

and 31 CFR Part 103.18 may subject the credit union, its officials, employees, and agents to the assessment of civil money penalties or other administrative actions.

(3) *Retention of Records.* A credit union must maintain a copy of any SAR that it files and the original or business record equivalent of all supporting documentation to the report for a period of five years from the date of the report. Supporting documentation must be identified and maintained by the credit union as such. Supporting documentation is considered a part of the filed report even though it should not be actually filed with the submitted report. A credit union must make all supporting documentation available to appropriate law enforcement authorities and its regulatory supervisory authority upon request.

(4) *Notification to board of directors.* (i) *Generally.* The management of the credit union must promptly notify its board of directors, or a committee designated by the board of directors to receive such notice, of any SAR filed.

(ii) *Suspect is a director or committee member.* If a credit union files a SAR and the suspect is a director or member of a committee designated by the board of directors to receive notice of SAR filings, the credit union may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but must notify the remaining directors, or designated committee members, who are not suspects.

(5) *Confidentiality of reports.* SARs are confidential. Any credit union, including its officials, employees, and agents, subpoenaed or otherwise requested to disclose a SAR or the information in a SAR must decline to produce the SAR or to provide any information that would disclose that a SAR was prepared or filed, citing this part, applicable law, for example, 31 U.S.C. 5318(g), or both, and notify NCUA of the request. A credit union must make the filed report and all supporting documentation available to appropriate law enforcement authorities and its regulatory supervisory authority upon request.

(6) *Safe Harbor.* Any credit union, including its officials, employees, and agents, that makes a report of suspected or known criminal violations

and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, are protected from liability for any disclosure in the report, or for failure to disclose the existence of the report, or both, to the full extent provided by 31 U.S.C. 5318(g)(3). This protection applies if the report is filed pursuant to this part or is filed on a voluntary basis.

[50 FR 53295, Dec. 31, 1985, as amended at 53 FR 26232, July 12, 1988; 58 FR 17492, Apr. 5, 1993; 61 FR 11527, Mar. 21, 1996; 71 FR 62878, Oct. 27, 2006; 72 FR 42273, Aug. 2, 2007]

§ 748.2 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

(a) *Purpose.* This section is issued to ensure that all federally-insured credit unions establish and maintain procedures reasonably designed to assure and monitor compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act, and the implementing regulations promulgated thereunder by the Department of Treasury, 31 CFR part 103.

(b) *Establishment of a BSA compliance program—(1) Program requirement.* Each federally-insured credit union shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and recording requirements set forth in subchapter II of chapter 53 of title 31, United States Code and the implementing regulations issued by the Department of the Treasury at 31 CFR part 103. The compliance program must be written, approved by the credit union's board of directors, and reflected in the minutes of the credit union.

(2) *Customer identification program.* Each federally-insured credit union is subject to the requirements of 31 U.S.C. 5318(l) and the implementing regulation jointly promulgated by the NCUA and the Department of the Treasury at

31 CFR 103.121, which require a customer identification program to be implemented as part of the BSA compliance program required under this section.

(c) *Contents of compliance program.* Such compliance program shall at a minimum—

- (1) Provide for a system of internal controls to assure ongoing compliance;
- (2) Provide for independent testing for compliance to be conducted by credit union personnel or outside parties;
- (3) Designate an individual responsible for coordinating and monitoring day-to-day compliance; and
- (4) Provide training for appropriate personnel.

(Approved by the Office of Management and Budget under control number 3133–0094)

[52 FR 2861, Jan. 27, 1987, as amended at 52 FR 8062, Mar. 16, 1987; 68 FR 25112, May 9, 2003]

APPENDIX A TO PART 748—GUIDELINES FOR SAFEGUARDING MEMBER INFORMATION

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I. INTRODUCTION

The Guidelines for Safeguarding Member Information (Guidelines) set forth standards pursuant to sections 501 and 505(b), codified at 15 U.S.C. 6801 and 6805(b), of the Gramm-Leach-Bliley Act. These Guidelines provide guidance standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of member information. These Guidelines also address standards with respect to the proper disposal of consumer information pursuant to sections 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w).

A. *Scope.* The Guidelines apply to member information maintained by or on behalf of federally-insured credit unions. Such entities are referred to in this appendix as “the credit union.” These Guidelines also apply to the proper disposal of consumer information by such entities.

B. *Definitions.* 1. *In general.* Except as modified in the Guidelines or unless the context otherwise requires, the terms used in these Guidelines have the same meanings as set forth in 12 CFR part 716.

2. For purposes of the Guidelines, the following definitions apply:

a. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the credit union for a business purpose. Consumer information also means a compilation of such records. The term does not include any record that does not identify an individual.

b. *Consumer report* has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d). The meaning of consumer report is broad and subject to various definitions, conditions and exceptions in the Fair Credit Reporting Act. It includes written or oral communications from a consumer reporting agency to a third party of information used or collected for use in establishing eligibility for credit or insurance used primarily for personal, family or household purposes, and eligibility for employment purposes. Examples include credit reports, bad check lists, and tenant screening reports.

c. *Member* means any member of the credit union as defined in 12 CFR 716.3(n).

d. *Member information* means any records containing nonpublic personal information, as defined in 12 CFR 716.3(q), about a member, whether in paper, electronic, or other form, that is maintained by or on behalf of the credit union.

e. *Member information system* means any method used to access, collect, store, use, transmit, protect, or dispose of member information.

f. *Service provider* means any person or entity that maintains, processes, or otherwise is permitted access to member information through its provision of services directly to the credit union.

II. STANDARDS FOR SAFEGUARDING MEMBER INFORMATION

A. *Information Security Program.* A comprehensive written information security program includes administrative, technical, and physical safeguards appropriate to the size and complexity of the credit union and the nature and scope of its activities. While all parts of the credit union are not required to