Gramm-Leach-Bliley Act (Privacy of Consumer Financial Information)

- The privacy notice must describe a financial institution's policies and practices with respect to collecting and disclosing nonpublic personal information about a consumer to both affiliated and nonaffiliated third parties. Also, the notice must provide a consumer a reasonable opportunity to direct the institution generally not to share nonpublic personal information about the consumer (that is, to "opt out") with nonaffiliated third parties other than as permitted by exceptions under the regulation (for example, sharing for everyday business purposes, such as processing transactions and maintaining customers' accounts, and in response to properly executed governmental requests). The privacy notice must also provide, where applicable under the Fair Credit Reporting Act ("FCRA"), a notice and an opportunity for a consumer to opt out of certain information sharing among affiliates.
- Contained in GLBA
  - Definitions: financial institution, nonpublic personal information, nonaffiliated third party, consumer, financial service, customer
  - What is meant by opt out and notice requirements/content
  - Financial institution duties
  - Examination objectives and procedures

GLBA:https://www.fdic.gov/resources/supervision-and-examinations/consumer-compliance-examination-manual/documents/8/viii-1-1.pdf

VT Privacy Regulations: B-2018-01

VT Privacy Regulations: B-2018-01

- ARTICLE V. RULES FOR HEALTH INFORMATION Section 17. When Authorization Required for Disclosure of Nonpublic Personal Health Information Section 18. Authorizations Section 19. Authorization Request Delivery Section 20. Relationship to Federal Rules Section 21. Relationship to State Laws
- ARTICLE VI. ADDITIONAL PROVISIONS Section 22. Protection and Application of Fair Credit Reporting Acts Section 23. Nondiscrimination Section 24. Violations Section 25. Severability Section 26. Effective Date
- Regulation revised in June 2018
- https://dfr.vermont.gov/sites/finreg/files/regbul/dfr-regulation-b-2018-01.pdf

Other Privacy Regulations Banks Must Follow

o   Fair Credit Reporting Act (FCRA) (e.g., affiliate marketing and affiliate share opt-outs)

o   Bank Secrecy Act

o   Right to Financial Privacy Act (RFPA) (e.g., instills a Fourth Amendment right to privacy in consumer financial records)

o   Bank Protection Act

o   Computer Security Incident Rule

o   Consumer Financial Protection Act (CFPA) (e.g., unfair, abusive, and deceptive acts and practices or UDAAP)

o   Federal Trade Commission Act: Safeguard rule issued in 2003 and update in 2021

o   Laws regulating telemarketing and email marketing privacy (TCPA: telephone communications and CAN-SPAM: commercial email, commercial messages)

- VT Record Retention Regulation B-2014-01
    - https://dfr.vermont.gov/sites/finreg/files/regbul/dfr-regulation-banking-b-2014-01-record-retention.pdf
- Bank Secrecy Act Record Retention
    - https://bsaaml.ffiec.gov/manual/Appendices/17

Banking Regulators

- Consumer Financial Protection Bureau
  - any financial institution or other covered person or service provider subject to the jurisdiction of the CFPB
- Office of the Comptroller of the Currency
  - national banks, federal branches or agencies of foreign banks, and federal savings associations
- Federal Deposit Insurance Corporation
  - state nonmember insured banks, foreign banks with insured branches, and state savings associations
- Federal Reserve Bank
  - state member banks
  - branches/agencies of foreign banks with respect to any provisions of the Federal Reserve Act which is made applicable under the International Banking Act
  - foreign banks without insured branches
  - commercial lending companies
  - bank holding companies and any subsidiaries (other than a depository institution) of bank holding companies
  - savings and loan holding companies and any subsidiaries (other than a depository institution) of savings and loan holding companies

Banking Regulators

- o State bank supervisor (Dept. Financial Regulation)
    - state banks, state savings associations, licensed entities
- o Federal Trade Commission
    - any other financial institutions or other persons not subject to the jurisdiction of the other banking and financial agencies or authorities
        - mortgage lenders
        - check cashers
        - payday lenders
        - wire transferors
        - travel agencies operated in connection with financial services
        - collection agencies
        - credit counselors and other financial advisors
        - tax preparation firms
        - non-federally insured credit unions
        - investment advisors not required to register with the SEC
        - entities acting as finders
- o Securities and Exchange Commission
    - broker-dealers
    - investment companies
    - investment advisers

Banking Regulators

o Commodities Futures Trading Commission
- futures commission merchants
- commodity trading advisors
- commodity pool operators
- introducing brokers