

Gramm-Leach-Bliley Act and Subsequent Regulations – Kenneth S. Levine, Esq, Goulston & Storrs, Boston, MA 02109

Gramm-Leach-Bliley Act (GLB)

- Enacted to compel “financial institutions” (“FI”) to respect the privacy, security, and confidentiality of customers’ nonpublic personal information (“NPI”).
- Requires certain agencies (see below) to establish standards for FI to:
 - 1) Insure the security and confidentiality of customer records and information
 - 2) Protect against any anticipated threats or hazards to the security or integrity of such records; and
 - 3) Protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.
- Nondisclosure; Notice. Unless otherwise provided, FI must not disclose to a nonaffiliated third party any NPI, unless the FI provides proper notice.
- Opt-out. Prior to disclosure, customers must be given the opportunity to opt out.
- Exception: disclosure to nonaffiliated third parties to perform services on behalf of the FI is permissible, so long as the FI contractually requires the third party to maintain the confidentiality of such information.
- FI Disclosure: At the time of establishing a customer relationship and annually thereafter, FI must disclose to the customer its policies and practices regarding disclosure of NPI, disclosing former customers’ NPI, and protecting NPI generally.

Treasury Department Regulations

- Regulations were promulgated through Joint Guidelines produced by the Office of the Comptroller of the Currency, Federal Reserve System, FDIC, and the Treasury Department.
- Comptroller of the Currency: national banks, federal branches/agencies of foreign banks, and subsidiaries of such entities.
- Federal Reserve System: Federal Reserve System member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned/controlled by foreign banks, etc.
- FDIC: Banks insured by the FDIC (except for members of the Federal Reserve System), insured state branches of foreign banks, and subsidiaries of same.
- Office of Thrift Supervision: savings associations and their subsidiaries, the deposits of which are insured by FDIC.
- State Insurance Law: regulated under state insurance law, in the case of any person engaged in providing insurance, by the applicable state insurance authority of the state in which the person is domiciled.

Securities and Exchange Commission Regulations

- Implements GLB Act with respect to SEC-registered investment advisors, brokers, dealers, and investment companies, which are the financial institutions subject to the SEC’s jurisdiction under the GLB Act.
- Effective date: November 13, 2000

Federal Trade Commission Regulations

- Applicability: Catch-all jurisdiction for any FI or other person not subject to the jurisdiction of any agency or authority under GLB Act.
- Notice: FI required in specified circumstances to provide notice to customers about its privacy policies and practices
- Disclosure to Nonaffiliated Third Parties: Describes the conditions under which a FI may disclose NPI about consumers to nonaffiliated third parties.
- Opt Out: Provides a method for consumers to prevent a FI from disclosing NPI to most nonaffiliated third parties by opting out of the disclosure, subject to certain exceptions.
- Scope: These regulations apply only to NPI about individuals who obtain financial products or services primarily for personal, family, or household purposes, and not for business or corporate purposes.