



NEW EXCEPTION TO GRAMM-LEACH-BLILEY ACT ANNUAL PRIVACY NOTICE REQUIREMENT FOR COMPANIES WITH LIMITED SHARING

The recently enacted Fixing America's Surface Transportation (FAST) Act contains a new exception to the Gramm-Leach-Bliley Act (GLBA) annual privacy notice requirement. Section 75001 of the FAST Act amends Section 503 of the GLBA (15 U.S.C. 6803) to provide an exception to the annual privacy notice delivery requirements for financial institutions that (1) only share nonpublic personal information as the GLBA permits and (2) have not changed their policies and procedures regarding the disclosure of nonpublic personal information since the most recent disclosure sent to consumers.

The exact language of the GLBA's new provision reads as follows.

"Exception to Annual Notice Requirement.—A financial institution that—

- (1) provides nonpublic personal information only in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b), and
- (2) has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section,

shall not be required to provide an annual disclosure under this section until such time as the financial institution fails to comply with any criteria described in paragraph (1) or (2)."

15 U.S.C. § 6803(f). Section 502(b)(2) of the GLBA allows a financial institution to provide nonpublic personal information to a non-affiliated third party to perform services for or functions on behalf of the financial institution, if the financial institution fully discloses the providing of such information and enters into a contractual agreement with the third party that requires the third party to maintain the confidentiality of such information. 15 U.S.C. § 6802(b)(2). Section 502(b)(e) provides exceptions to the GLBA's general

prohibition on the disclosure of nonpublic personal information.

The FAST Act was signed into law on December 4, 2015. The GLBA amendment is effective immediately. This new exception significantly reduces the privacy notice burden on companies that do not share information except under limited circumstances and do not change their privacy sharing practices. □

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