

109TH CONGRESS  
1ST SESSION

# H. R. 3375

To amend the Fair Credit Reporting Act to provide for secure financial data, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2005

Ms. PRYCE of Ohio (for herself, Mr. CASTLE, and Mr. MOORE of Kansas) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Fair Credit Reporting Act to provide for secure financial data, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Data Secu-  
5 rity Act of 2005”.

6 **SEC. 2. DATA SECURITY SAFEGUARDS.**

7 (a) IN GENERAL.—The Fair Credit Reporting Act  
8 (15 U.S.C. 1681) is amended by adding at the end the  
9 following new section:

1 **“§ 630. Data security safeguards**

2       “(a) SECURITY POLICIES AND PROCEDURES.—Each  
3 consumer reporter shall have an affirmative and con-  
4 tinuing obligation to maintain reasonable policies and pro-  
5 cedures to protect the security and confidentiality of sen-  
6 sitive financial account information and sensitive financial  
7 identity information of any consumer that is maintained  
8 or received by or on behalf of such consumer reporter  
9 against any unauthorized use that is reasonably likely to  
10 result in substantial inconvenience or substantial harm to  
11 such consumer.

12       “(b) INVESTIGATION REQUIREMENTS.—

13               “(1) PROTECTING AGAINST IDENTITY THEFT.—

14                       “(A) INVESTIGATION REQUIRED.—If a  
15 consumer reporter is aware that a breach of  
16 data security has occurred, or is reasonably  
17 likely to have occurred, with respect to sensitive  
18 financial identity information maintained by or  
19 on behalf of the consumer reporter, the con-  
20 sumer reporter shall conduct an investigation to  
21 determine the likelihood that such information  
22 will be misused against any consumer to whom  
23 any of such information relates in a manner  
24 that would cause substantial inconvenience or  
25 substantial harm to any such consumer.

1           “(B) SCOPE OF INVESTIGATION.—An in-  
2           vestigation conducted under subparagraph (A)  
3           shall be commensurate with the nature and the  
4           amount of the sensitive financial identity infor-  
5           mation that is subject to the breach of data se-  
6           curity.

7           “(C) FACTORS TO BE CONSIDERED.—In  
8           determining the likelihood that sensitive finan-  
9           cial identity information that was the subject of  
10          a breach of data security has been or will be  
11          misused, the consumer reporter shall consider  
12          all available relevant facts, including whether  
13          the information that was subject to the breach  
14          was unencrypted or unredacted, or required  
15          technology to use that is not generally commer-  
16          cially available.

17          “(2) PROTECTING AGAINST FRAUDULENT  
18          TRANSACTIONS.—

19                 “(A) INVESTIGATION REQUIRED.—If a  
20                 consumer reporter is aware that a breach of  
21                 data security has occurred or is reasonably like-  
22                 ly to have occurred with respect to sensitive fi-  
23                 nancial account information, maintained by or  
24                 on behalf of the consumer reporter, the con-  
25                 sumer reporter shall conduct an investigation to

1 determine the likelihood that such information  
2 will be misused against any consumer to whom  
3 any of such information relates to make 1 or  
4 more fraudulent transactions on a financial ac-  
5 count to which the sensitive financial account  
6 information relates in a manner that would  
7 cause substantial inconvenience or substantial  
8 harm to such consumer.

9 “(B) SCOPE OF INVESTIGATION.—An in-  
10 vestigation conducted under subparagraph (A)  
11 shall be commensurate with the nature and the  
12 amount of the sensitive financial account infor-  
13 mation that is subject to the breach of data se-  
14 curity.

15 “(C) FACTORS TO BE CONSIDERED.—In  
16 determining the likelihood that the sensitive fi-  
17 nancial account information that was the sub-  
18 ject of a breach of data security has been or  
19 will be misused, the consumer reporter shall  
20 consider all available relevant facts, including  
21 whether—

22 “(i) the information that was subject  
23 to the breach was unencrypted,  
24 unredacted, or required technology to use

1           that is not generally commercially avail-  
2           able; and

3                   “(ii) on an ongoing basis, any security  
4           programs used by, or on behalf of, the con-  
5           sumer reporter have detected, or are likely  
6           to detect, fraudulent transactions resulting  
7           from the breach of data security.

8           “(c) NOTICE REQUIREMENT.—

9                   “(1) NOTICE OF POTENTIAL IDENTITY THEFT  
10          RISK.—In the case of any actual or reasonably likely  
11          breach of data security with respect to sensitive fi-  
12          nancial identity information for which an investiga-  
13          tion is required under subsection (b)(1)(A), unless  
14          the consumer reporter determines (after conducting  
15          a reasonable investigation that meets the require-  
16          ments of such subsection) that it is not reasonably  
17          likely that such information will be misused to com-  
18          mit financial fraud against any consumer to whom  
19          such sensitive financial identity information relates  
20          in a manner that would cause substantial inconven-  
21          ience or substantial harm to such consumer, the con-  
22          sumer reporter shall provide notice, in the manner  
23          provided in subsection (e), to—

24                   “(A) any appropriate law enforcement  
25          agency;

1           “(B) the appropriate functional regulatory  
2 agency for the consumer reporter;

3           “(C) if the information relates to a finan-  
4 cial account provided to, maintained for, or  
5 serviced for any consumer by a person other  
6 than the consumer reporter, the person that  
7 provides, maintains, or services the financial ac-  
8 count for the consumer;

9           “(D) if the consumer reporter determines  
10 that it is likely to be providing notice under this  
11 paragraph to 1,000 or more consumers for any  
12 breach of data security—

13                 “(i) each nationwide consumer report-  
14 ing agency; and

15                 “(ii) any other consumer reporting  
16 agency that the consumer reporter identi-  
17 fies, or expects to identify, in the notice  
18 provided to the consumer under subpara-  
19 graph (E);

20           “(E) any consumer to whom the sensitive  
21 financial identity information relates; and

22           “(F) if the sensitive financial identity in-  
23 formation concerning any consumer is provided  
24 to, maintained by, or serviced by a person other  
25 than the consumer reporter, that person.

1           “(2) NOTICE OF POTENTIAL FRAUDULENT  
2           TRANSACTION RISK.—In the case of any actual or  
3           reasonably likely breach of data security with respect  
4           to sensitive financial account information for which  
5           an investigation is required under subsection  
6           (b)(2)(A), unless the consumer reporter determines  
7           (after conducting a reasonable investigation that  
8           meets the requirements of such subparagraph) that  
9           it is not reasonably likely that such information will  
10          be misused against the consumers to whom such  
11          sensitive financial account information relates to  
12          make 1 or more fraudulent transactions on a finan-  
13          cial account to which such information relates in a  
14          manner that would cause substantial inconvenience  
15          or substantial harm to any such consumer, the con-  
16          sumer reporter shall provide notice, in the manner  
17          provided in subsection (e), to—

18                   “(A) an appropriate law enforcement agen-  
19                   cy;

20                   “(B) the appropriate functional regulatory  
21                   agency for the consumer reporter;

22                   “(C) if the information relates to a finan-  
23                   cial account provided to, maintained for, or  
24                   serviced for any consumer by a person other  
25                   than the consumer reporter, the person that

1 provides, maintains, or services the financial ac-  
2 count for the consumer; and

3 “(D) subject to subsections (d)(2) and (e),  
4 any consumer to whom the sensitive financial  
5 account information relates.

6 “(d) INVESTIGATION AND NOTICE REQUIREMENTS  
7 FOR THIRD PARTY AGREEMENTS.—

8 “(1) CONTRACTUAL OBLIGATION REQUIRED.—

9 No consumer reporter may provide sensitive finan-  
10 cial identity information or sensitive financial ac-  
11 count information to a third party to receive, main-  
12 tain, or service on behalf of the consumer reporter,  
13 unless such third party agrees that whenever the  
14 third party becomes aware that a breach of data se-  
15 curity has occurred or is reasonably likely to have  
16 occurred with respect to such information received,  
17 maintained, or serviced by such third party, the  
18 third party shall be obligated—

19 “(A) to provide notice of the breach to the  
20 consumer reporter;

21 “(B) to conduct a joint investigation with  
22 the consumer reporter to determine the likeli-  
23 hood that such information will be misused  
24 against the consumers to whom the information  
25 relates in a manner that would cause substan-

1           tial inconvenience or substantial harm to any  
2           such consumers; and

3           “(C) unless the consumer reporter and  
4           third party determine, after conducting a rea-  
5           sonable investigation, that it is not reasonably  
6           likely that such information will be misused to  
7           commit financial fraud against any consumer to  
8           whom any of such sensitive personal informa-  
9           tion relates in a manner that would cause sub-  
10          stantial inconvenience or substantial harm to  
11          such consumer, to provide joint notice with the  
12          consumer reporter under paragraph (2).

13          “(2) JOINT NOTICE REQUIREMENT UNDER CER-  
14          TAIN CIRCUMSTANCES.—In the case of any breach of  
15          data security involving a third party referred to in  
16          paragraph (1) for which a notice is required to be  
17          provided by a consumer reporter to a consumer  
18          under subsection (c)—

19                 “(A) both the consumer reporter and any  
20                 person that provides or maintains the financial  
21                 account for the consumer shall be responsible  
22                 for providing the notice under such subsection  
23                 to the consumer jointly;

24                 “(B) the notice shall—

1           “(i) clearly indicate on its face (such  
2           as the envelope for mailed notices) the  
3           identity of a person or consumer reporter  
4           that has the direct relationship with the  
5           consumer; and

6           “(ii) clearly identify the consumer re-  
7           porter that directly suffered the breach of  
8           data security and indicate the notice is  
9           being provided to the consumer on account  
10          of such breach; and

11          “(C) the consumer reporter shall be re-  
12          sponsible for the reasonable actual costs of such  
13          notice, except as otherwise established by agree-  
14          ment.

15          “(e) TIME AND MANNER OF NOTICES.—

16                 “(1) PROMPT NOTICE REQUIRED.—Except as  
17                 provided in paragraph (2), any notice required under  
18                 subsection (c), including any joint notice in accord-  
19                 ance with subsection (d)(2)(A), shall be made  
20                 promptly following completion of reasonable meas-  
21                 ures undertaken to determine the scope of the  
22                 breach of data security.

23                 “(2) DELAY OF NOTICE FOR LAW ENFORCE-  
24                 MENT PURPOSES.—If a consumer reporter receives a  
25                 written request from an appropriate law enforcement

1 agency that is approved by a court of competent ju-  
2 risdiction indicating that providing a particular no-  
3 tice to any consumer under this section would im-  
4 pede a criminal or civil investigation by that law en-  
5 forcement agency, or an oral request from an appro-  
6 priate law enforcement agency indicating that such  
7 a written request will be provided, the consumer re-  
8 porter shall delay, or in the case of a foreign law en-  
9 forcement agency may delay, providing such notice  
10 until—

11 “(A) the law enforcement agency informs  
12 the consumer reporter that such notice will no  
13 longer impede the investigation; or

14 “(B) the law enforcement agency fails to—  
15 “(i) confirm that a continued delay is  
16 necessary to avoid impeding such investiga-  
17 tion; or

18 “(ii) provide a written request within  
19 a reasonable time following an oral request  
20 for such delay.

21 “(3) ORDER OF NOTICE.—The notices required  
22 under subsection (c), including any joint notice in  
23 accordance with subsection (d)(2)(A), shall be made  
24 in the order of the subparagraphs in paragraph (1)  
25 or (2) of subsection (c), as the case may be.

1           “(4) CONTENT OF CONSUMER NOTICE.—Any  
2 notice required to be provided to a consumer under  
3 paragraph (1) or (2) of subsection (c), including any  
4 joint notice in accordance with subsection (d)(2)(A),  
5 shall include—

6           “(A) a clear and conspicuous heading or  
7 notice title on the envelope or transmission title  
8 indicating the nature of the notice, such as  
9 ‘LEGAL NOTICE OF DATA SECURITY  
10 BREACH’;

11           “(B) a brief description of the breach of  
12 data security, including a statement of the  
13 types of sensitive financial account and sensitive  
14 financial identity information involved in such  
15 breach;

16           “(C) appropriate instructions to the con-  
17 sumer to mitigate against financial fraud; and

18           “(D) appropriate contact information that  
19 the consumer may use to obtain additional in-  
20 formation.

21           “(5) NO DUPLICATIVE NOTICES REQUIRED.—A  
22 consumer reporter, whether acting directly or jointly  
23 with a third party under subsection (d), shall not be  
24 required to provide more than 1 notice with respect  
25 to any breach of data security to any affected con-

1 consumer, so long as such notice meets all the applica-  
2 ble requirements of this section.

3 “(f) FINANCIAL FRAUD MITIGATION.—

4 “(1) FREE FILE MONITORING.—Any consumer  
5 reporter that is required to provide notice to a con-  
6 sumer under subsection (c)(1), or that is deemed to  
7 be in compliance with such requirement by operation  
8 of subsection (g), shall offer and make available to  
9 the consumer, free of charge, a service that monitors  
10 nationwide credit activity regarding a consumer from  
11 a consumer reporting agency described in section  
12 603(p).

13 “(2) JOINT RULEMAKING FOR SAFE HARBOR.—  
14 The Secretary of the Treasury, the Board of Gov-  
15 ernors of the Federal Reserve System, and the Com-  
16 mission shall jointly develop regulations, which shall  
17 be prescribed by all functional regulatory agencies,  
18 that, in any case in which—

19 “(A) free file monitoring is offered under  
20 paragraph (1) to a consumer;

21 “(B) subsequent to the offer, another  
22 party misuses sensitive financial identity infor-  
23 mation on the consumer obtained through the  
24 breach of data security (that gave rise to such

1 offer) to commit identity theft against the con-  
2 sumer; and

3 “(C) at the time of such breach the con-  
4 sumer reporter maintained reasonable policies  
5 and procedures to comply with subsection (a),  
6 exempts the consumer reporter from any liability  
7 under State common law for any loss or harm to the  
8 consumer occurring after the date of such offer,  
9 other than any direct pecuniary loss provided under  
10 such law, resulting from such misuse.

11 “(g) COMPLIANCE WITH GLBA.—

12 “(1) IN GENERAL.—For the purposes of this  
13 section, any person subject to section 501(b) of title  
14 V of the Gramm-Leach-Bliley Act shall be deemed to  
15 be in compliance with—

16 “(A) subsection (a) of this section, if the  
17 person is required to implement appropriate  
18 safeguards pursuant to regulations, guidelines,  
19 or guidance prescribed by or issued by an agen-  
20 cy or authority in accordance with such sub-  
21 section of the Gramm-Leach-Bliley Act;

22 “(B) subsection (b) of this section, if the  
23 person is required to conduct investigations of  
24 breaches of information security pursuant to  
25 regulations, guidelines, or guidance prescribed

1 by or issued by an agency or authority in ac-  
2 cordance with such subsection of the Gramm-  
3 Leach-Bliley Act; and

4 “(C) subsection (c) of this section, if the  
5 person is required to implement a consumer no-  
6 tification program after breaches of such data  
7 safeguards pursuant to regulations, guidelines,  
8 or guidance prescribed by or issued by an agen-  
9 cy or authority in accordance with section 501  
10 of the Gramm-Leach-Bliley Act.

11 “(2) RECIPROCAL COMPLIANCE ARRANGE-  
12 MENTS.—If, with respect to any person, or any  
13 agent of a person, who is subject to section 501(b)  
14 of the Gramm-Leach-Bliley Act, the regulations,  
15 guidelines, or guidance prescribed or issued pursu-  
16 ant to such section by the agencies or authorities de-  
17 scribed in section 509 of the Gramm-Leach-Bliley  
18 Act, allow—

19 “(A) any requirement that such person  
20 comply with such section to be satisfied by the  
21 person’s agent; or

22 “(B) any requirement that a person’s  
23 agent comply with such section to be satisfied  
24 by the person,

1 such reciprocal compliance treatment for such per-  
2 son and agent shall also apply under subsections (a),  
3 (b), and (c) of this section in the same manner and  
4 to the same extent such treatment applies for pur-  
5 poses of such section 501(b), except as otherwise  
6 provided by any such agency or authority.

7 “(h) UNIFORM SECURITY REGULATIONS.—

8 “(1) UNIFORM STANDARDS.—The Secretary of  
9 the Treasury, the Board of Governors of the Federal  
10 Reserve System, and the Commission shall jointly—

11 “(A) develop appropriate standards and  
12 guidelines in furtherance of the policy of this  
13 section; and

14 “(B) prescribe regulations requiring each  
15 consumer reporter to establish reasonable poli-  
16 cies and procedures implementing such stand-  
17 ards and guidelines, consistent, as appropriate,  
18 with section 501(b) of title V of the Gramm-  
19 Leach-Bliley Act.

20 “(2) ENFORCEMENT REGULATIONS.—Each of  
21 the functional regulatory agencies shall prescribe  
22 such regulations as may be necessary, consistent  
23 with the standards in paragraph (1), to carry out  
24 the purposes of this section with respect to the per-

1 sons subject to the jurisdiction of such agency under  
2 subsection (i).

3 “(3) PROCEDURES AND DEADLINE.—

4 “(A) PROCEDURES.—Regulations pre-  
5 scribed under this subsection shall be prescribed  
6 in accordance with applicable requirements of  
7 title 5, United States Code.

8 “(B) DEADLINE FOR INITIAL REGULA-  
9 TIONS.—The regulations required to be pre-  
10 scribed under paragraph (1) shall be published  
11 in final form before the end of the 12-month  
12 period beginning on the date of the enactment  
13 of the Financial Data Security Act of 2005.

14 “(C) DEADLINE FOR ENFORCEMENT REG-  
15 ULATIONS.—The regulations required to be pre-  
16 scribed under paragraph (2) shall be published  
17 in final form before the end of the 6-month pe-  
18 riod beginning on the date regulations described  
19 in subparagraph (B) are published in final  
20 form.

21 “(D) AUTHORITY TO GRANT EXCEP-  
22 TIONS.—The regulations prescribed under para-  
23 graph (2) may include such additional excep-  
24 tions to this section as are deemed by the func-

1           tional regulatory agencies to be consistent with  
2           the purposes of this section.

3           “(E) CONSULTATION AND COORDINA-  
4           TION.—The Secretary of the Treasury, the  
5           Board of Governors of the Federal Reserve Sys-  
6           tem, and the Commission shall consult and co-  
7           ordinate with the other functional regulatory  
8           agencies to the extent appropriate in pre-  
9           scribing regulations under this subsection.

10          “(4) APPROPRIATE EXEMPTIONS.—The Sec-  
11         retary of the Treasury, the Board, and the Commis-  
12         sion, in consultation with the Administrator of the  
13         Small Business Administration, shall provide appro-  
14         priate exemptions from requirements of this section  
15         relating to sensitive financial identity information  
16         for consumer reporter collectors that are small busi-  
17         nesses.

18          “(i) ADMINISTRATIVE ENFORCEMENT.—Notwith-  
19         standing section 616, 617, or 621, this section and the  
20         regulations prescribed under this section shall be enforced  
21         exclusively by the functional regulatory agencies with re-  
22         spect to financial institutions and other persons subject  
23         to jurisdiction of each such agency under applicable law,  
24         as follows:

1           “(1) Under section 8 of the Federal Deposit In-  
2           surance Act, in the case of—

3                   “(A) national banks, Federal branches and  
4                   Federal agencies of foreign banks, and any sub-  
5                   sidiaries of such entities (except brokers, deal-  
6                   ers, persons providing insurance, investment  
7                   companies, and investment advisers), by the  
8                   Comptroller of the Currency;

9                   “(B) member banks of the Federal Reserve  
10                  System (other than national banks), branches  
11                  and agencies of foreign banks (other than Fed-  
12                  eral branches, Federal agencies, and insured  
13                  State branches of foreign banks), commercial  
14                  lending companies owned or controlled by for-  
15                  eign banks, organizations operating under sec-  
16                  tion 25 or 25A of the Federal Reserve Act, and  
17                  bank holding companies and their nonbank sub-  
18                  sidiaries or affiliates (except brokers, dealers,  
19                  persons providing insurance, investment compa-  
20                  nies, and investment advisers), by the Board of  
21                  Governors of the Federal Reserve System;

22                  “(C) banks insured by the Federal Deposit  
23                  Insurance Corporation (other than members of  
24                  the Federal Reserve System), insured State  
25                  branches of foreign banks, and any subsidiaries

1 of such entities (except brokers, dealers, per-  
2 sons providing insurance, investment compa-  
3 nies, and investment advisers), by the Board of  
4 Directors of the Federal Deposit Insurance Cor-  
5 poration; and

6 “(D) savings associations the deposits of  
7 which are insured by the Federal Deposit In-  
8 surance Corporation, and any subsidiaries of  
9 such savings associations (except brokers, deal-  
10 ers, persons providing insurance, investment  
11 companies, and investment advisers), by the Di-  
12 rector of the Office of Thrift Supervision.

13 “(2) Under the Federal Credit Union Act, by  
14 the Board of the National Credit Union Administra-  
15 tion with respect to any federally insured credit  
16 union, and any subsidiaries of such an entity.

17 “(3) Under the Securities Exchange Act of  
18 1934, by the Securities and Exchange Commission  
19 with respect to any broker or dealer.

20 “(4) Under the Investment Company Act of  
21 1940, by the Securities and Exchange Commission  
22 with respect to investment companies.

23 “(5) Under the Investment Advisers Act of  
24 1940, by the Securities and Exchange Commission

1 with respect to investment advisers registered with  
2 the Commission under such Act.

3 “(6) Under State insurance law, in the case of  
4 any person engaged in the business of insurance, by  
5 the applicable State insurance authority of the State  
6 in which the person is domiciled.

7 “(7) Under the Federal Trade Commission Act,  
8 by the Federal Trade Commission for any other per-  
9 son that is not subject to the jurisdiction of any  
10 agency or authority under paragraphs (1) through  
11 (6) of this subsection.

12 “(j) DEFINITIONS.—For purposes of this section, the  
13 following definitions shall apply:

14 “(1) BREACH OF DATA SECURITY.—The term  
15 ‘breach of data security’ means, with respect to sen-  
16 sitive financial account information or sensitive fi-  
17 nancial identity information that is maintained, re-  
18 ceived, serviced, or communicated by or on behalf of  
19 any financial institution—

20 “(A) an unauthorized acquisition of such  
21 information that could be used to commit finan-  
22 cial fraud (such as identity theft or fraudulent  
23 transactions made on financial accounts); or

24 “(B) an unusual pattern of misuse of such  
25 information to commit financial fraud.

1           “(2) CONSUMER REPORTER AND RELATED  
2 TERMS.—

3           “(A) CONSUMER REPORT.—The term ‘con-  
4 sumer report’ includes any written, oral, or  
5 other communication of any information by a  
6 consumer reporter bearing on a consumer’s  
7 credit worthiness, credit standing, credit capac-  
8 ity, character, general reputation, personal  
9 characteristics, personal identifiers, financial  
10 account information, or mode of living.

11           “(B) CONSUMER REPORTING BROKER.—  
12 The term ‘consumer reporting broker’ means  
13 any person which, for monetary fees, dues, or  
14 on a cooperative nonprofit basis, regularly en-  
15 engages in whole or in part in the practice of as-  
16 sembling or evaluating consumer credit infor-  
17 mation or other information on consumers for  
18 the purpose of furnishing consumer reports to  
19 third parties, and which uses any means or fa-  
20 cility of interstate commerce for the purpose of  
21 preparing or furnishing consumer reports.

22           “(C) CONSUMER REPORTING COL-  
23 LECTOR.—The term ‘consumer reporting col-  
24 lector’ means any person (other than a con-  
25 sumer reporting agency or a consumer report-

1           ing broker) which, for monetary fees, dues, or  
2           on a cooperative nonprofit basis, or otherwise,  
3           regularly engages in whole or in part in the  
4           practice of assembling or evaluating consumer  
5           reports or other information on consumers to  
6           provide or market or collect payment for prod-  
7           ucts or services, and which uses any means or  
8           facility of interstate commerce for the purpose  
9           of preparing or using consumer reports.

10           “(D) CONSUMER REPORTER.—The term  
11           ‘consumer reporter’ means any consumer re-  
12           porting agency, consumer reporting broker, or  
13           consumer reporting collector.

14           “(3) FINANCIAL INSTITUTION.—The term ‘fi-  
15           nancial institution’ means any consumer reporter  
16           who maintains, receives, services, or communicates  
17           sensitive financial account information or sensitive  
18           financial identity information on an ongoing basis  
19           for the purposes of engaging in interstate commerce.

20           “(4) FUNCTIONAL REGULATORY AGENCY.—The  
21           term ‘functional regulatory agency’ means any agen-  
22           cy described in subsection (i) with respect to the fi-  
23           nancial institutions and other persons subject to the  
24           jurisdiction of such agency.

1           “(5) NATIONWIDE CONSUMER REPORTING  
2 AGENCY.—The term ‘nationwide consumer reporting  
3 agency’ means—

4           “(A) a consumer reporting agency de-  
5 scribed in section 603(p);

6           “(B) any person who notifies the Commis-  
7 sion that the person reasonably expects to be-  
8 come a consumer reporting agency described in  
9 subsection (p) of section 603 within a reason-  
10 able time; and

11           “(C) a consumer reporting agency de-  
12 scribed in section 603(w) that notifies the Com-  
13 mission that the person wishes to receive breach  
14 of data security notices under this section that  
15 involve information of the type maintained by  
16 such agency.

17           “(6) SENSITIVE FINANCIAL ACCOUNT INFORMA-  
18 TION.—The term ‘sensitive financial account infor-  
19 mation’ means a financial account number of a con-  
20 sumer, such as credit card number or debit card  
21 number, in combination with any security code, ac-  
22 cess code, password, or other personal identification  
23 information that would allow access to the con-  
24 sumer’s financial account.

1           “(7) SENSITIVE FINANCIAL IDENTITY INFORMA-  
2           TION.—The term ‘sensitive financial identity infor-  
3           mation’ means the first and last name, the address,  
4           or the telephone number of a consumer, in combina-  
5           tion with any of the following of the consumer:

6                   “(A) Social Security number.

7                   “(B) Driver’s license number or equivalent  
8           State identification number.

9                   “(C) Taxpayer identification number.”.

10          (b) CLERICAL AMENDMENT.—The table of sections  
11 for the Fair Credit Reporting Act is amended by inserting  
12 after the item relating to section 629 the following new  
13 item:

          “630. Data security safeguards.”.

14          (c) EFFECTIVE DATE.—The provisions of section 630  
15 of the Fair Credit Reporting Act (as added by this sec-  
16 tion), other than subsection (h) of such section, shall take  
17 effect on the earlier of—

18                   (1) the date of publication of the regulations re-  
19                   quired under paragraph (3) of such subsection, with  
20                   respect to any person under the jurisdiction of each  
21                   regulatory agency publishing such regulations; or

22                   (2) the end of the 24-month period beginning  
23                   on the date of the enactment of this Act.

1 **SEC. 3. RELATION TO STATE LAWS.**

2 Subsection (b) of section 625 of the Fair Credit Re-  
3 porting Act (15 U.S.C. 1681t) is amended—

4 (1) by redesignating paragraphs (3), (4), and  
5 (5) as paragraphs (4), (5), and (6), respectively; and

6 (2) by inserting after paragraph (2) the fol-  
7 lowing new paragraph:

8 “(3) with respect to the responsibilities of any  
9 person—

10 “(A) to protect the security or confiden-  
11 tiality of information on consumers maintained  
12 by or on behalf of the person;

13 “(B) to safeguard such information from  
14 potential misuse;

15 “(C) to investigate and provide notices to  
16 consumers of any unauthorized access to infor-  
17 mation concerning the consumer, or the poten-  
18 tial misuse of such information, for fraudulent  
19 purposes; and

20 “(D) to mitigate any loss or harm result-  
21 ing from such unauthorized access or misuse.”.

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