



American Insurance Association

Internet Privacy and the Financial Services Industry

Increasing attention is being focused on the privacy of individuals using the internet. Internet privacy concerns range from frustration with the increasing volume of unsolicited commercial email (a.k.a., "spam") to the fear that "cookies" downloaded surreptitiously to a personal computer may gather detailed personal information about the computer user that may then be shared or sold to third parties – all without the knowledge or agreement of the computer user. Alternatives for addressing these and other internet privacy issues include empowering computer users with the technology that will enable them to protect their privacy, to government regulations that would prohibit or require certain practices by businesses and other users of personal information. As these options are considered, it is critical to understand that the entire financial services sector of the United States economy is now subject to extensive privacy regulations under the federal financial services modernization law (the Gramm-Leach-Bliley Act (GLBA) of 1999). Extreme care should be exercised to ensure that any legislative or regulatory response to online privacy concerns do not undermine or conflict with the requirements of GLBA. Failure to do so could have serious unintended consequences for consumers and private industry.

Title V of GLBA sets out specific requirements for financial institutions regarding the collection and use of personal financial information. All of these requirements apply to information collected in any manner, including information collected online or by other electronic means. GLBA requires all financial institutions to disclose to consumers their policies for collecting and sharing nonpublic personal information. It also requires financial institutions to provide consumers with the opportunity to "opt out" of disclosures of their personal information with non-affiliated third parties. Additionally, GLBA strictly prohibits financial institutions from sharing account numbers or similar information to non-affiliated third parties for use in marketing activities, including electronic mail marketing. GLBA also mandates the development and implementation of standards designed to ensure the security and confidentiality of customer records and information. Responsibility for enforcing the requirements of GLBA rest with several existing regulatory agencies of the federal government. For insurance companies, primary enforcement responsibility rests with state insurance regulators.

Altogether, Title V of GLBA represents the most comprehensive privacy protections ever adopted in the United States. While the primary motivation in adopting the law was to protect the privacy of individuals, great care was taken to ensure that legitimate and appropriate uses of personal information were preserved. In drafting Title V, Congress recognized that the ability of the nation's financial institutions to effectively and efficiently service the financial needs of the public depends on preserving and protecting key information flows between consumers and financial institutions, and among affiliated institutions. Interrupting these information flows or burdening them with costly regulations could seriously impact the industry and the general public it serves. Careful drafting is required if new laws and regulations aimed at protecting online privacy are to avoid imposing regulations and restrictions that conflict with the requirements and allowances established in Title V of GLBA.