

Sherman, Diane

From: Jamie Feehan <jfeehan@primmer.com>
Sent: Friday, February 10, 2023 1:54 PM
To: Nuissl, Karla; Sherman, Diane
Subject: Proposed Privacy Regulation Comments

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Hi, All,

On behalf of the Vermont Association of Domestic Property & Casualty Insurance Companies (the “Domestics”) and others in the insurance industry, I offer these comments in response to the Department’s proposed revisions to its Privacy of Consumer Financial and Health Information, Regulation I-2023-X.

The Domestics have engaged with the Department for several years since adoption of the federal FAST Act amending the federal GLBA that afforded states the ability to eliminate the requirement for redundant GLBA annual privacy notices. The Domestics appreciate the steps the Department has taken to finally get a draft, updated Regulation for consideration.

The Domestics strongly object, however, to inclusion in the proposed Regulation reference to the Vermont Fair Credit Reporting Act and related obligations of licensees under the proposed Regulation. Specifically, the proposed Regulation contains the following in Section 6.D(1)(c):

(c) Posts its current privacy notice continuously and in a clear and conspicuous manner on a page of its website on which the only content is the privacy notice **and instructions for a consumer to revoke a prior opt-in direction or initiate an opt-in direction with respect to the licensee’s sharing of the consumer’s nonpublic personal information under the Vermont Fair Credit Reporting Act, 9 V.S.A. § 2480e**, and which is accessible without requiring a consumer to provide any information such as a login name or password or agree to any conditions to access the page; and

The rules and framework for addressing and protecting consumer information under GLBA and Vermont Regulation I 2001-01 are an entirely different regime than those required under the Vermont FCRA’s section 2480e. Conflating the two is unnecessary, inappropriate and ultimately confusing to the policyholder.

The requirements under section 2480e are a separate and robust process that insurers undertake whenever required. It has its own and separate form and process for communicating with insureds.

The GLBA annual privacy notice is limited to the scope of information under GLBA and an insurer’s policy and practices with respect to protection and sharing, if any, of that information. The Domestics are not asking to change any of the underlying regulation or requirements. The focus, as intended by the FAST Act and subsequent NAIC Model Bulletin, is merely the delivery of the privacy policy to policyholders.

Significantly, none of the Domestics currently share policyholder information with non-affiliated third parties for marketing purposes and therefore do not provide policyholders an opportunity to “opt-in” for information sharing under GLBA beyond permitted instances. Including and referencing any prior opt-ins or initiation of an opt-in when an opt-in was never sought or received will be confusing to the policyholder and lead to unnecessary and potentially contentious communication between an insurer and policyholder.

Finally, we note that a licensee, as defined under the Regulation, is broad and includes many entities and individuals who have no interaction with section 2480e. Requiring those licensees to nevertheless include such instructions will lead to further confusion for individuals who have a relationship with those licensees.

For these reasons and more, the Domestic ask that the Department delete the bold text highlighted above and found in Section 6.D(1)(c). I am happy to provide you with more information, and discuss with you at your convenience. Thank you for your consideration of this request.

Jamie

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