



Overview of the Republican FSC Data Privacy Discussion Draft

Modernizes GLBA using a Technology-Agnostic Approach

This draft bill modernizes GLBA to better align with our evolving technological landscape. Advances in technology have innovated the financial system and the way in which consumers interact with financial institutions, including nonbank institutions. The consumer protections contained in the bill will apply seamlessly to future innovation and new technologies. Specifically:

Requires notice of collection activities

GLBA currently requires financial institutions to notify consumers that their information is being disclosed to third parties. The draft bill requires financial institutions to notify consumers that their nonpublic personal information is being collected as well. This addition will ensure consumers are made aware when their data is being collected.

Recognizes burdens on smaller financial institutions

The draft bill provides that in promulgating rules under the privacy policy section, agencies shall take into account the compliance cost such rules will impose on smaller financial institutions.

Updates the definition of a financial institution

Under current law, a financial institution is defined as “any institution the business of which is engaging in financial activities as described in 4(k) of the bank holding company act of 1956.” The draft bill updates that definition to include data aggregators. This ensures that aggregators will be bound by the same rules as traditional financial institutions.

Puts Control Back in the Hands of the Consumer

The draft bill recognizes the need for consumers to control how their personal information will be used beyond financial institutions. The draft bill empowers consumers to understand how their data is being collected and used by a service provider when they agree to the provider’s privacy policy. In addition, the bill ensures consumers have the right to terminate collection of their data, and/or request deletion of their data, at any time. Specifically:

Broadens the definition of Non-public Information

GLBA currently references “personally identifiable financial information.” The draft bill expands this definition to include “information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer.” This does not include publicly available information.

Provides consumers with access to data held about them

The draft bill provides that upon an authorized request from the consumer, a financial institution shall disclose: data held, entities with which the financial institution shares consumer data, list of



entities from whom the financial institution had received non-public personal information of the consumer.

Empowers consumers to terminate collection and disclosure of their data

The draft bill provides that if a financial institution is required to terminate the collection and/or sharing of a consumer's nonpublic personal information, the financial institution must notify third parties that data sharing has been terminated and requires them to also terminate. In addition, upon a request from consumer, the financial institution must delete nonpublic personal information of the consumer held by the financial institution. If financial institutions are required by law to keep the data, they may only use the data for that purpose.

Minimizes Data Collection

The draft protects against the misuse or overuse of consumer nonpublic personal information. The bill directs financial institutions to disclose to consumers why they are collecting certain pieces of data, and only use data for its stated purpose. Covered financial institutions must provide consumers with an opportunity to opt out of the data collection if it is not necessary to provide the product or service offered by the entity. Specifically:

Notify consumers of data collection

The draft bill specifies that financial institutions' privacy policies must include: the categories of personal information collected by the entity, the manner in which the entity collects that information, and the purpose for which they collect that information.

Empower consumers to opt out of data collection

The draft bill specifies the privacy policy must describe the data being collected and the purpose for collection, and allow the consumer an opportunity to opt out of the collection of this data.

Provide consumers with access to data held about them

The draft bill provides that upon an authorized request from the consumer, a financial institution shall disclose: data held, entities with which the financial institution shares the data, list of entities from whom the financial institution had received non-public personal information of the consumer.

Provides Informed Choice and Transparency

The draft bill empowers consumers by requiring privacy terms and conditions be transparent and easily understandable. Consumer disclosures are critical to understanding what data is collected; the manner in which the data is collected; the purposes for which the data will be used; who has access to the data; how an entity is using the data; where the data will be shared; data retention policies of the entity; and the rights associated with that data for uses inconsistent with stated purpose. Specifically:



Require disclosure of privacy policies

The bill requires a financial institution to provide its privacy policy in a manner that provides consumers a meaningful understanding of the information being collected including: notice of collection of consumer data; a list of categories of data that is collected by the financial institution, the manner in which the data is collected, the purpose for which the data is collected, data retention policies of the financial institution, the right of the consumer to terminate collection and sharing of their data, and the right of the consumer to request a list of their data held, and the right of the consumer to request deletion of their data.

If the financial institution collects data for reasons beyond providing a specific product or service, the privacy policy must include a description of the data collected and the purpose for collection, and an opportunity for the consumer to opt out of the collection of information not necessary to provide the product or service. If the financial institution collects account credentials from the consumer, the financial institution must disclose to the consumer that they are collecting the account credentials.

Requires Preemption

The draft bill provides consistency across the country with respect to understanding how downstream entities are collecting and using personal information. A national standard will reduce compliance burden and provide certainty to both consumers and entities that handle their financial data.