whether your financial institution shares or does not share members' information with certain affiliates.

Through Oak Tree Business Systems, your Privacy Policies are found in various places including your Membership Agreements & Disclosures (form numbers T44, T45 and T46) and the stand-alone Privacy Policy (060). This regulatory change will be covered under your annual site-license agreement and you will automatically receive a proof of these disclosures later this year. If you distribute pre-printed Privacy Policies, you can order new disclosures through Oak Tree's sales department by contacting 800-537-9598.

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▶ MORE REGULATION CHANGES ON THE HORIZON

Michael D. Maloney

With all the turmoil and angst in the world economy since 2008, the majority of our credit union partners are still standing strong. They remain committed to their core principles of providing members with security, stability, and effective credit solutions. If the global financial crisis demonstrated anything, it is that the credit union industry maintained the value of service to its membership.

It is clear that the regulatory response to the financial crisis will have long-lasting effects on credit unions everywhere. Even with the rule changes to Regulation Z and the introduction of the Credit Card Act over the last 18 months, debate still continues relating to legislation that might be considered to effectively avert a future crisis. The overall trend of “greater regulation” is not showing signs of slowing down. There is no indication of how

long the Federal Government might stay engaged or the depth of their future involvement. We are committed to continue to monitor the regulatory environment and keep you up-to-date on impending change.

With that said, I would like to thank all credit unions who were able to participate in our teleconferences on “What the Future Holds for Consumer Lending”. We provided two half-hour seminars that were presented by our Legal Counsel, Mike Kus and Jim Moran of Kus, Ryan and Associates. We had a combined 86 percent of our clients join us for our events on May 6 and May 20. As a result of the information provided during our meeting, Oak Tree assisted an additional 163 clients transition to closed-end consumer lending by July 1, 2010.

Continue to enjoy your summer!



Regulatory response to the financial crisis will have long-lasting effects on credit unions everywhere

▶ IMPORTANT DATES TO REMEMBER

8/2/10: Federal Reserve Board's 2nd quarter submission due

1/1/11: Privacy Policy Act requirements take effect

8/22/10: Final stage of CARD Act takes effect

1/1/11: New risk-based lending requirements take effect

12/1/10: Disclosures for final stage of CARD Act to be in place

▶ IS BUSINESS LENDING IN YOUR CREDIT UNION'S FUTURE?

Oak Tree Business Systems began to get requests in the late 1990s to create commercial loan and business membership packages. Over a decade after the packages were implemented, we have received a dramatic number of requests for proposals from our credit union partners regarding these document sets. Are you adequately prepared for potential upcoming changes?

In June, the U.S. House of Representatives passed a small business loan plan designed to create a \$30 billion fund for smaller banks that is intended to boost lending to small businesses. Earlier in the year, President Barack Obama used his State of the Union address to highlight this plan to get billions of dollars out of the TARP bank-bailout program and into the hands of small businesses. Obama also called for a new small business tax credit that would help over one million small businesses with the elimination of capital gains taxes on small business investments. The current administration is making a calculated bet that an injection of \$30 billion made available to small community banks will motivate them to make more small-business loans.

While credit union's product and service offerings have traditionally been targeted toward the individual member and included effective solutions for home, auto and personal use loans, they have also been making business loans to members since the early 1900s. Their portfolios have consistently shown growth over the last 10 years and in the first quarter of 2010, the NCUA indicated that credit unions had \$35.6 billion in outstanding loans to businesses. An important issue some credit unions are facing as they evaluate

increasing loans to business is specific to the 1998 amendment to the Federal Credit Union Act when bankers successfully lobbied to impose the 12.25% cap on credit union member business lending.

Recently, a Colorado Senator (Mark Udall) has proposed an amendment to raise credit union's member business lending cap from 12.25% to 27.5%. The goal of this measure is to enhance a credit union's ability to lend more to small businesses across the country and provide a greater contribution toward economic stimulus for small businesses. Currently, over 20% of credit unions in the United States lend to businesses. The recent legislation has many credit unions highlighting the fact they would like the opportunity to expand their business lending if allowed by law.

With a cap increase, it is projected credit unions would be able to infuse another \$10 billion dollars to assist struggling small businesses in the first year alone. Credit Union National Association estimates this would create 108,000 jobs by helping small businesses grow. By raising the cap, credit unions' share of small business lending would double to 10 percent nationally and banks would still control approximately 90% of the commercial loan market.

The credit union industry will be watching Congress closely to see if legislation aiming to increase the amount of money they can loan to businesses becomes part of a \$30 billion small-business lending bill. As these legislative developments continue to unfold, know that we are prepared to assist you in expanding your business loan portfolio. Please contact Mike Maloney in our Sales Department for further details.



▶ FINAL RULES RELEASED FOR THIRD STAGE OF CARD ACT

Rod G. Terry, Director Of Product Management

In mid-June, the Federal Reserve Board ("Board") released final rules that further amended Regulation Z, thus implementing the third and final stage of the Credit CARD Act of 2009 ("Act"). Specifically, the third stage encompassed the two final provisions of the Act that address: (i) the reasonableness and proportionality of penalty fees and charges; and (ii) re-evaluation by creditors of rate increases. These final provisions become effective on August 22, 2010.

The amount of the penalty fee that can be charged will be subject to a two-prong approach. First, creditors will no longer be permitted to charge a fee for violating the terms or other requirements of a credit card account when there is no dollar amount associated with the violation (e.g. transactions the creditor declines to authorize, fees for account inactivity, and account closure), nor will they be permitted to assess multiple fees based on a single event or transaction, and creditors may not under any circumstances charge an amount that exceeds the dollar amount associated with the violation. Second, the amount that is charged must be based on either: (i) the safe harbor criteria set forth in the regulation; or (ii) a cost analysis approach whereby the creditor must determine that the dollar amount of the fee represents a reasonable proportion of the total costs incurred by the creditor as a result of that type of violation. The safe harbor approach provides that the creditor may charge \$25.00 for the first occurrence and \$35.00 for the second occurrence that occurs within six months of the first such occurrence. Whereas, the cost analysis approach places the burden on the creditor to determine the "reasonableness" of the penalty fee amount and further requires the creditor to follow the methodology detailed in the Official Commentary when performing its analysis. And the creditor that uses the cost analysis approach must complete a new analysis at least once every twelve months.

Please note that whether you choose the safe harbor approach or cost analysis approach, State-

regulated creditors will still be prohibited from assessing a fee that exceeds the amounts' described in their state's statutes and regardless of the amount permitted to be charged at the state level, may not under any circumstances charge more than that permitted under the new federal rules.

Additionally, those creditors that have increased a consumers' rate based on the credit risk of the consumer, market conditions, or other factors, or increased such a rate on or after January 1, 2009, and 45 days' advance notice of the rate increase was required pursuant to § 226.9(c)(2) or (g), must: (i) evaluate the factors on which the increase in the annual percentage rate was originally based, or those that are currently considered when determining the annual percentage rates applicable to similar new credit card accounts; and (ii) based on its review of such factors, reduce the annual percentage rate applicable to the consumer's account, as appropriate. These re-evaluations must take place at least once every six months.

As mentioned earlier the new fee structures and rate re-evaluation requirements will go into place on the 22nd of August. However, the Board has given creditors until December 1st to have their updated disclosures in place. For those disclosures that fall under a site license agreement, Oak Tree will begin the process of making adjustments to those disclosures shortly. Please keep in mind that at this time, Oak Tree has no way of knowing which of the two approaches you intend to adopt [safe harbor or cost analysis] and as a result, when updating your disclosures will focus exclusively on the elimination of prohibited fees and the inclusion of language that addresses the general prohibition on charging more than the dollar amount associated with the violation. For pre-printed disclosures, it will be necessary to either obtain: (i) new disclosures that contain the changed terms; or (ii) a change-in-terms notice that must then be inserted into the primary disclosure.



▶ AVOID A WRECK: TRAINING WITH OAK TREE

Margaret Bennett, Account Executive

We understand that in a competitive financial industry, you need to continually strengthen your relationships with your members. In order to achieve success and continue to prosper in a world of rapid change, there is a need to be more flexible, faster-moving and quicker-thinking than ever before. Your ability to execute rests upon the abilities of your team to learn, develop and change so they can be a valuable part of your organizational goals.

As the need to provide your members with the most effective loan solution possible, Oak Tree's focus on giving each of you the professional edge to identify and implement those loan solutions comes with the expertise of the skills and knowledge that are directly relevant to today's environment. When it comes to our forms solutions, it is important for any credit union, large or small, to keep up-to-date on their document set. Did you know that Oak Tree can provide remote training to you

and your staff at no additional charge? By utilizing teleconference and webinar communication systems, we can train you to be the primary training resource for multiple branch locations. While we know there are enormous benefits to executing a forms training session, we also know that training needs to be the right type, for the right people and executed at the right time.

Let Oak Tree help give you that professional edge in one of today's most rapidly changing environments. We can tailor your training to effectively achieve your specific goals.

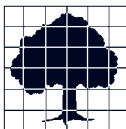
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▶ AUGUST 17 TELECONFERENCE

Look for your upcoming invitation to our August 17 teleconference in which we will provide a brief regulatory update, an overview of our training resources and present Adam Hernandez, a guest speaker from DocuSign. DocuSign offers an electronic signature service that provides the simplicity, speed and security required to deliver, sign and store documents. Designed from the ground up for business-class usage, this service integrates the technical infrastructure and legal compliance needed to operate an end-to-end signing service. DocuSign customers span a variety of industries and range from the largest corporations to the smallest branch offices. DocuSign, Inc. is a privately held company based in Seattle, Washington. A formal invitation will be forthcoming or you can express interest in attending by visiting our web site at **www.oaktreebiz.com**, clicking on the **Contact Us** link, filling out the form and entering reference code DOCUSIGN.

*Don't forget to visit Oak Tree
at Booth #413 at NAFCU!*

▶ FACTA—SEVEN YEARS LATER...

Rod G. Terry, Director Of Product Management

The Federal Reserve Board ("Board") and the Federal Trade Commission ("Commission") jointly issued final rules that implemented the risk-based pricing provisions in section 311 of the Fair and Accurate Credit Transactions Act of 2003 ("FACTA"), which also amended the Fair Credit Reporting Act ("FCRA"). These rules are effective on January 1, 2011.

The final rules implemented the risk-based pricing notice requirement of section 615(h), and apply to any person that both: (i) uses a consumer report in connection with a consumer application for, or a grant, extension, or other provision of, credit that is primarily for personal, household, or family purposes; and (ii) based in whole or in part on the consumer report, grants, extends, or otherwise provides credit to that consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person. This means that the rules would also apply to situations in which a creditor uses a consumer report in connection with a review of credit that has already been extended to the consumer, and based in whole or in part on the consumer report, increases the annual percentage rate.

The required risk-based pricing notice is to be provided to the consumer after the terms of credit have been set, but before the consumer becomes contractually obligated on the credit transaction. In the case of closed-end credit, this means that the notice must be provided to the consumer before consummation of the transaction, but not earlier than the time the approval decision is communicated to the consumer. And in the case of open-end credit, the notice must be provided to the consumer before the first transaction is made under the plan, but again not earlier than the time the approval decision is communicated to the consumer. For account reviews, the notice must be provided at the time that the decision to increase the annual percentage rate is communicated to the consumer.

While these rules do not take effect until next year, Oak Tree anticipates having a risk-based pricing package available four to five months prior to the rules' effective date.

