

KEEPING YOUR INFORMATION PRIVATE LIFE INSURERS' ENDURING COMMITMENT

Consumers have the right to expect their personal information will be kept confidential and secure by life insurers. It is a right they have enjoyed for hundreds of years in America, as life insurers have historically respected and maintained the privacy and security of the personal information they receive. It is part of what consumers deserve and receive as they purchase financial products from life insurers that reduce risk and increase their financial security.

Life insurers' enduring commitment to safeguarding customer information helps explain their strong support for a multitude of federal and state privacy laws that provide a broad and rigorous regulatory framework. This comprehensive regulatory structure enhances life insurers' commitment to protecting the confidentiality and security of customers' personal information.

Existing laws reflect federal and state lawmakers' recognition that life insurers must use, and responsibly share, personal information to perform fundamental and legitimate insurance business functions in the interest of serving their customers in the most efficient, cost effective manner possible.

Put simply, federal and state privacy laws build on life insurers' enduring commitment to protect the confidentiality and security of consumers' personal information. For example:

- life insurers' customers are informed when information is collected about them for underwriting;
- life insurers are subject to laws that limit their disclosure of consumers' personal information;
- life insurers' customers are notified if the security of their personal information is breached.

Subjecting life insurers to laws that may be more appropriately considered for other industries will likely result in duplication or conflicts with existing requirements on insurers. This may jeopardize their ability to most effectively and efficiently serve prospective and existing customers, who may not be able to obtain coverage or have their claims under existing policies paid as quickly as they would otherwise.

The complexity of the current regulatory structure and growing privacy and security challenges necessitate careful and thoughtful consideration of whether any new privacy or security laws should be applicable to already privacy-focused life insurers.

Key Federal and State Privacy Laws Applicable to Life Insurers

Numerous state and federal laws set privacy standards for insurers' practices on consumer data. These include the Gramm-Leach-Bliley Act (GLBA), as well as the federal Fair Credit Reporting Act (FCRA). Many states have adopted all or part of the NAIC's Privacy of Consumer Financial and Health Information Model Regulation.

- The GLBA requires financial institutions, including insurers, to notify customers of their privacy practices. Those notices must disclose the types of non-public personal information (NPI) collected by the financial institution, the types of information that may be disclosed, the types of persons to whom the information is or may be disclosed, the financial institution's policies and practices with respect to disclosing NPI of those who have ceased to be customers of the financial institution, the policies that the institution maintains to protect the confidentiality and security of NPI, and any disclosures required by the Fair Credit Reporting Act (FCRA).
- Many states have adopted all or part of the NAIC's Privacy of Consumer Financial and Health Information Model Regulation, which implements GLBA's standards for the sharing of nonpublic personal financial information with nonaffiliated third parties. The Model regulation also sets standards for the treatment of nonpublic personal health information. It limits disclosure of nonpublic personal health information to instances where an insurer has valid authorization or is carrying out an ordinary business purpose.
- The NAIC Model Insurance Information and Privacy Protection Act contains robust, enforceable consumer protections that govern insurers' collection, use and disclosure of information gathered for insurance purposes, including underwriting. Consumers must be given notice of insurance information practices, must be provided with a specified authorization form to collect personal information from third-parties, have access and correction rights to personal information held or used by an insurer, and must be provided with the reason(s) for any adverse underwriting decisions. The Model also places restrictions on insurers' use and disclosure of certain personal information
- The Fair Credit Reporting Act (FCRA), places limitations on the collection and dissemination of personal information for commercial uses, including insurance underwriting. The FCRA governs "consumer reporting agencies," which regularly produce "consumer reports" that contain consumer credit or other information used for employment, credit and insurance decisions. Those using consumer reports, such as a life insurer engaged in underwriting, must provide prescribed adverse action notices to consumers that articulate the right to access and correction of information obtained from a consumer report.