



American Insurance Association

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ATTN: Study on GLB Act Information Sharing

Re: Comments on the Gramm-Leach-Bliley Act Information Sharing Study

Ladies and Gentlemen:

The American Insurance Association ("AIA") is pleased to provide its views in response to the Department of the Treasury's request for public comment on its study of information sharing practices among financial institutions and their affiliates, as required by section 508 of the Gramm-Leach-Bliley Act (the "GLB Act"). 67 Fed. Reg. 7213 (February 15, 2002). The Treasury Department's Federal Register notice requested public comment on a number of areas specified in the GLB Act.

AIA is a trade association of major property and casualty insurance companies, representing more than 410 insurers that provide all lines of property and casualty insurance throughout the United States and write more than \$77 billion in annual premiums. AIA members have a strong interest in the Treasury's study on information sharing practices of financial institutions because of the potential effect the results of the study may have on insurers.

Summary

Generally, insurers use nonpublic personal information to deliver financial products and services to policyholders, insureds, beneficiaries and claimants, as well as to market products and services to prospective customers. In this regard, AIA believes that Congress achieved the appropriate balance when it enacted Title V of the GLB Act. The Act and the regulations adopted by the agencies authorized to implement the Act recognize that while consumers' nonpublic personal information should be protected, there are legitimate circumstances under which such information may be disclosed to third parties. AIA believes that Title V of the GLB Act and the regulations adopted thereunder are well-suited to address the needs of consumers and financial institutions.

It should be noted that the responses presented below are representative of insurers in general. However, practices among individual companies vary considerably. Accordingly, the responses should not be viewed as the practices of every company in the insurance industry.

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1. Purposes for the sharing of confidential customer information with affiliates or with nonaffiliated third parties:

a. What types of information do financial institutions share with affiliates?

The types of information financial institutions share with affiliates is heavily dependent upon the uses to which such information will be put. For example, insurers will often utilize affiliates to underwrite applications submitted by prospective policyholders. In such instances, an insurer will provide its affiliate with the information contained in the consumer's application, including personal information concerning the applicant and information relating to the nature of the risk that is the subject of the insurance application. Application information may also be provided to affiliates to assist insurers in processing premiums and in the reinsurance process. Affiliates may also participate in the process of administering claims filed by insureds and others. In this case, information relating to the claimant and his or her claim will be shared by the insurer with affiliates that will manage the claims process. The disclosure of nonpublic personal information in these instances assists insurers in providing products and services to policyholders.

Insurers may also share information regarding policyholders with affiliates that are in a position to provide products and services that insurers believe may be of interest to policyholders. Under these circumstances, information that an insurer may disclose is typically limited to information such as the customer's name, address and telephone number, and perhaps some limited information about the person's existing relationship with the insurer. Some insurers may also share information with affiliates relating to the type of insurance coverage provided. Information sharing in these instances assists affiliates in assessing the needs of policyholders and in determining the types of products and services that may be of interest to them.

b. What types of information do financial institutions share with nonaffiliated third parties?

Many insurers utilize the services of nonaffiliated third parties to provide operational functions on their behalf. These services may include underwriting, premium processing, claims processing reinsurance and account administration. In order to perform these functions, nonaffiliated third parties may receive information contained in the insurance application, including personal information concerning the applicant and information relating to the nature of the risk that is the subject of the insurance application.

Insurers may also provide nonaffiliated third parties with the names, addresses and telephone numbers of policyholders to enable third parties to offer products and services that may be of interest to policyholders. Such information sharing may occur pursuant to joint marketing agreements or otherwise and assists third parties in assessing the needs of policyholders and determining the types of products and services that may be of interest to them.

c. Do financial institutions share different types of information with affiliates than with nonaffiliated third parties? If so, please explain the differences in the types of information shared with affiliates and with nonaffiliated third parties.

Generally, insurers will provide the same types of information to affiliates and nonaffiliated third parties in connection with delivering products and services requested by policyholders. For example, an insurer will typically provide the same type of information to affiliates and nonaffiliates that are performing underwriting functions, premium processing, claims processing or administering insurance benefits. In such instances, there is no logical reason to distinguish between affiliates and nonaffiliates.

Similarly, insurers will provide the same type of information to affiliates and nonaffiliated third parties in connection with assessing the types of products and services that may be of value to insureds. It should be noted, however, that insurers typically will provide less information to affiliates and nonaffiliated third parties in connection with the marketing of the products and services of such entities. This is because decisions can be made about the needs of policyholders based upon a limited amount of information. Accordingly, there is less need to provide additional nonpublic personal information to affiliates and nonaffiliated third parties.

d. For what purposes do financial institutions share information with affiliates?

Insurers share information with affiliates in order to enable affiliates to assist insurers in providing insurance services to insureds. In addition, insurers may share information with affiliates to enable affiliates to offer additional products and services that may be of interest to insureds.

e. For what purposes do financial institutions share information with nonaffiliated third parties?

Insurers share information with nonaffiliated third parties for the same purposes that information is shared with affiliates -- in order to enable them to assist insurers in providing insurance services to insureds. In addition, insurers may share information with nonaffiliated third parties to enable them to offer additional products and services that may be of interest to insureds.

f. What, if any, limits do financial institutions voluntarily place on the sharing of information with their affiliates and nonaffiliated third parties? Please explain.

Because of the nature of the information insurers may possess, they generally establish significant limitations on the circumstances under which they share information with affiliates and nonaffiliates. Insurers generally will limit the types of information they provide and make such information available to such parties only on a need-to-know

basis. That is, information typically will be shared only to enable the recipient to perform properly the business functions it has agreed to undertake.

- g. What, if any, operational limitations prevent or inhibit financial institutions from sharing information with affiliates and nonaffiliated third parties? Please explain.**

Insurers recognize that the type of information they collect and maintain is highly confidential. Accordingly, in view of the sensitive nature of the information, insurers typically adopt policies and procedures that limit the availability and accessibility of such information to affiliates and nonaffiliated third parties. Such constraints are typically in the form of operational barriers that are designed to prevent the disclosure of information to persons and entities that are not authorized to receive such information.

- h. For what other purposes would financial institutions like to share information but currently do not? What benefits would financial institutions derive from sharing information for those purposes? What currently prevents or inhibits such sharing of information?**

Insurers share information to enable them to provide products and services to policyholders, insureds, claimants and beneficiaries. The operational provisions contained in section 502 of the GLB Act appear to provide insurers with reasonable flexibility. However, there are operational circumstances uniquely applicable to insurers that are not expressly addressed in the GLB Act. For example, insurers believe that exceptions for disclosures in connection with operational considerations, such as loss control, provider credentialing verification, utilization review and risk management, should be explicitly authorized. These, and other similar operational exceptions, are provided for in the model GLB Act regulation of the National Association of Insurance Commissioners.

2. The extent and adequacy of security protections for such information:

- a. Describe the kinds of safeguards that financial institutions have in place to protect the security of information. Please consider administrative, technical, and physical protections, as well as the protections that financial institutions impose on their third-party service providers.**

Insurers have established extensive security procedures that safeguard nonpublic personal information of consumers. Such safeguards include identification of possible threats that could result in unauthorized disclosures, misuse, destruction or other abuses of information maintained by insurers. Insurers establish controls on the ability of employees and others to access nonpublic personal information of their customers, and limit such access to persons who have a need for such information. These limits include physical constraints in the form of limitations on access to buildings, computer facilities and records storage locations. Insurers typically conduct extensive training programs to ensure that employees are aware of the importance of preserving the confidentiality of

nonpublic personal information in the companies' possession. Companies also engage in monitoring and testing of their security systems and controls to ensure that they remain effective.

Insurers also ensure that third party service providers are accountable to protect the confidentiality of information that they may obtain in connection with their activities on behalf of insurers. For example, such parties establish safeguards on the use of customer information and limit access to such information to those who have a need for it.

b. To what extent are the safeguards described above required under existing law, such as the GLB ACT (see, e.g., 12 CFR 30, Appendix B)?

Many of the safeguards insurers establish to protect nonpublic personal information of their insureds are similar to safeguards adopted by other federally-regulated financial institutions and arising out of section 501 of the GLB Act in 2001. See 66 Fed. Reg. 8616 (February 1, 2001).

c. Do existing statutory and regulatory requirements protect information adequately? Please explain why or why not.

AIA believes that statutory and regulatory requirements contained in the GLB Act and implementing policies adequately protect nonpublic personal information maintained by insurers. In this regard, the NAIC recently adopted a model data security regulation that is applicable to insurers. Safeguards outlined in this model and those that insurers have established represent protections that are reasonably designed to protect nonpublic personal information from unauthorized disclosure. AIA believes that there are virtually no reported instances in which such procedures have been breached in the insurance industry, which provides further evidence of the success of such measures.

d. What, if any, new or revised statutory or regulatory protections would be useful? Please explain.

AIA believes that no additional statutory or regulatory measures are required nor would any be useful. We believe that the protections established by law and agency policies, as implemented by insurers, provide meaningful protections for consumers.

3. The potential risks for customer privacy of such sharing of information:

a. What, if any, potential privacy risks does a customer face when a financial institution shares the customer's information with an affiliate?

Insurers are very conscious of the importance their customers place on protecting their privacy. Accordingly, insurers share sensitive nonpublic personal information with affiliates only under circumstances that ensure that the confidentiality of such information will be preserved. In view of the heightened controls insurers maintain due

to the nature of the information they collect and maintain, AIA believes that customers of insurers do not face potential privacy risks if an insurer shares customer information with an affiliate.

b. What, if any, potential privacy risks does a customer face when a financial institution shares the customer's information with a nonaffiliated third party?

Again, insurers recognize that information they collect and maintain regarding customers is highly sensitive. As a result, such information typically is disclosed to third parties only in connection with services they provide to the insurer. Insurers ensure that nonaffiliated third parties maintain the confidentiality of such information in order to preserve customer confidence. In view of the safeguards insurers implement with nonaffiliated third party service providers to maintain the confidentiality of nonpublic personal information, AIA believes that customers do not face any significant potential privacy risks when insurers share customer information with nonaffiliated third parties.

c. What, if any, potential risk to privacy does a customer face when an affiliate shares information obtained from another affiliate with a nonaffiliated third party?

AIA does not believe that customers face significant potential privacy risks when affiliates share customer information obtained from affiliated insurers with nonaffiliated third parties. Insurers are quite aware of the importance of preserving customer confidence, and thus ensures that their nonpublic personal information is not improperly disclosed. Affiliates of insurers are similarly aware that improper disclosure of information they obtain from affiliated insurers has the potential for undermining customer confidence. Accordingly, affiliates of insurers typically impose substantial limitations on information they may disclose to nonaffiliated third parties. These limitations typically mirror the limitations insurers establish on the subsequent use and disclosure of their customers' nonpublic personal information.

4. The potential benefits for financial institutions and affiliates of such sharing of information (specific examples, means of assessment, or evidence of benefits would be useful):

a. In what ways do financial institutions benefit from sharing information with affiliates?

Financial institutions benefit from sharing information with affiliates primarily in two ways. First, to the extent that information is shared to enable an affiliate to provide services to the insured, the insurer benefits because services are delivered to its customers in a highly efficient and economic manner. Second, information sharing with affiliates to market affiliates' products and services also benefits the insurer because it enables the insurer to provide a wider range of financial products or services to customers than might

otherwise be the case. This may result in the more efficient delivery of products and services to customers at a lower cost.

b. In what ways do financial institutions benefit from sharing information with nonaffiliated third parties?

Financial institutions benefit from sharing information with nonaffiliated third parties in several ways. Information may be shared to enable nonaffiliated third parties to provide services to customers of the insurer. This benefits the insurer by enabling it to provide administrative services to customers in a cost-effective manner. Information sharing with a nonaffiliated third party in connection with marketing products and services of the nonaffiliated third party also benefits an insurer because it enables the insurer to provide a broader range of financial products or services to customers than otherwise might be the case. As a result, the customer receives better and more efficient products and services.

c. In what ways do affiliates benefit when financial institutions share information with them?

Affiliates benefit from information sharing because it enables them to provide additional products or services to customers of financial institutions. This has the effect of spreading fixed costs over additional customers, resulting in lower average costs. This is beneficial because it results in more efficient operations for the affiliate.

d. In what ways do affiliates benefit from sharing information that they obtain from other affiliates with nonaffiliated third parties?

Affiliates benefit from sharing information they obtain from affiliates with nonaffiliated third parties because such information sharing enables affiliates to provide additional products or services that might not otherwise be offered to customers. This has the effect of increasing the availability of products and services to customers of insurers and their affiliates and may result in the delivery of products and services to customers at lower cost.

e. What effects would further limitations on such sharing of information have on financial institutions and affiliates?

The effect of further limitations on the sharing of information between financial institutions and their affiliates could have a serious adverse effect upon consumers. To the extent that such limitations prevent or restrict affiliates from providing operational services to customers of affiliated insurers, such action could increase the cost of delivery of products and services. This will have the effect of increasing the cost consumers pay for products and services. To the extent that limitations on information sharing restricts the ability of affiliates to offer products and services to insureds, this will reduce the ability of insureds to obtain products and services from a wider range of providers. This

could have the effect of increasing costs for financial institutions, their affiliates and ultimately consumers because of a loss of economic efficiency.

5. The potential benefits for customers of such sharing of information (specific examples, means of assessment, or evidence of benefits would be useful):

a. In what ways does a customer benefit from the sharing of such information by a financial institution with its affiliates?

Consumers benefit from information sharing by insurers with affiliates through the lower delivery costs insurers achieve by using affiliates to process consumers' requests for services and to deliver services to consumers. Information sharing also results in economies of scale and scope as it enables affiliates to deliver additional products and services to consumers. Consumers benefit from such economies in the form of lower premiums and better services.

b. In what ways does a customer benefit from the sharing of such information by a financial institution with nonaffiliated third parties?

Consumers benefit from information sharing by insurers with nonaffiliated third parties through lower delivery costs insurers achieve by using nonaffiliated third parties to process consumers' requests for services and to deliver services to consumers. Information sharing also results in economies of scale and scope as it enables nonaffiliated third parties to deliver additional products and services to consumers. Consumers benefit from such economies in the form of lower premiums and better services.

c. In what ways does a customer benefit when affiliates share information they obtained from other affiliates with nonaffiliated third parties?

Customers benefit when affiliates share information they obtained from other affiliates with nonaffiliated parties because such sharing provides customers with the availability of a broader range of products and services than might otherwise be the case. The availability of additional products and services through such information sharing often is more convenient for customers who might otherwise have to spend additional time and resources to obtain similar products and services from other providers.

d. What, if any, alternatives are there to achieve the same or similar benefits for customers without such sharing of such information?

AIA does not believe that there are any effective alternatives to achieve the same or similar benefits for customers without sharing such information. The alternatives that might be available would require insurers to provide such services directly, which would be inefficient and result in higher costs for customers.

e. What effects, positive or negative, would further limitations on the sharing of such information have on customers?

AIA believes that further limitations on the sharing of information would have a significant adverse effect on consumers as insurers would experience higher costs to deliver products and services to insureds. This would likely result in higher insurance costs for customers. Additionally, customers would experience a diminution in the level and quality of services that would otherwise be available to them. This would reduce the availability of products and services. A reduction in the number of providers of financial products and services would likely result in higher costs of such products and services for consumers.

6. The adequacy of existing laws to protect customer privacy:

a. Do existing privacy laws, such as GLB Act privacy regulations and the Fair Credit Reporting Act (FCRA), adequately protect the privacy of a customer's information? Please explain why or why not.

AIA believes that the GLB Act and the FCRA represent a good balance between customer privacy needs and the benefits that consumers enjoy from information sharing. By providing consumers with the ability to opt out from certain types of information sharing, consumers are able to determine the extent to which their nonpublic personal information (or, in the case of the FCRA, nonexperience and nontransaction information) will be made available to third parties. However, it is clear that consumers expect that information be provided to third parties that facilitate the delivery of services that consumers have requested. Congress also believed that the benefits derived from certain types of information sharing are appropriate. These include the sharing of experience and transaction information with affiliates and joint marketing arrangements between financial institutions. AIA supports the continued viability of the balance struck by Congress in the GLB Act and the FCRA, and sees no reason to alter the existing arrangements.

b. What, if any, new or revised statutory or regulatory protections would be useful to protect customer privacy? Please explain.

AIA believes that a proliferation of state laws that alter the balance established by Congress in the GLB Act and the FCRA has the potential for balkanizing privacy protections and confusing consumers. Such actions at the state level also alter the competitive balance among financial institutions. To avoid such an adverse result, Congress should adopt a federal pre-emption for all financial institutions covered by the GLB Act and the FCRA. This pre-emption should preserve the uniform consumer privacy protections now provided by these federal laws.

7. The adequacy of financial institution privacy policy and privacy rights disclosure under existing law:

a. Have financial institution privacy notices been adequate in light of existing requirements? Please explain why or why not.

AIA believes that financial institution privacy notices have generally been adequate in light of existing regulations. However, there have been media reports of customers who found the model provisions, which were set forth in the regulations of the federal agencies and which many financial institutions used, to be confusing. Accordingly, AIA suggests that the federal agencies may wish to consider options to make model disclosures more understandable to customers. Any additional sample notice provisions should supplement, and not supplant, existing sample clauses. AIA is a member of the NAIC's Privacy Notice Content Task Force, a group charged with reviewing the elements of GLB Act privacy notices to achieve a higher level of consumer understanding and readability. That Task Force is contemplating additional sample clauses, as well as the concept of a preamble that would explain GLB Act privacy standards in a simple manner, and which would accompany the GLB Act privacy notice. It is AIA's understanding that the other federal agencies are engaged in a similar notice review process.

b. What, if any, new or revised requirements would improve how financial institutions describe their privacy policies and practices and inform customers about their privacy rights? Please explain how any of these new or revised requirements would improve financial institutions' notices.

AIA does not believe it necessary nor appropriate for Congress nor the agencies to adopt new or revised requirements for financial institutions' disclosures of their privacy policies and practices. We believe that insurers should retain the ability to assess the needs of their customers in a flexible manner and respond with privacy policies, practices and disclosures that are appropriate under the circumstances.

8. The feasibility of different approaches, including opt-out and opt-in, to permit customers to direct that such information not be shared with affiliates and nonaffiliated third parties:

a. Is it feasible to require financial institutions to obtain customers' consent (opt in) before sharing information with affiliates in some or all circumstances? With nonaffiliated third parties? Please explain what effects, both positive and negative, such a requirement would have on financial institutions and on consumers.

AIA does not believe opt-in provides any additional protections for consumers. We are of the view that opt-in is inefficient, over inclusive and does not necessarily reflect the consumer's desires. If a customer wishes not to have information disclosed to others, the customer will choose to opt-out. Thus, every person who opt-outs chooses not

to have his or her nonpublic personal information shared by the financial institution for certain purposes. There is a perfect match between those who opt-out and those who do not want their information shared with others. However, if a customer fails to opt-in, it is unclear whether the decision is a conscious one, or a result of the consumer being too busy to return the form, losing the form, or unable to find a reply envelope. As a result, the opt-in approach places consumers who inadvertently failed to opt-in at a disadvantage. Such customers will not receive information about products and services not because of their conscious decision, but because they did not opt-in. This is inefficient because these customers will not receive information about products or services they may otherwise wish to receive. Under the opt-out approach, such customers would continue to receive information about products and services they may wish to acquire.

- b. Under what circumstances would it be appropriate to permit, but not require, financial institutions to obtain customers' consent (opt in) before sharing information with affiliates as an alternative to a required opt out in some or all circumstances? With nonaffiliated third parties? What effects, both positive and negative, would such a voluntary opt in have on customers and on financial institutions? (Please describe any experience of this approach that you may have had, including consumer acceptance.)**

AIA believes that financial institutions should always have the ability to adopt an opt-in policy should they so desire. In this regard, the NAIC's model privacy rule requires insurers to obtain authorization of an insured before releasing the insured's medical information for marketing purposes. (No authorization is required for the release of such information for operational purposes, however.) AIA, however, believes that as a practical matter, it will prove difficult to obtain customer authorization. This is not necessarily because customers wish not to provide their consent. Many customers are busy, or misplace the authorization form, or do not have an envelope in which to mail the form to the financial institution. Accordingly, AIA does not believe that many financial institutions would make use of an opt-in option because of the difficulty of determining customers' preferences.

- c. Is it feasible to require financial institutions to permit customers to opt out generally of having their information shared with affiliates? Please explain what effects, both positive and negative, such a requirement would have on consumers and on financial institutions.**

AIA does not believe it appropriate to require insurers to permit customers to opt-out of having information shared with affiliates. We believe that it would prove highly disruptive to existing arrangements to impose such a requirement. In this regard, the FCRA already permits financial institutions to share nontransaction and nonexperience information with affiliates after having provided the consumer with an opportunity to opt-out. AIA believes that the existing policy established by the FCRA provides an appropriate framework for information sharing among affiliates. Financial institutions

would incur substantial additional costs to change the existing statutory arrangements. AIA sees no benefit to consumers that would justify such increased expenses.

- d. What, if any, other methods would permit customers to direct that information not be shared with affiliates or nonaffiliated third parties? Please explain their benefits and drawbacks for customers and for financial institutions of each method identified.**

AIA does not believe there are other viable or reasonable methods for permitting customers to direct that information not be shared with affiliates and nonaffiliated third parties.

- 9. The feasibility of restricting sharing of such information for specific uses or of permitting customers to direct the uses for which such information may be shared:**

- a. Describe the circumstances under which or the extent to which customers may be able to restrict the sharing of information by financial institutions for specific uses or to direct the uses for which such information may be shared?**

AIA strongly opposes any effort to restrict information sharing for specific uses or permitting customers to direct the uses for which such information may be shared. Restrictions on the ability of insurers to use information will have a substantial adverse effect on insurers because the manner in which information is used evolves over time. For example, Congress recently enacted the USA Patriot Act, which permits financial institutions to share information about suspected terrorists and money launderers. This type of information sharing, of course, was not anticipated by the GLB Act. Accordingly, Congress had to amend the GLB Act to permit financial institutions to share such information without providing suspected terrorists and money launderers with an opportunity to opt-out from information sharing. We are concerned that similar types of uses, which may arise in the future, will not be permitted unless Congress acts to affirmatively permit such disclosures. AIA believes that such restrictions are inappropriate.

In addition, AIA believes that permitting customers to determine the uses for which information may be shared will result in tremendous operational burdens for insurers, because it will require a proliferation of options that will be virtually impossible for insurers to implement. Accordingly, we oppose such an option.

- b. What effects, both positive and negative, would such a policy have on financial institutions and on consumers?**

As indicated above, AIA believes that both options will result in substantial additional burdens for financial institutions.

c. Please describe any experience you may have had of this approach.

AIA has not had experience with this approach and is unaware of instances where such approaches have been successfully implemented.

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AIA appreciates this opportunity to comment on the Treasury Department's GLB Act questions. We reserve the right to supplement our responses should that prove necessary, and we look forward to participating as this process continues. Please contact the undersigned at 202-828-7175 if you have any additional questions.

Sincerely,



J. Stephen Zielezienski
Assistant General Counsel
American Insurance Association