

Dear CU PolicyPro Client,

It's the start of a new year and many credit unions are sending out their required annual notices to members. However, keep in mind that on December 4th, one of those annual notice requirements for the privacy statement underwent a change when the President signed the [Fixing America's Surface Transportation \(FAST\) Act](#) into law. Buried on page 476 of 490, under section 75001 is the "Exception to Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act." The law provides an exception to the annual notice requirement if:

1. The credit union provides nonpublic personal information to nonaffiliated third parties consistent with Regulation P and in a manner that does not require the option to include an opt-out ([1016.14 - Exceptions to notice and opt out requirements for processing and servicing transactions](#) or [1016.13 - Exception to opt out requirements for service providers and joint marketing](#)), AND
2. The credit union has not changed its policies and practices with regard to disclosing nonpublic personal information since their last privacy notice was provided to members.

Although this change became effective when the law was signed, the CFPB has not yet updated Regulation P, which implements the Gramm-Leach-Bliley Act for credit unions.

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Monthly OPS Notes Release: Annual Privacy Notice Review

Speaking of changes to the annual privacy notices, back in October of 2014 the CFPB amended Regulation P to allow for an "[alternative delivery method](#)" for the annual privacy disclosure if certain conditions were met. This alternative delivery method allowed credit unions to post their privacy notice on their website (in lieu of the annual mailing) if they met certain conditions, including not disclosing nonpublic personal information in a manner that triggers opt-out rights. Even with this alternative delivery method, credit unions were still required to notify their members annually via an account statement, coupon book or other notice/disclosure required by law that the privacy notice was available on its website and could be mailed upon request.

However, with the passage of the new law (FAST Act), it would appear that the alternative delivery method would be irrelevant for credit unions going forward. The use of the alternative delivery method was only permitted if the credit union didn't have any changes since the delivery of their last privacy statement. Therefore, credit unions that previously met the requirement to utilize the alternative delivery method would qualify for the new exception, which eliminates the requirement to even provide an annual privacy notice.

Credit unions should be aware that this change in law does not impact the [initial privacy notice requirements](#) or the [revised privacy notice](#) requirements under the Regulation.

Regulation P is the implementing regulation for the Gramm-Leach-Bliley Act (GLBA). For credit unions, the CFPB has rulemaking authority to implement the GLBA provisions and they are expected to make changes to Regulation P in the near future to align with the new law.

Content FAQs

Question: Our Credit Union meets the requirements for the exception outlined in the FAST Act, can we take down our privacy notice from our website?

Answer: Before you rush to take down your privacy notice, first consider that Regulation P has not yet been amended by the CFPB. Even though the credit union now has an exemption to providing the annual notice requirement (if certain criteria is met), there are still initial privacy notice requirements under Regulation P. Section 1016.4 provides for specific examples of when a customer relationship is established by a credit union. The most obvious is when the consumer becomes your member under your bylaws. If your credit union allows memberships to be opened electronically and the consumer has agreed to receive disclosures electronically, you can meet the delivery requirements of Section 1016.9 by posting the privacy notice on an electronic site and requiring the consumer to acknowledge receipt of the notice. This is just one example, however. Without knowing how the Regulation will be amended, Credit Unions are urged to wait before removing their privacy policy from their website.

Question: Our marketing team would like to change our privacy notice to be in landscape format, with a size 8 font in order to fit on one page in our membership account agreement. Even if we are still using the model form's content, is that permissible?

Answer: If your Credit Union wants the compliance safe harbor, it is not permissible to provide the privacy notice in the format you describe. The format of the model policy can only be modified as outlined within the [appendix](#) of the Regulation. Accordingly, the font must be a minimum of 10-point (unless otherwise expressly permitted in the instructions) and the form must be in portrait orientation, not landscape. Additionally, the model form must consist of at least two pages, which can be printed on both sides of a single sheet of paper or two separate pages.

Technical FAQ

Question: We have a key field showing in the content, but it does not show in the key fields are below the content. What happened?

Answer: This could be caused by one of two things.

1. **The Key Field is not a valid key field.** Key Fields can be created by clients, but this must be done through the Key Fields Database (contact policysupport@cusolutionsgroup.com for help if you want to create your own key fields). Sometimes clients will attempt to add Key Field code by adding a numbered field in double brackets to the content, but unless the code is already set up in the Key Fields database, the system will not recognize it.
2. **The Key Field name has been changed.** When defining a Key Field, clients sometimes inadvertently change the Key Field Name rather than changing the Key Field definition. If the Key Field name is changed, the system can't match the Key Field to the code within the content and the Key Field simply does not appear. If the content in the "Name" field on the Key Field form is changed, rather than in the "Enter Your Key Field Content Here" field – see below – the Key Field will cease to appear. Be sure to define your Key Fields in the "Enter Your Key Field Content Here" area. The name field is editable because credit unions can create their own key fields, but for existing Key Fields, this should not be changed.

Edit Key Fields

Name 2105-1

Enter Your Key Field Content Here

George Smith

Update Key Field Cancel

Description

Specify who will oversee the Compliance Officer

If you have a key field that appears to be missing, please contact polycysupport@cusolutionsgroup.com for assistance!

Content Updates Reminder

Don't forget about the content updates that came out in December! This update included **seventeen policy updates and two policies deleted from the master manual content**. For more information on what was updated and what your credit union needs to do next, [visit the support site](#).

Questions?

If you have any questions regarding the CU PolicyPro content, or questions on how to use the system, please contact polycysupport@cusolutionsgroup.com.

If this information was forwarded to you, and you'd like to be on the distribution list to receive information and updates related to CU PolicyPro, contact polycysupport@cusolutionsgroup.com.

Thanks and have a great week!