

[DISCUSSION DRAFT]

117TH CONGRESS
2^D SESSION

H. R. _____

To amend the Gramm-Leach-Bliley Act to **[modernize the protection of the nonpublic personal information of consumers]**, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____, _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Gramm-Leach-Bliley Act to **[modernize the protection of the nonpublic personal information of consumers]**, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 **“[To be added Act of 2022]”**.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Obligations with respect to the collection and disclosure of nonpublic personal information.

- Sec. 3. Eliminating the general distinction between consumers and customers.
- Sec. 4. Disclosure of institution privacy policy.
- Sec. 5. Rulemaking.
- Sec. 6. Enforcement.
- Sec. 7. Relation to State laws.
- Sec. 8. Definitions.
- Sec. 9. Obligations with respect to access and deletion of nonpublic personal information.
- Sec. 10. Obligations with respect to the international sharing of nonpublic personal information.
- Sec. 11. Sense of Congress.

1 **SEC. 2. OBLIGATIONS WITH RESPECT TO THE COLLECTION**
2 **AND DISCLOSURE OF NONPUBLIC PERSONAL**
3 **INFORMATION.**

4 (a) IN GENERAL.—Section 502 of the Gramm-Leach-
5 Bliley Act (15 U.S.C. 6802) is amended—

6 (1) in the heading, by striking “**DISCLOSURES**
7 **OF**” and inserting “**THE COLLECTION AND DIS-**
8 **CLOSURE OF NONPUBLIC**”;

9 (2) in subsection (a), by inserting before “dis-
10 close” the following: “collect nonpublic personal in-
11 formation from a consumer or”;

12 (3) in subsection (b), by amending paragraph
13 (1) to read as follows:

14 “(1) IN GENERAL.—A financial institution may
15 not collect nonpublic personal information from a
16 consumer or disclose nonpublic personal information
17 to a nonaffiliated third party unless the consumer is
18 given the opportunity, before the time that such in-
19 formation is initially collected or disclosed, to direct

1 that such information not be collected or disclosed to
2 such third party.”;

3 (4) in subsection (d), by striking “tele-
4 marketing, direct mail marketing, or other mar-
5 keting through electronic mail to the consumer” and
6 inserting “marketing to the consumer, regardless of
7 medium”;

8 (5) in subsection (e)—

9 (A) by striking “(e) GENERAL EXCEP-
10 TIONS.—” and all that follows through the end
11 of paragraph (2) and inserting the following:

12 “(e) EXCEPTIONS.—The general collection and dis-
13 closure procedures provided in subsections (a) and (b)
14 shall not prohibit the collection or disclosure of nonpublic
15 personal information—

16 “(1) if the collection or disclosure is—

17 “(A) necessary to effect, administer, or en-
18 force a transaction requested or authorized by
19 the consumer;

20 “(B) in connection with servicing or proc-
21 essing a financial product or service requested
22 or authorized by the consumer;

23 “(C) with the consent or at the direction of
24 the consumer, and the financial institution ob-
25 tains from the consumer evidence of the con-

1 consumer's authorization for such collection or dis-
2 closure; or

3 “(D) in connection with—

4 “(i) maintaining or servicing the con-
5 sumer's account with the financial institu-
6 tion, or with another entity as part of a
7 private label credit card program or other
8 extension of credit on behalf of such entity;
9 or

10 “(ii) a proposed or actual
11 securitization, secondary market sale (in-
12 cluding sales of servicing rights), or similar
13 transaction related to a transaction of the
14 consumer;

15 “(2) to a nonaffiliated third party to perform
16 services for or functions on behalf of the financial
17 institution, including marketing of the financial in-
18 stitution's own products or services, or financial
19 products or services offered pursuant to joint agree-
20 ments between two or more financial institutions
21 that comply with the requirements imposed by the
22 regulations prescribed under section 504, if the fi-
23 nancial institution fully discloses the providing of
24 such information and enters into a contractual
25 agreement with the third party that requires the

1 third party to maintain the confidentiality of such
2 information;” and

3 (B) in paragraph (5), by inserting a
4 comma after “Bureau of Consumer Financial
5 Protection”; and

6 (6) by adding at the end the following:

7 “(f) NOTIFICATION TO NONAFFILIATES WHEN SHAR-
8 ING IS TERMINATED.—

9 “(1) IN GENERAL.—If a financial institution is
10 required to terminate sharing nonpublic personal in-
11 formation of a consumer with a nonaffiliated third
12 party—

13 “(A) the financial institution shall notify
14 the nonaffiliated third party that the sharing
15 has been terminated and that the nonaffiliated
16 third party may not share any nonpublic infor-
17 mation of the consumer already received from
18 the financial institution; and

19 “(B) upon receipt of a notice described
20 under subparagraph (A), the nonaffiliated third
21 party may not share any nonpublic information
22 of the consumer already received from the fi-
23 nancial institution.

24 [“(2) RULEMAKING.—The agencies referred to
25 in section 504 shall issue rules to establish the re-

1 requirements for notices under paragraph (1), includ-
2 ing the form of such notices, taking into account any
3 privacy risks posed by such notices.】

4 “(g) REQUIREMENTS WITH RESPECT TO THE COL-
5 LECTION OF CONSUMER ACCOUNT CREDENTIALS.—A fi-
6 nancial institution may not collect from a consumer any
7 consumer account credentials the consumer uses to access
8 an account at a nonaffiliated third party that is a financial
9 institution unless, prior to collecting the consumer account
10 credentials—

11 “(1) the financial institution clearly and con-
12 spicuously discloses to the consumer, in a form per-
13 mitted by the regulations prescribed under section
14 504, that the financial institution is collecting such
15 consumer account credentials; and

16 “(2) the financial institution provides or has
17 provided to the consumer a notice that complies with
18 section 503.”.

19 (b) CONFORMING AMENDMENT.—Section 509(3)(D)
20 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809(3)(D))
21 is amended by striking “section 502(e)(1)(C)” and insert-
22 ing “section 502(e)(1)(D)(ii)”.

1 **SEC. 3. ELIMINATING THE GENERAL DISTINCTION BE-**
2 **TWEEN CONSUMERS AND CUSTOMERS.**

3 Title V of the Gramm-Leach-Bliley Act (15 U.S.C.
4 6801 et seq.) is amended—

5 (1) in section 501—

6 (A) in subsection (a)—

7 (i) by striking “its customers” and in-
8 serting “consumers”; and

9 (ii) by striking “those customers’ non-
10 public personal information” and inserting
11 “nonpublic personal information of con-
12 sumers”;

13 (B) in subsection (b), by striking “cus-
14 tomer” each place such term appears and in-
15 serting “consumer”;

16 (2) in section 502(e)(3), by striking “customer”
17 and inserting “consumer”;

18 (3) in section 503(a)—

19 (A) by striking “customer relationship”
20 and inserting “consumer relationship”; and

21 (B) by striking paragraph (2); and

22 (4) in section 508—

23 (A) by striking “customer” each place such
24 term appears and inserting “consumer”; and

1 (B) by striking “customers” each place
2 such term appears and inserting “consumers”;
3 and

4 (5) in section 509, by amending paragraph (11)
5 to read as follows:

6 “(11) CONSUMER RELATIONSHIP.—

7 “(A) IN GENERAL.—The term ‘time of es-
8 tablishing a consumer relationship’ shall be de-
9 fined by the regulations prescribed under sec-
10 tion 504.

11 “(B) NON-CUSTOMERS.—In the case of a
12 consumer that is not a customer of a financial
13 institution—

14 “(i) the term ‘time of establishing a
15 consumer relationship’ means the time that
16 the financial institution obtains nonpublic
17 personal information of the consumer; and

18 “(ii) the financial institution shall be
19 deemed to be in a consumer relationship
20 with such a consumer until such time as
21 the financial institution no longer collects,
22 controls, possesses, transmits, or maintains
23 any nonpublic personal information of the
24 consumer.

1 【“(C) EXEMPTION FOR CERTAIN TRANS-
2 ACTIONS.—The agencies described in section
3 504(a)(1) shall issue rules to specify that the
4 following transactions do not, by themselves, es-
5 tablish a consumer relationship:】

6 【“(i) The use of an automated teller
7 machine.】

8 【“(ii) The use of a credit card or
9 debit card to make a purchase.】

10 【“(iii) Such other similar transactions
11 as the agencies determine appropriate.”.】

12 **SEC. 4. DISCLOSURE OF INSTITUTION PRIVACY POLICY.**

13 Section 503 of the Gramm-Leach-Bliley Act (15
14 U.S.C. 6803) is amended—

15 (1) in subsection (a), as amended by section
16 5(3)(A), by inserting after paragraph (1) the fol-
17 lowing:

18 “(2) collecting nonpublic personal information;
19 and”;

20 (2) in subsection (c)—

21 (A) in paragraph (1)—

22 (i) by inserting “collecting or” before
23 “disclosing nonpublic”; and

24 (ii) by striking subparagraph (B) and
25 inserting the following:

1 “(B) the purpose for which the financial
2 institution collects the nonpublic personal infor-
3 mation of consumers, as well as how the data
4 will be used;”;

5 (B) in paragraph (2), by inserting before
6 the semicolon the following: “, provided in a
7 manner that provides consumers a meaningful
8 understanding of the information being col-
9 lected”;

10 (C) in paragraph (3), by striking “and” at
11 the end;

12 (D) in paragraph (4), by striking the pe-
13 riod at the end and inserting “; and”; and

14 (E) by adding at the end the following:

15 “(5) if the financial institution collects non-
16 public personal information for any purpose other
17 than to provide a specific product or service con-
18 sumers are seeking—

19 “(A) a description of such information;

20 “(B) the purpose for which such informa-
21 tion is collected; and

22 “(C) the right of a consumer to opt out of
23 having such nonpublic personal information col-
24 lected or disclosed to a nonaffiliated third

1 party, and the manner in which a consumer
2 may make such opt out election;

3 “(6) the data retention policies of the financial
4 institution, including the period of time for which
5 the institution retains the nonpublic personal infor-
6 mation of consumers;

7 “(7) the right of a consumer to elect to have
8 the financial institution terminate the sharing of
9 nonpublic personal information with a nonaffiliated
10 third party, and the manner in which a consumer
11 may make such election;

12 “(8) the right of a consumer to request the fi-
13 nancial institution provide the consumer with a list
14 of all nonpublic personal information of the con-
15 sumer held by the financial institution, and the man-
16 ner in which a consumer may make such request;
17 and

18 “(9) the right of a consumer to elect to have
19 the financial institution delete nonpublic personal in-
20 formation of the consumer held by the financial in-
21 stitution (subject to the exceptions provided under
22 section 502A(b)(3), and the manner in which a con-
23 sumer may make such election.”; and

24 (3) by adding at the end the following:

1 “(g) AVAILABILITY OF PRIVACY POLICY.—A finan-
2 cial institution shall make the disclosure described under
3 this section available to a consumer at any time, upon re-
4 quest.”.

5 **SEC. 5. RULEMAKING.**

6 Section 504 of the Gramm-Leach-Bliley Act (15
7 U.S.C. 6804) is amended—

8 (1) in subsection (a)(1)—

9 (A) by amending subparagraph (A) to read
10 as follows:

11 “(A) IN GENERAL.—The Federal banking
12 agencies, the National Credit Union Adminis-
13 tration, the Securities and Exchange Commis-
14 sion, and the Federal Trade Commission shall
15 each issue such regulations as may be necessary
16 to carry out the purposes of this subtitle with
17 respect to the persons subject to their jurisdic-
18 tion under section 505.”;

19 (B) by striking subparagraph (C); and

20 (C) by redesignating subparagraph (D) as
21 subparagraph (C); and

22 (2) by adding at the end the following:

23 “(c) CONSIDERATION OF COMPLIANCE COSTS.—
24 When prescribing rules under this subtitle, agencies shall

1 take into account the compliance cost such rules will im-
2 pose on small institutions.”.

3 **SEC. 6. ENFORCEMENT.**

4 **【To be added】**

5 **SEC. 7. LIABILITY FOR UNAUTHORIZED ACCESS.**

6 (a) IN GENERAL.—Title V of the Gramm-Leach-Bli-
7 ley Act (15 U.S.C. 6801 et seq.) is amended by inserting
8 after section 505 the following:

9 **“SEC. 505A. LIABILITY FOR UNAUTHORIZED ACCESS.**

10 “If the nonpublic personal information of a consumer
11 is obtained from a financial institution (either due to a
12 data breach or in any other manner) and used to make
13 unauthorized access of the consumer’s account, the finan-
14 cial institution shall be liable to the consumer for the full
15 amount of any damages resulting from such unauthorized
16 access.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Gramm-Leach-Bliley Act is amended
19 by inserting after the item relating to section 505 the fol-
20 lowing:

“Sec. 505A. Liability for unauthorized access.”.

21 **SEC. 8. RELATION TO STATE LAWS.**

22 Section 507 of the Gramm-Leach-Bliley Act (15
23 U.S.C. 6807) is amended to read as follows:

1 **“SEC. 507. RELATION TO STATE LAWS.**

2 “This subtitle and the amendments made by this sub-
3 title supersede any statute or rule of a State or political
4 subdivision thereof that regulates the obligations of a fi-
5 nancial institution with respect to—

6 “(1) the collection or disclosure of nonpublic
7 personal information;

8 “(2) the disclosure of the financial institution’s
9 privacy policy;

10 “(3) data breach notifications related to the
11 disclosure of nonpublic personal information;

12 “(4) the access to or deletion of nonpublic per-
13 sonal information; or

14 “(5) the international sharing of nonpublic per-
15 sonal information.”.

16 **SEC. 9. DEFINITIONS.**

17 Section 509 of the Gramm-Leach-Bliley Act (15
18 U.S.C. 6809) is amended—

19 (1) in paragraph (3)(A), by inserting before the
20 period at the end the following: “and includes a data
21 aggregator”;

22 (2) in paragraph (4), by striking “personally
23 identifiable financial information” and inserting “in-
24 formation that identifies, relates to, describes, is rea-
25 sonably capable of being associated with, or could

1 reasonably be linked, directly or indirectly, with a
2 particular consumer and is”; and

3 (3) by adding at the end the following:

4 “(12) CONSUMER ACCOUNT CREDENTIALS.—

5 With respect to a consumer, the term ‘consumer ac-
6 count credentials’ means nonpublic information (in-
7 cluding a username, password, or an answer to a se-
8 curity question) that enables the consumer to access
9 an account of the consumer at a financial institu-
10 tion.

11 “(13) DATA AGGREGATOR.—The term ‘data
12 aggregator’—

13 “(A) means any person that operates a
14 commercial business or enterprise for the busi-
15 ness purpose of accessing, aggregating, col-
16 lecting, selling, or sharing nonpublic personal
17 information about consumer financial accounts
18 or transactions at the direction of a consumer;
19 and

20 “(B) does not include—

21 “(i) a service provider acting at the
22 express instruction of a financial institu-
23 tion, that accesses, aggregates, collects, or
24 shares nonpublic personal information
25 about a consumer in accordance with para-

1 graphs (1), (2), (3)(A), (3)(B), (3)(C),
2 (3)(D), or (6) of section 502(2); or

3 “(ii) an attorney or accountant acting
4 on behalf of a consumer in accordance with
5 section 502(e)(3)(E).”.

6 **SEC. 10. OBLIGATIONS WITH RESPECT TO ACCESS AND DE-**
7 **LETION OF NONPUBLIC PERSONAL INFORMA-**
8 **TION.**

9 (a) IN GENERAL.—Title V of the Gramm-Leach-Bli-
10 ley Act (15 U.S.C. 6801 et seq.) is amended by inserting
11 after section 502 the following:

12 **“SEC. 502A. OBLIGATIONS WITH RESPECT TO ACCESS AND**
13 **DELETION OF NONPUBLIC PERSONAL INFOR-**
14 **MATION.**

15 “(a) ACCESS TO INFORMATION.—

16 “(1) IN GENERAL.—Upon an authorized re-
17 quest from a consumer, a financial institution shall
18 disclose—

19 “(A) any nonpublic personal information of
20 the consumer held by the financial institution;

21 “(B) the list of nonaffiliated third parties
22 with whom the financial institution shares non-
23 public personal information of the consumer;
24 and

1 “(C) the list of nonaffiliated third parties
2 from whom the financial institution has re-
3 ceived nonpublic personal information of the
4 consumer.

5 “(2) FORMAT.—Disclosures described under
6 paragraph (1) shall be in a structured, commonly
7 used, and machine-readable format.

8 “(3) EXCEPTION.—For purposes of subpara-
9 graphs (B) and (C) of paragraph (1), a financial in-
10 stitution is not required to disclose a nonaffiliated
11 third party with whom the financial institution
12 shares or receives nonpublic personal information of
13 the consumer pursuant to an exception described
14 under any of paragraphs (3) through (8) of section
15 502(e).

16 “(b) DELETION OF INFORMATION.—

17 “(1) AT THE DIRECTION OF A CONSUMER.—
18 Upon an authorized request from a consumer, a fi-
19 nancial institution shall delete any nonpublic per-
20 sonal information of the consumer held by the finan-
21 cial institution.

22 “(2) CERTAIN INACTIVE ACCOUNTS.—If a con-
23 sumer has not used a product or service provided by
24 a financial institution for **[1 year]**, the financial in-
25 stitution shall delete any nonpublic personal infor-

1 mation of the consumer held by the financial institu-
2 tion, unless the financial institution—

3 “(A) notifies the consumer that the con-
4 sumer has the right to request the deletion of
5 any nonpublic personal information of the con-
6 sumer held by the financial institution, and pro-
7 vides the consumer with clear instructions on
8 how to make such request; and

9 “(B) for each additional **[1 year]** period
10 with respect to which the consumer continues to
11 not use a product or service of the financial in-
12 stitution, resends the notice described under
13 subparagraph (A).

14 “(3) EXCEPTION.—

15 “(A) IN GENERAL.—This subsection shall
16 not require a financial institution to delete non-
17 public personal information if—

18 “(i) the financial institution is other-
19 wise required by law to retain the non-
20 public personal information; or

21 “(ii) the nonpublic personal informa-
22 tion may be necessary to respond to a con-
23 sumer dispute under the Fair Credit Re-
24 porting Act.

1 “(B) LIMITATION ON RETAINED NON-
2 PUBLIC PERSONAL INFORMATION.—With re-
3 spect to nonpublic personal information that a
4 financial institution would be required to delete
5 under this subsection but for the application of
6 this paragraph, the financial institution may
7 only use such nonpublic personal information
8 for the applicable purpose described under sub-
9 paragraph (A).

10 “(c) TIMING.—A financial institution that receives an
11 authorized request from consumer under this section shall
12 respond within **[X]** business days.

13 “(d) RULEMAKING.—Not later than the end of the
14 1-year period beginning on the date of enactment of this
15 section, each agency or authority described in section
16 505(a) shall issue rules to carry out this section with re-
17 spect to the financial institutions subject to their jurisdic-
18 tion.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of the Gramm-Leach-Bliley Act is amended
21 by inserting after the item relating to section 502 the fol-
22 lowing:

“Sec. 502A. Obligations with respect to access and deletion of nonpublic per-
sonal information.”.

1 (c) CONFORMING AMENDMENT.—The Dodd-Frank
2 Wall Street Reform and Consumer Protection Act is
3 amended—

4 (1) by repealing section 1033 (12 U.S.C. 5533);
5 and

6 (2) in the table of contents in section 1(b), by
7 striking the item relating to section 1033.

8 **[SEC. 11. OBLIGATIONS WITH RESPECT TO THE INTER-**
9 **NATIONAL SHARING OF NONPUBLIC PER-**
10 **SONAL INFORMATION.**

11 **[(a) IN GENERAL.—**Title V of the Gramm-Leach-
12 Bliley Act (15 U.S.C. 6801 et seq.), as amended by section
13 10, is further amended by inserting after section 502A
14 the following:**]**

15 **[“SEC. 502B. OBLIGATIONS WITH RESPECT TO THE INTER-**
16 **NATIONAL SHARING OF NONPUBLIC PER-**
17 **SONAL INFORMATION.**

18 **[(a) IN GENERAL.—**A financial institution may not
19 share the nonpublic personal information of a consumer
20 with a foreign government.**]**

21 **[“(b) LAW ENFORCEMENT EXCEPTION.—**Subsection
22 (a) shall not apply to the sharing of the nonpublic personal
23 information of a consumer with a foreign government if
24 such sharing is done for legitimate law enforcement pur-
25 poses.”**]**

1 **[(b) CLERICAL AMENDMENT.—**The table of contents
2 in section 1(b) of the Gramm-Leach-Bliley Act, as amend-
3 ed by section 10, is further amended by inserting after
4 the item relating to section 502A the following:**]**

“Sec. 502B. Obligations with respect to the international sharing of nonpublic
personal information”.

5 **SEC. 12. SENSE OF CONGRESS.**

6 It is the sense of the Congress that the Federal agen-
7 cies implementing the Gramm-Leach-Bliley Act should im-
8 plement such Act, to the extent possible, in a technology-
9 agnostic manner so as to ensure it can adapt to different
10 business models and technologies.