TITLE V—PRIVACY
Subtitle A—Disclosure of
Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) Privacy Obligation Policy.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers’ nonpublic personal information.

(b) Financial Institutions Safeguards.—In furtherance of the policy in subsection (a), each agency or authority described in section 505(a) shall establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could re-
result in substantial harm or inconvenience to any cus-
tomer.

SEC. 502. OBLIGATIONS WITH RESPECT TO DISCLOSURES
OF PERSONAL INFORMATION.

(a) NOTICE REQUIREMENTS.—Except as otherwise
provided in this subtitle, a financial institution may not,
directly or through any affiliate, disclose to a nonaffiliated
third party any nonpublic personal information, unless
such financial institution provides or has provided to the
consumer a notice that complies with section 503.

(b) OPT OUT.—

(1) IN GENERAL.—A financial institution may
not disclose nonpublic personal information to a
nonaffiliated third party unless—

(A) such financial institution clearly and
conspicuously discloses to the consumer, in
writing or in electronic form or other form per-
mitted by the regulations prescribed under sec-
tion 504, that such information may be dis-
closed to such third party;

(B) the consumer is given the opportunity,
before the time that such information is initially
disclosed, to direct that such information not be
disclosed to such third party; and
(C) the consumer is given an explanation of how the consumer can exercise that non-disclosure option.

(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution’s own products or services, or financial products or services offered pursuant to joint agreements between two or more financial institutions that comply with the requirements imposed by the regulations prescribed under section 504, 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.

(c) LIMITS ON REUSE OF INFORMATION.—Except as otherwise provided in this subtitle, a nonaffiliated third party that receives from a financial institution nonpublic personal information under this section shall not, directly or through an affiliate of such receiving third party, disclose such information to any other person that is a non-affiliated third party of both the financial institution and
such receiving third party, unless such disclosure would be lawful if made directly to such other person by the financial institution.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosure of nonpublic personal information—

(1) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, or in connection with—

(A) servicing or processing a financial product or service requested or authorized by the consumer;

(B) maintaining or servicing the consumer’s account with the financial institution, or with another entity as part of a private label
credit card program or other extension of credit
on behalf of such entity; or

(C) a proposed or actual securitization,
secondary market sale (including sales of serv-
icing rights), or similar transaction related to a
transaction of the consumer;

(2) with the consent or at the direction of the
consumer;

(3)(A) to protect the confidentiality or security
of the financial institution’s records pertaining to
the consumer, the service or product, or the trans-
action therein; (B) to protect against or prevent ac-
tual or potential fraud, unauthorized transactions,
claims, or other liability; (C) for required institu-
tional risk control, or for resolving customer disputes
or inquiries; (D) to persons holding a legal or bene-
ICIAL interest relating to the consumer; or (E) to
persons acting in a fiduciary or representative capac-
ity on behalf of the consumer;

(4) to provide information to insurance rate ad-
visory organizations, guaranty funds or agencies, ap-
plicable rating agencies of the financial institution,
persons assessing the institution’s compliance with
industry standards, and the institution’s attorneys,
accountants, and auditors;
(5) to the extent specifically permitted or re-
required under other provisions of law and in accord-
ance with the Right to Financial Privacy Act of
1978, to law enforcement agencies (including a Fed-
eral functional regulator, the Secretary of the Treas-
ury with respect to subchapter II of chapter 53 of
title 31, United States Code, and chapter 2 of title
State insurance authority, or the Federal Trade
Commission), self-regulatory organizations, or for an
investigation on a matter related to public safety;

(6)(A) to a consumer reporting agency in ac-
cordance with the Fair Credit Reporting Act, or (B)
from a consumer report reported by a consumer re-
porting agency;

(7) in connection with a proposed or actual
sale, merger, transfer, or exchange of all or a por-
tion of a business or operating unit if the disclosure
of nonpublic personal information concerns solely
consumers of such business or unit; or

(8) to comply with Federal, State, or local laws,
rules, and other applicable legal requirements; to
comply with a properly authorized civil, criminal, or
regulatory investigation or subpoena or summons by
Federal, State, or local authorities; or to respond to
judicial process or government regulatory authorities
having jurisdiction over the financial institution for
examination, compliance, or other purposes as au-
thorized by law.

SEC. 503. DISCLOSURE OF INSTITUTION PRIVACY POLICY.

(a) Disclosure Required.—At the time of estab-
lishing a customer relationship with a consumer and not
less than annually during the continuation of such rela-
tionship, a financial institution shall provide a clear and
conspicuous disclosure to such consumer, in writing or in
electronic form or other form permitted by the regulations
prescribed under section 504, of such financial institu-
tion’s policies and practices with respect to—

(1) disclosing nonpublic personal information to
affiliates and nonaffiliated third parties, consistent
with section 502, including the categories of infor-
mation that may be disclosed;

(2) disclosing nonpublic personal information of
persons who have ceased to be customers of the fi-
nancial institution; and

(3) protecting the nonpublic personal informa-
tion of consumers.

Such disclosures shall be made in accordance with the reg-
ulations prescribed under section 504.
(b) INFORMATION TO BE INCLUDED.—The disclosure required by subsection (a) shall include—

(1) the policies and practices of the institution with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the institution, consistent with section 502 of this subtitle, and including—

(A) the categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided pursuant to section 502(e); and

(B) the policies and practices of the institution with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the financial institution;

(2) the categories of nonpublic personal information that are collected by the financial institution;

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501; and

(4) the disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.
SEC. 504. RULEMAKING.

(a) Regulatory Authority.—

(1) Rulemaking.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission shall each prescribe, after consultation as appropriate with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, such regulations as may be necessary to carry out the purposes of this subtitle with respect to the financial institutions subject to their jurisdiction under section 505.

(2) Coordination, Consistency, and Comparability.—Each of the agencies and authorities required under paragraph (1) to prescribe regulations shall consult and coordinate with the other such agencies and authorities for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency and authority are consistent and comparable with the regulations prescribed by the other such agencies and authorities.

(3) Procedures and Deadline.—Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States Code,
and shall be issued in final form not later than 6 months after the date of the enactment of this Act.

(b) AUTHORITY TO GRANT EXCEPTIONS.—The regulations prescribed under subsection (a) may include such additional exceptions to subsections (a) through (d) of section 502 as are deemed consistent with the purposes of this subtitle.

SEC. 505. ENFORCEMENT.

(a) IN GENERAL.—This subtitle and the regulations prescribed thereunder shall be enforced by the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

   (A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Office of the Comptroller of the Currency;

   (B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Fed-
eral branches, Federal agencies, and insured
State branches of foreign banks), commercial
lending companies owned or controlled by for-
foreign banks, organizations operating under sec-
tion 25 or 25A of the Federal Reserve Act, and
bank holding companies and their nonbank sub-
sidiaries or affiliates (except brokers, dealers,
persons providing insurance, investment compa-
pies, and investment advisers), by the Board of
Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit
Insurance Corporation (other than members of
the Federal Reserve System), insured State
branches of foreign banks, and any subsidiaries
of such entities (except brokers, dealers, per-
sons providing insurance, investment compa-
pies, and investment advisers), by the Board of
Directors of the Federal Deposit Insurance Cor-
poration; and

(D) savings associations the deposits of
which are insured by the Federal Deposit In-
surance Corporation, and any subsidiaries of
such savings associations (except brokers, deal-
ers, persons providing insurance, investment
companies, and investment advisers), by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Board of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity.

(3) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker or dealer.

(4) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(5) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(6) Under State insurance law, in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of this Act.

(7) Under the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not sub-
ject to the jurisdiction of any agency or authority under paragraphs (1) through (6) of this subsection.

(b) **ENFORCEMENT OF SECTION 501.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the agencies and authorities described in subsection (a) shall implement the standards prescribed under section 501(b) in the same manner, to the extent practicable, as standards prescribed pursuant to section 39(a) of the Federal Deposit Insurance Act are implemented pursuant to such section.

(2) **EXCEPTION.**—The agencies and authorities described in paragraphs (3), (4), (5), (6), and (7) of subsection (a) shall implement the standards prescribed under section 501(b) by rule with respect to the financial institutions and other persons subject to their respective jurisdictions under subsection (a).

(c) **ABSENCE OF STATE ACTION.**—If a State insurance authority fails to adopt regulations to carry out this subtitle, such State shall not be eligible to override, pursuant to section 45(g)(2)(B)(iii) of the Federal Deposit Insurance Act, the insurance customer protection regulations prescribed by a Federal banking agency under section 45(a) of such Act.

(d) **DEFINITIONS.**—The terms used in subsection (a)(1) that are not defined in this subtitle or otherwise
defined in section 3(s) of the Federal Deposit Insurance Act shall have the same meaning as given in section 1(b) of the International Banking Act of 1978.

SEC. 506. PROTECTION OF FAIR CREDIT REPORTING ACT.

(a) Amendment.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection (e) and inserting the following:

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"(e) Regulatory Authority.—

“(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b), and the Board of Governors of the Federal Reserve System shall have authority to prescribe regulations consistent with such joint regulations with respect to bank holding companies and affiliates (other than depository institutions and consumer reporting agencies) of such holding companies.

“(2) The Board of the National Credit Union Administration shall prescribe such regulations as
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necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).’’.

(b) CONFORMING AMENDMENT.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended by striking paragraph (4).

(c) RELATION TO OTHER PROVISIONS.—Except for the amendments made by subsections (a) and (b), nothing in this title shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of this title regarding whether information is transaction or experience information under section 603 of such Act.

SEC. 507. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle and the amendments made by this subtitle shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regula-
tion, order, or interpretation affords any person is greater than the protection provided under this subtitle and the amendments made by this subtitle, as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under section 505(a) of either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

SEC. 508. STUDY OF INFORMATION SHARING AMONG FINANCIAL AFFILIATES.

(a) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Federal functional regulators and the Federal Trade Commission, shall conduct a study of information sharing practices among financial institutions and their affiliates. Such study shall include—

(1) the purposes for the sharing of confidential customer information with affiliates or with non-affiliated third parties;

(2) the extent and adequacy of security protections for such information;

(3) the potential risks for customer privacy of such sharing of information;

(4) the potential benefits for financial institutions and affiliates of such sharing of information;
(5) the potential benefits for customers of such sharing of information;

(6) the adequacy of existing laws to protect customer privacy;

(7) the adequacy of financial institution privacy policy and privacy rights disclosure under existing law;

(8) the feasibility of different approaches, including opt-out and opt-in, to permit customers to direct that confidential information not be shared with affiliates and nonaffiliated third parties; and

(9) the feasibility of restricting sharing of information for specific uses or of permitting customers to direct the uses for which information may be shared.

(b) Consultation.—The Secretary shall consult with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, and also with financial services industry, consumer organizations and privacy groups, and other representatives of the general public, in formulating and conducting the study required by subsection (a).

(e) Report.—On or before January 1, 2002, the Secretary shall submit a report to the Congress containing the findings and conclusions of the study required under
subsection (a), together with such recommendations for legislative or administrative action as may be appropriate.

SEC. 509. DEFINITIONS.

As used in this subtitle:

(1) **Federal banking agency**.—The term “Federal banking agency” has the same meaning as given in section 3 of the Federal Deposit Insurance Act.

(2) **Federal functional regulator**.—The term “Federal functional regulator” means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board; and

(F) the Securities and Exchange Commission.

(3) **Financial institution**.—

(A) IN GENERAL.—The term “financial institution” means any institution the business of
which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956.

(B) PERSONS SUBJECT TO CFTC REGULATION.—Notwithstanding subparagraph (A), the term “financial institution” does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

(C) FARM CREDIT INSTITUTIONS.—Notwithstanding subparagraph (A), the term “financial institution” does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971.

(D) OTHER SECONDARY MARKET INSTITUTIONS.—Notwithstanding subparagraph (A), the term “financial institution” does not include institutions chartered by Congress specifically to engage in transactions described in section 502(e)(1)(C), as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(4) NONPUBLIC PERSONAL INFORMATION.—
(A) The term “nonpublic personal information” means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term—

(i) shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any nonpublic personal information other than publicly available information; but

(ii) shall not include any list, description, or other grouping of consumers (and publicly available information pertaining to
them) that is derived without using any nonpublic personal information.

(5) NONAFFILIATED THIRD PARTY.—The term “nonaffiliated third party” means any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution, but does not include a joint employee of such institution.

(6) AFFILIATE.—The term “affiliate” means any company that controls, is controlled by, or is under common control with another company.

(7) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The term “as necessary to effect, administer, or enforce the transaction” means—

(A) the disclosure is required, or is a usual, appropriate, or acceptable method, to carry out the transaction or the product or service business of which the transaction is a part, and record or service or maintain the consumer’s account in the ordinary course of providing the financial service or financial product, or to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part, and includes—
(i) providing the consumer or the consumer’s agent or broker with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) the disclosure is required, or is one of the lawful or appropriate methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the product or service;

(C) the disclosure is required, or is a usual, appropriate, or acceptable method, for insurance underwriting at the consumer’s request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer’s insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization
review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law; or

(D) the disclosure is required, or is a usual, appropriate or acceptable method, in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check, or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

(8) STATE INSURANCE AUTHORITY.—The term “State insurance authority” means, in the case of any person engaged in providing insurance, the State insurance authority of the State in which the person is domiciled.

(9) CONSUMER.—The term “consumer” means an individual who obtains, from a financial institution, financial products or services which are to be used primarily for personal, family, or household
purposes, and also means the legal representative of such an individual.

(10) **JOINT AGREEMENT.**—The term “joint agreement” means a formal written contract pursuant to which two or more financial institutions jointly offer, endorse, or sponsor a financial product or service, and as may be further defined in the regulations prescribed under section 504.

(11) **CUSTOMER RELATIONSHIP.**—The term “time of establishing a customer relationship” shall be defined by the regulations prescribed under section 504, and shall, in the case of a financial institution engaged in extending credit directly to consumers to finance purchases of goods or services, mean the time of establishing the credit relationship with the consumer.

**SEC. 510. EFFECTIVE DATE.**

This subtitle shall take effect 6 months after the date on which rules are required to be prescribed under section 504(a)(3), except—

(1) to the extent that a later date is specified in the rules prescribed under section 504; and

(2) that sections 504 and 506 shall be effective upon enactment.
Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) Prohibition on Obtaining Customer Information by False Pretenses.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) Prohibition on Solicitation of a Person To Obtain Customer Information From Financial Institution Under False Pretenses.—It shall be a vio-
lation of this subtitle to request a person to obtain cus-
tomer information of a financial institution, knowing that
the person will obtain, or attempt to obtain, the informa-
tion from the institution in any manner described in sub-
section (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT
AGENCIES.—No provision of this section shall be con-
strued so as to prevent any action by a law enforcement
agency, or any officer, employee, or agent of such agency,
to obtain customer information of a financial institution
in connection with the performance of the official duties
of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS
IN CERTAIN CASES.—No provision of this section shall be
construed so as to prevent any financial institution, or any
officer, employee, or agent of a financial institution, from
obtaining customer information of such financial institu-
tion in the course of—

(1) testing the security procedures or systems
of such institution for maintaining the confiden-
tiality of customer information;

(2) investigating allegations of misconduct or
negligence on the part of any officer, employee, or
agent of the financial institution; or
(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(g) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a fi-
nancial institution, to the extent reasonably necessary to
collect child support from a person adjudged to have been
delinquent in his or her obligations by a Federal or State
court, and to the extent that such action by a State-li-
censed private investigator is not unlawful under any other
Federal or State law or regulation, and has been author-
ized by an order or judgment of a court of competent juris-
diction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMI-
SSION.—Except as provided in subsection (b), compliance
with this subtitle shall be enforced by the Federal Trade
Commission in the same manner and with the same power
and authority as the Commission has under the Fair Debt
Collection Practices Act to enforce compliance with such
Act.

(b) ENFORCEMENT BY OTHER AGENCIES IN CER-
TAIN CASES.—

(1) IN GENERAL.—Compliance with this sub-
title shall be enforced under—

(A) section 8 of the Federal Deposit Insur-
ance Act, in the case of—

(i) national banks, and Federal
branches and Federal agencies of foreign
banks, by the Office of the Comptroller of
the Currency;

(ii) member banks of the Federal Re-
serve System (other than national banks),
branches and agencies of foreign banks
(other than Federal branches, Federal
agencies, and insured State branches of
foreign banks), commercial lending compa-
nies owned or controlled by foreign banks,
and organizations operating under section
25 or 25A of the Federal Reserve Act, by
the Board;

(iii) banks insured by the Federal De-
posit Insurance Corporation (other than
members of the Federal Reserve System
and national nonmember banks) and in-
sured State branches of foreign banks, by
the Board of Directors of the Federal De-
posit Insurance Corporation; and

(iv) savings associations the deposits
of which are insured by the Federal De-
posit Insurance Corporation, by the Direc-
tor of the Office of Thrift Supervision; and

(B) the Federal Credit Union Act, by the
Administrator of the National Credit Union Ad-
ministration with respect to any Federal credit
union.

(2) Violations of this subtitle treated
as violations of other laws.—For the purpose
of the exercise by any agency referred to in para-
graph (1) of its powers under any Act referred to in
that paragraph, a violation of this subtitle shall be
deemed to be a violation of a requirement imposed
under that Act. In addition to its powers under any
provision of law specifically referred to in paragraph
(1), each of the agencies referred to in that para-
graph may exercise, for the purpose of enforcing
compliance with this subtitle, any other authority
conferred on such agency by law.

SEC. 523. CRIMINAL PENALTY.

(a) In General.—Whoever knowingly and inten-
tionally violates, or knowingly and intentionally attempts
to violate, section 521 shall be fined in accordance with
title 18, United States Code, or imprisoned for not more
than 5 years, or both.

(b) Enhanced Penalty for Aggravated
Cases.—Whoever violates, or attempts to violate, section
521 while violating another law of the United States or
as part of a pattern of any illegal activity involving more
than $100,000 in a 12-month period shall be fined twice
the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under section 522 of either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the
Federal Deposit Insurance Act), the National Credit Union Administration, and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the National Credit Union Administration, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.
(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) **Annual Report by Administering Agencies.**—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

**Sec. 527. Definitions.**

For purposes of this subtitle, the following definitions shall apply:

(1) **Customer.**—The term “customer” means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) **Customer Information of a Financial Institution.**—The term “customer information of a financial institution” means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.
(3) DOCUMENT.—The term “document” means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term “financial institution” means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term “financial institution” includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p) of the Consumer Credit Protection Act).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—
(i) the terms “broker” and “dealer” have the same meanings as given in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term “investment adviser” has the same meaning as given in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term “investment company” has the same meaning as given in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) CERTAIN PERSONS AND ENTITIES SPECIFICALLY EXCLUDED.—The term “financial institution” does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act and does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971.

(E) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and
the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.