

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 216**

**[Docket No. R-1483]**

**RIN 7100 AE13**

**Privacy of Consumer Information (Regulation P)**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

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**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is repealing its Regulation P, 12 CFR part 216, which was issued to implement the privacy provisions of the Gramm-Leach-Bliley Act (GLB Act). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from the Board, and six other Federal agencies, to the Bureau of Consumer Financial Protection (Bureau), including rulemaking authority for the provisions in Subtitle A of Title V of the GLB Act that were implemented in the Board's Regulation P. In December 2011, the Bureau published an interim final rule establishing its own Regulation P to implement these provisions of the GLB Act. The Bureau's Regulation P covers those entities previously subject to the Board's Regulation P. Accordingly, the Board is repealing its Regulation P.

**DATES:** The final rule is effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, at (202) 452-3667, Board of Governors of the Federal

Reserve System, 20<sup>th</sup> and C Streets, NW, Washington, D.C. 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

## **SUPPLEMENTARY INFORMATION:**

### **I. Discussion**

Subtitle A of Title V of the Gramm-Leach-Bliley Act (GLB Act), 15 U.S.C. 6801-6809, titled “Disclosure of Nonpublic Personal Information,” limits the circumstances in which a financial institution can disclose nonpublic personal information about a consumer to nonaffiliated third parties and requires financial institutions to provide certain privacy notices to their customers who are consumers. Prior to July 21, 2011, rulemaking authority for the subtitle was shared by eight Federal agencies, including the Board of Governors of the Federal Reserve System (Board).<sup>1</sup> Each of the agencies issued consistent and comparable rules to implement the GLB Act’s privacy provisions; the Board implemented its rule as Regulation P, 12 CFR part 216.

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)<sup>2</sup> transferred rulemaking authority for a number of consumer financial protection laws, including the authority to prescribe regulations under the privacy provisions of the GLB Act, to the Bureau of Consumer Financial Protection (Bureau).<sup>3</sup> This transfer of rulemaking authority from the Board and other Federal agencies to the Bureau became

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<sup>1</sup> The other Federal agencies included the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

<sup>2</sup> The Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, was signed into law on July 21, 2010.

<sup>3</sup> The Dodd-Frank Act did not transfer the Board’s authority under section 501(b) of the GLB Act to establish information security standards for financial institutions subject to its jurisdiction. 15 U.S.C. 6801(b). Therefore, the Bureau does not have authority to prescribe regulations for GLB Act section 505 as it applies to section 501(b).

effective on July 21, 2011. In connection with the transfer, the Bureau published an interim final rule to establish its own Regulation P, 12 CFR part 1016, to implement the privacy provisions of the GLB Act (Bureau Interim Final Rule).<sup>4</sup> The Bureau Interim Final Rule substantially duplicates the Board's Regulation P and covers financial institutions and other persons for which the Bureau has rulemaking authority pursuant to section 504(a)(1)(A) of the GLB Act, as amended by the Dodd-Frank Act. The Bureau Interim Final Rule does not impose any new substantive obligations on regulated entities.

The scope of the Board's Regulation P is set forth in § 216.1(b)(1) and states that the part applies to state member banks, bank holding companies and certain of their nonbank subsidiaries or affiliates, state uninsured branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations. As a result, all of the entities formerly subject to the Board's rule are covered by the Bureau Interim Final Rule.<sup>5</sup> Consequently, the Board published a proposal in February 2014 to repeal its Regulation P, 12 CFR part 216 (Proposed Rule).<sup>6</sup> The Board received four comments on the Proposed Rule.

Almost all commenters supported the Board's proposal to repeal its Regulation P in order to avoid confusion and duplication. One commenter, however, suggested that the regulation be retained in case the law changes. Based on the comments the Board received

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<sup>4</sup> 76 FR 79025 (Dec. 21, 2011).

<sup>5</sup> Furthermore, the Board notes that section 1093 of the Dodd-Frank Act revises the GLB Act to provide that notwithstanding the authority of the Bureau to prescribe regulations to implement the privacy provisions with respect to financial institutions and other persons subject to its jurisdiction, the Federal Trade Commission shall have authority to prescribe such regulations with respect to any financial institution that is a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act. See 15 U.S.C. 6804(a)(1)(C).

<sup>6</sup> 79 FR 8904 (Feb. 20, 2014).

and because the Bureau Interim Final Rule covers all of the entities formerly subject to the Board's rule, the Board is repealing its Regulation P.

## **II. Final Regulatory Flexibility Analysis**

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, including the Board's rulemaking authority over the privacy provisions of the GLB Act. The Bureau issued the Bureau Interim Final Rule to implement the privacy provisions of the GLB Act in connection with the transfer of this rulemaking authority to the Bureau. All of the entities formerly subject to the Board's Regulation P are covered by the Bureau Interim Final Rule. Consequently, the Board's repeal of the Board's Regulation P, 12 CFR part 216, will not have any effect on entities that were formerly subject to the Board's rule.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The final rule repeals the Board's Regulation P, 12 CFR part 216, because the Board no longer has rulewriting authority for the provisions of the GLB Act that were implemented in this regulation. All of the entities previously subject to the Board's Regulation P are now subject to the Bureau Interim Final Rule. Consequently, the repeal would not affect any entity, including any small entity.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule repeals the Board's Regulation P, 12 CFR part 216, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities. Existing requirements remain the same under the Bureau Interim Final Rule.

5. *Significant alternatives to the final revisions.* Because the repeal of the Board's Regulation P (12 CFR part 216) will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

### **III. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

### **List of Subjects in 12 CFR Part 216**

Banks, banking, Consumer protection, Foreign banking, Holding companies, Privacy, Reporting and recordkeeping requirements.

### **Authority and Issuance**

For the reasons set forth in the preamble, based on the transfer of authority under 12 U.S.C. 5581, the Board removes and reserves Regulation P, 12 CFR part 216 as follows:

### **PART 216 — [REMOVED AND RESERVED]**

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson (signed)

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Robert deV. Frierson,  
Secretary of the Board