

Personal Financial Information: What Are Businesses Doing to Protect You?

If your household is like most, you are inundated with phone calls, snail mail and even email messages that you simply did not ask for in the first place. The very existence of these “intrusions” in your day makes you wonder who you can trust with your personal information. All of this is even more frightening when you examine just what these third parties already know about you. There is some good news, however. You can cross your financial institution off the list of suspects. In fact, you will be happy to know that certain financial institutions, including your certified public accounting firm, have been working for several years now to protect your personal information. So, what caused the change? What are these companies really doing to protect you?

What Caused the Change? Enacted on November 12, 1999, the Gramm-Leach-Bliley (GLB) Act not only reformed the financial services industry, but addressed concerns relating to consumer financial privacy. In simple terms, the provisions of the GLB Act limit when a “financial institution” may disclose “nonpublic personal information” to non-affiliated third parties.

As you would guess, the term “financial institution” includes your bank, but it also includes securities firms and insurance companies. As a matter of fact, it includes companies providing other types of financial products and services to consumers as well. Among these services are lending, brokering or servicing any type of consumer loan, transferring or safeguarding money, preparing individual tax returns, providing financial advice or credit counseling, providing residential real estate settlement services, collecting consumer debts and an array of other activities.

So, what does the term “nonpublic personal information” or NPI really mean? According to the GLB Act, NPI is any information an individual gives to get a financial product or service. Here is a simple example. Let’s say you complete an application for a service that requests your phone number which, for this purpose, is not listed in the phone book.

Since your number is not available to the general public, it must be treated as NPI. Of course, this is just one piece of personal information. In addition to general name and address information, your social security number is protected as well as any information a financial institution gets about you, the consumer, as a result of a transaction. This includes payment history, credit card purchases and the like. Publicly accessible government records, however, are not included.

The Technical Side. What exactly does the GLB Act mandate? To summarize the Act, there are three principal parts to the privacy requirements: the Financial Privacy Rule, the Safeguards Rule and pretexting provisions. Enforcement is handled by the Federal Trade Commission (FTC).

The Financial Privacy Rule governs the collection and disclosure of customers' personal financial information by financial institutions. It also applies to companies, whether or not they are financial institutions, who receive such information.

The Safeguards Rule requires all financial institutions to design, implement and maintain safeguards to protect customer information. This rule applies not only to financial institutions that collect information from their own customers, but also to financial institutions – such as credit reporting agencies – that receive customer information from other financial institutions. Some of the ways that companies are complying with this rule include:

- Training customer service representatives
- Locking rooms and file cabinets
- Changing passwords frequently
- Encrypting sensitive information when transmitting it electronically
- Limiting access to customer information

The pretexting provisions of the GLB Act protect consumers from individuals and companies that obtain their personal financial information under false pretenses, a practice known as “pretexting.”

Obligations on the Part of the Financial Institution. Wondering what those bill stuffers really are? Before you place them in your permanent out basket, look again. Financial institutions must give their customers, and in some cases their consumers, a written notice describing their privacy policies and practices. A privacy notice must disclose categories of information collected, categories of information disclosed and categories of affiliates or nonaffiliated third parties to whom an institution discloses information, to name a few things. Whether or not financial institutions share customer NPI, they must give customers a privacy notice by the time the customer relationship is established. They must also disclose their full privacy policy on an annual basis for the duration of the relationship.

If a financial institution shares NPI, customers must also receive an “opt-out” notice explaining the individual’s right to stop the institution from sharing NPI with a non-affiliated third party. This may be separate, or a part of, the privacy notice. The downside is that this places the burden on the customer to act.

Final Thoughts. It is reassuring to know that diligent efforts are being made by businesses and in particular, financial institutions, to protect consumers. Lane Gorman Trubitt is also bound by the GLB Act. In addition to the Federal Trade Commission, the Firm adheres to rules about NPI set forth by the Internal Revenue Service, the American Institute of Certified Public Accountants, and the Texas State Board of Public Accountancy.