June 2006

PERSONAL INFORMATION

Key Federal Privacy Laws Do Not Require Information Resellers to Safeguard All Sensitive Data

GAO Accountability · Integrity · Reliability

Highlights

Highlights of GAO-06-674, a report to the Committee on Banking, Housing and Urban Affairs, U.S. Senate

Why GAO Did This Study

The growth of information resellers—companies that collect and resell publicly available and private information on individuals—has raised privacy and security concerns about this industry. These companies collectively maintain large amounts of detailed personal information on nearly all American consumers, and some have experienced security breaches in recent years.

GAO was asked to examine (1) financial institutions' use of resellers; (2) federal privacy and security laws applicable to resellers; (3) federal regulators' oversight of resellers; and (4) regulators' oversight of financial institution compliance with privacy and data security laws. To address these objectives, GAO analyzed documents and interviewed representatives from 10 information resellers, 14 financial institutions, 11 regulators, industry and consumer groups, and others.

What GAO Recommends

Congress should consider (1) requiring information resellers to safeguard all sensitive personal information they hold, and (2) giving FTC civil penalty authority for enforcement of GLBA's privacy and safeguarding provisions. GAO also recommends that state insurance regulators ensure compliance with GLBA.

www.gao.gov/cgi-bin/getrpt?GAO-06-674.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Yvonne D. Jones at (202) 512-8678 or jonesy@gao.gov.

What GAO Found

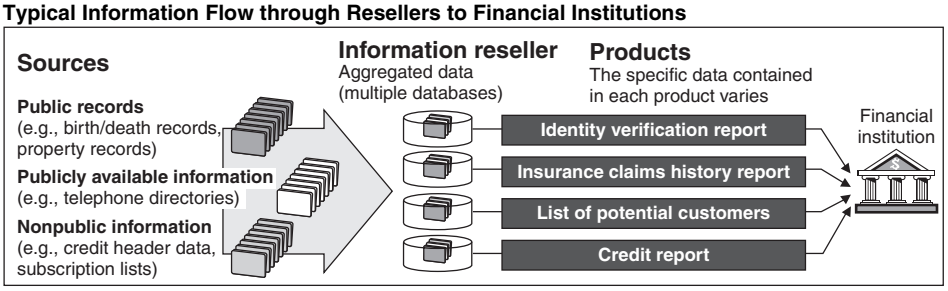
Financial institutions such as banks, credit card companies, securities firms, and insurance companies use personal data obtained from information resellers to help make eligibility determinations, comply with legal requirements, prevent fraud, and market their products. For example, lenders rely on credit reports sold by the three nationwide credit bureaus to help decide whether to offer credit and on what terms. Some companies also use reseller products to comply with PATRIOT Act rules, to investigate fraud, and to identify customers with specific characteristics for marketing purposes.

GAO found that the applicability of the primary federal privacy and data security laws—the Fair Credit Reporting Act (FCRA) and Gramm-Leach-Bliley Act (GLBA)—to information resellers is limited. FCRA applies to information collected or used to help determine eligibility for such things as credit or insurance, while GLBA only applies to information obtained by or from a GLBA-defined financial institution. Although these laws include data security provisions, consumers could benefit from the expansion of such requirements to all sensitive personal information held by resellers.

The Federal Trade Commission (FTC) is the primary federal agency responsible for enforcing information resellers' compliance with FCRA's and GLBA's privacy and security provisions. Since 1972, the agency has initiated formal enforcement actions against more than 20 resellers, including the three nationwide credit bureaus, for violating FCRA. However, FTC does not have civil penalty authority under the privacy and safeguarding provisions of GLBA, which may reduce its ability to enforce that law most effectively against certain violations, such as breaches of mass consumer data.

In overseeing compliance with privacy and data security laws, federal banking and securities regulators have issued guidance, conducted examinations, and taken formal and informal enforcement actions. A recent national survey sponsored by the National Association of Insurance Commissioners (NAIC) identified some noncompliance with GLBA by insurance companies, but state regulators have not laid out clear plans with NAIC for following up to ensure these issues are adequately addressed.

Typical Information Flow through Resellers to Financial Institutions



Sources: GAO (analysis); Art Explosion (images).