

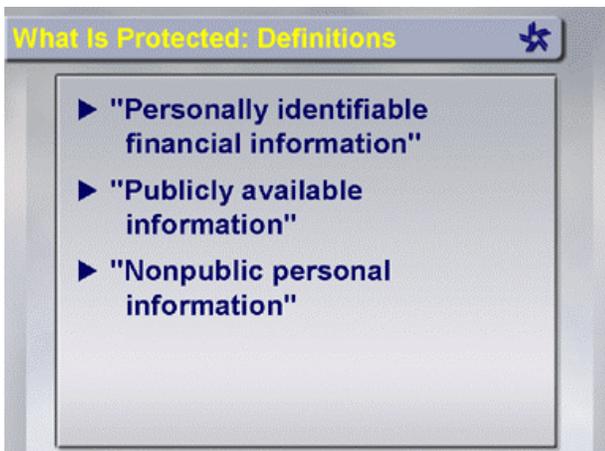
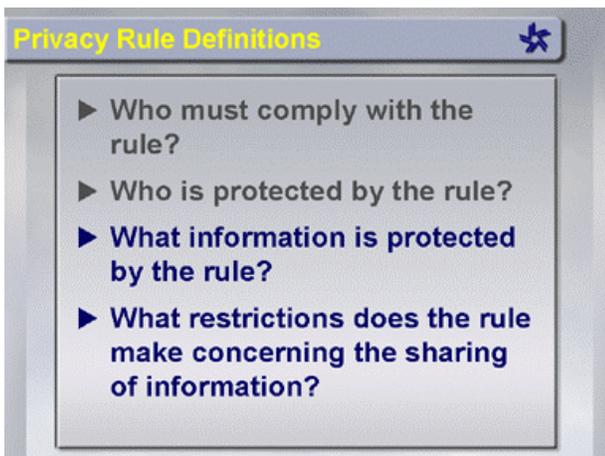
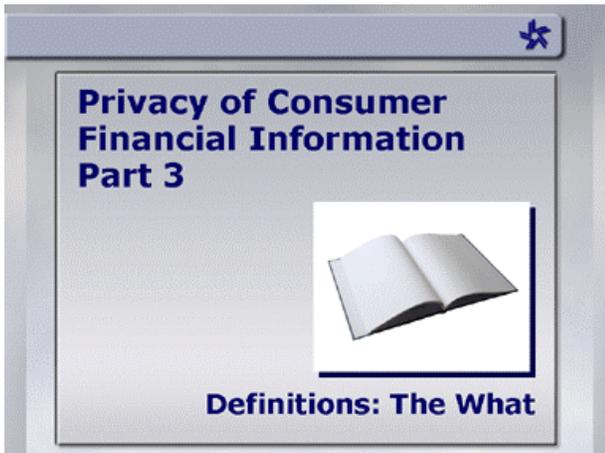
PRIVACY OF CONSUMERS' FINANCIAL INFORMATION PART 3 DEFINITIONS: THE WHAT

RESOURCES PROVIDED THROUGH

FFIEC InfoBase 

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Slides



Narration

In this presentation, we will discuss the "what" of the privacy regulations.

That is:

- What information is protected by the rule, and
- What restrictions does the rule make concerning the sharing of information?

Understanding what information is protected by the rule requires understanding the three key phrases:

- "Personally Identifiable Financial Information"
- "Publicly Available Information"
- "Nonpublic Personal Information"

What Is Protected: Definitions

Personally identifiable financial information...



Personally-identifiable financial information is any information that a financial institution obtains about a consumer in conjunction with providing a financial product or service.

This includes information provided during any financial transaction.

Examples

Personally identifiable financial information...

- ▶ Employment verifications
- ▶ Account balances
- ▶ Payment history
- ▶ Internet "cookie" information for consumers
- ▶ Existence of a customer relationship
- ▶ Assessed value of residence

Personally-identifiable financial information might include any of the items of information listed here—from the fact that a consumer relationship exists between an individual and a financial institution to the specific account balance of that individual.

Let's look at just one of these examples to see how all-encompassing the information covered by this particular definition can be.

Detailed Example

Personally identifiable financial information: Internet "cookie" information for consumers

- ▶ How many times users visit a site
- ▶ How many transactions users conduct on a site
- ▶ What types of transactions users conduct through their browsers

Think, for example, about how much information a financial institution can collect about its consumers through the use of internet cookies. A cookie is a message given to a Web browser on an individual computer by the server that an individual is viewing. The individual's browser stores the message in a text file called cookie.txt. The message is then sent back to the server each time the browser requests a page from the server.

The regulation considers all of this data to be personally-identifiable, financial information.

Example

**Personally Identifiable
Financial Information**



So, the rule definition of personally-identifiable financial information is any information that a financial institution obtains about a consumer—everything from the value of a consumer's home obtained in the process of approving a loan, to the fact that an individual even has a loan with a particular institution.

What Is Protected: Definitions

- ▶ "Personally identifiable financial information"
- ▶ "Publicly available information"
- ▶ "Nonpublic personal information"

Now, for the next definition.

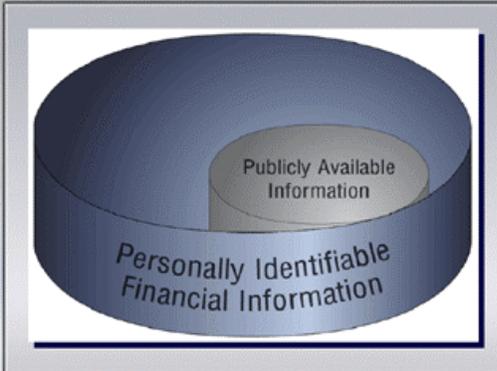
Publicly Available Information

- ▶ Official public records (Federal, state, or local government)
- ▶ Widely distributed media
- ▶ Disclosures required by Federal, state, or local government

Publicly-available information is information that a financial institution has a reasonable basis to believe is lawfully and publicly available from sources such as:

- Public records,
- Widely distributed media, and
- Government-required disclosures.

Information Types



Publicly-available information is really a subset of our first category, personally-identifiable financial information.

Reasonable Basis To Believe

Exists when...

- ▶ **Information type is generally available to the public**

AND

- ▶ **Institution takes steps to determine individual has not blocked disclosure**

As for the "reasonable basis to believe" part of publicly-available information, the rule considers this condition to exist "when the information is of the type generally available to the public" and "when the institution has taken steps to determine that an individual has not blocked the disclosure of such information," in instances where the individual has the ability to do so.

Examples

Publicly available information might include:

- ▶ **Address**
- ▶ **Phone number**
- ▶ **Original mortgage amount**
- ▶ **Price of home**
- ▶ **Assessed value of residence**

Let's look at some examples of reasonable basis to believe, as used in the privacy reg.

A bank could treat the information listed here as publicly available, if the individual involved had not taken steps to block its disclosure.

Such a step might include prohibiting one's phone number from being published in the phone book.

Local Real Estate Laws



Keep in mind that what is public information in one community is not necessarily such in another.

For example, local real-estate laws governing information such as the amount of a mortgage, purchase price, and assessed value vary from community to community.

While it may be common practice to publish purchase prices in many local newspapers, this activity may in fact be illegal in another part of the country. Therefore, what constitutes publicly-available information will vary, depending on where you're conducting your exam.

What Is Protected: Definitions



- ▶ "Personally identifiable financial information"
- ▶ "Publicly available information"
- ▶ "Nonpublic personal information"

Having defined personally-identifiable financial information and publicly-available information, we now have the means to identify nonpublic personal information, the category of information that is protected by the rule.

Nonpublic Personal Information

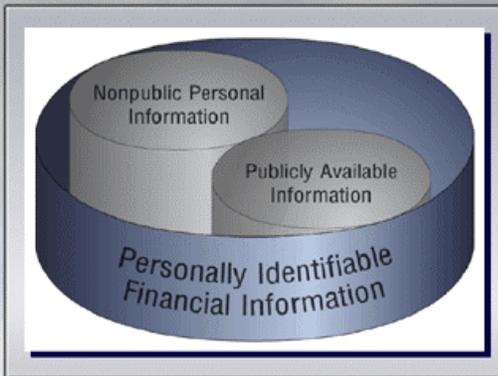


Personally identifiable financial information that is not publicly available



Nonpublic personal information is any personally-identifiable, financial information that is not publicly available.

Information Types



Then we can say that, according to definitions used in the privacy regulation, there are two subsets of personally-identifiable financial information; publicly-available information and nonpublic personal information.

Extended Definition

Nonpublic personal information

- ▶ **Personally identifiable financial information that is not publicly available**
- ▶ **Lists or groupings that were**
 - ▶ **Created using nonpublic personal information**
 - ▶ **Contain nonpublic personal information**

The regulation extends its definition to include any lists or groupings that were either created using nonpublic personal information or contain nonpublic personal information.

For example, a list of a bank's customers and the amount of their deposits would itself be nonpublic personal information.

Privacy Rule Definitions

- ▶ **Who must comply with the rule?**
- ▶ **Who is protected by the rule?**
- ▶ **What information is protected by the rule?**
- ▶ **What restrictions does the rule make concerning the sharing of information?**

In this and the last presentation, we've defined terms that tell us who must comply with the rule, who is protected by the rule, and what information is protected.

With these definitions in mind, we're finally ready to look at what restrictions the privacy rule establishes.

Information-Sharing Restrictions



Nonaffiliated Third Party

The regulation limits the instances in which a financial institution may share nonpublic personal information with a nonaffiliated third party.

Once again, you need some definitions to clearly understand the regulation.

Information-Sharing Restrictions



- ▶ "Affiliate"
- ▶ "Nonaffiliated third party"

In this case, we need privacy regulation definitions for affiliate and for a nonaffiliated third party.

Affiliates



- A financial institution's:
- ▶ Subsidiaries
 - ▶ Holding company
 - ▶ Other companies owned by its holding company

The regulation considers a financial institution's affiliates generally to include an institution's subsidiaries, its holding company, and any other companies owned or controlled by its holding company.

NCUA Affiliates

- ▶ Federally-chartered credit unions
- ▶ Federally-insured state credit unions

For purpose of NCUA privacy examinations, an affiliate is a company that a credit union or a group of credit unions controls.

- For Federally-chartered credit unions, a credit union service organization (CUSO) that is controlled by the credit union would constitute the only affiliate. NCUA will presume a credit union has a controlling influence over the management or policies of a CUSO, if the CUSO is 67 percent owned by that credit union or by that credit union and other credit unions.
- For Federally-insured state credit unions, an affiliate would be a CUSO, or another company, controlled by the credit union.

Nonaffiliated Third Party

- Any entity or person except:
- ▶ An affiliate
 - ▶ A person employed jointly by you and any company that is not your affiliate

By default, the rule considers a nonaffiliated third party to be any entity or person except an affiliate.

The regulation includes one other exception, which allows for situations in which a person is employed by more than one institution. That exception is that a financial institution may share nonpublic, personal information with a person who is employed jointly by the institution and by a company that is not affiliated with the institution. This exception applies only to the employee, not to the nonaffiliated company as a whole.

Nonaffiliated Parties

A nonaffiliated financial institution is always a nonaffiliated third party.

BUT...

A nonaffiliated third party is not necessarily a nonaffiliated financial institution.

You should also know that the rule sometimes treats nonaffiliated financial institutions differently from other types of nonaffiliated third parties. A different set of rules may apply to what information an entity may share with each of these two kinds of institutions.

Definitions Summary

- ▶ Who must comply with the rule?
- ▶ Who is protected by the rule?
- ▶ What information is protected by the rule?
- ▶ What restrictions does the rule make concerning the sharing of information?

In this and the previous presentation, we have covered many of the terms that are critical to clearly understanding the privacy rule.

Through that process, we have answered four basic questions concerning the overall requirements of the rule. We've discussed:

- Who must comply with this rule; (for our purposes—Federally-supervised banks, non-functionally regulated subsidiaries, and Federally-insured credit unions
- Who is protected by the rule, (customers and consumers);
- What information is protected by the rule? (nonpublic personal information); and
- What restrictions the rule makes concerning the sharing of information? (sharing information with nonaffiliated third parties)

These definitions will be key as you move through the remaining InfoBase presentations and other aspects of the privacy regulation.

Practice Questions

Before moving on, you can check your understanding of some of these terms by selecting "Review Questions" from the menu on the right of your screen.