

Application of Federal Privacy Laws and Regulations to Changing Employment Relationships in the Securities Industry

By Shane B. Hansen

Introduction

Federal privacy laws and related regulations are being applied by the Securities and Exchange Commission (SEC) in a pending administrative enforcement case¹ in ways that will fundamentally change the way securities broker-dealers, investment advisers, and mutual funds recruit new brokers, financial advisors, and account executives (referred to as “representatives”). The case is also likely to affect what such SEC-regulated firms do when representatives leave to join another firm. Although the SEC’s enforcement position will have a direct effect on those firms over whom the SEC has jurisdiction, the legal principles it is applying will likely have a similar impact on insurance companies, insurance agents and agencies, banks, and other financial institutions that are subject to federal privacy laws if the same position is applied by other federal regulators enforcing federal privacy laws within the scope of their own jurisdiction.

Congress enacted federal privacy laws in Title V of the Gramm-Leach-Bliley Act of 1999 (GLB Act).² As directed by the GLB Act, the law was implemented through substantially similar regulations promulgated by the SEC, Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, U.S. Secretary of the Treasury, National Credit Union Administration, and the Federal Trade Commission, after consulting with representatives of state insurance authorities designated by the National Association of Insurance Commissioners. Regulation S-P, *Privacy of Consumer Financial Information*, applies to firms within the SEC’s jurisdiction.³ An explanation of the requirements of the GLB Act and the SEC’s Regulation S-P is beyond the scope of this article, which focuses on the SEC’s enforcement position and its likely unintended

consequences to SEC-regulated firms, representatives, their clients, and the public.

SEC’s Enforcement Position

Under the SEC’s position, once a representative departs his or her current SEC-regulated firm, the representative immediately becomes a “nonaffiliated third party” under Regulation S-P. At that point, without a client’s prior consent, the representative’s possession or use of client information obtained while at the former firm is a violation—the representative’s violation and, likely, the former firm’s violation—of Regulation S-P. The representative’s sharing of client information with the new firm without having each client’s prior consent is also a violation. Without client consent, the new firm recruiting a representative may be aiding and abetting the representative’s violations of Regulation S-P if it assists the incoming representative in organizing his or her client data or in preparing account-related forms, particularly if any client information is disclosed to the new firm in that process.

From the former firm’s perspective, if under any circumstances it allows representatives to continue having or using client information after they leave, then it must make that disclosure in its privacy policy and allow clients the opportunity to “opt out” of that sharing. Under this scenario, failing to provide the notice and “opt out” opportunity for clients violates Regulation S-P. The firm must have policies and procedures to track clients who opt-out and to implement a client’s opt-out when a representative leaves the firm. The SEC’s position presents an extraordinary challenge because in the securities industry the representative must always have the information to support the suitability of his or her advice in servicing the client’s needs. Taking that information away when the representative leaves the firm presents a formidable challenge. File cabinets, computers, laptops,

PDAs, and client-information-storage media are typically owned by the representatives themselves, not by the firms. Moreover, after leaving, most representatives want at least copies of the client information to be able to respond to any questions or complaints that may later arise. Indeed, most representatives have commission statements showing all of his/her client transactions and their account numbers and need those records for legitimate tax and other purposes.

A client's consent to sharing information with a departing representative or his or her new firm must be either explicit or implied. It may be implied from a disclosure in the former broker-dealer's privacy notice when coupled with the opportunity to "opt-out" of the information sharing. Today, virtually no broker-dealer's privacy policy states that the firm allows representatives to continue using clients' information when they join another firm, so in most instances each client's consent must be explicitly obtained before the representative leaves his or her current firm. Either the former firm or the representative is tasked with getting those clients' consents in order for the representative to continue having and using the client information. This enforcement headline comes as a shock to independent contractor firms who, like their representatives, believe that the client relationships belong to the representative. This news will also come as a surprise to most clients who expect to continue working with their representative at the new firm.

Unintended Consequences

While the pro-consumer intent of the SEC's enforcement position seems laudable on its face, it will come at a considerable price—a price that no consumer has asked to pay. The unintended consequences of the SEC's position will be substantial delays in the account transfer process. In the absence of a privacy policy's notice and opt-out to imply consent, each client must be individually contacted, and his or her explicit consent must be obtained and documented before client information can be shared outside the current firm. Preparation of client communications and forms by anyone outside the current firm—including the representative who has resigned—cannot start until that client's consent has been received. Each client must first be contacted and consent obtained before anything can be done to start the account transfer process. Adding the time and cost

of these additional steps to today's account transfer process will dramatically slow the process and add significant costs for staffing and communications. Technology used to merge data with required account transfer forms will be largely useless—nothing can be done for a client until his or her consent is obtained. Consents will come back one by one. Thus, a client's account transfer-related documents can only be prepared and printed one by one.

While the account transfer process is pending, clients will be largely unable to access their accounts or, in many cases, to have their current representative service their accounts. The biggest impact will be on smaller accounts, which are likely to be the lowest in anyone's priority. Some smaller accounts may even be abandoned, in fact or effect, from an unduly costly and cumbersome account transfer process. Moreover, firms may take inappropriate advantage of these extra steps to interfere with the account transfer process, while reassigning those clients' accounts to other members of their firm.

These unintended consequences of the SEC's approach will result in significantly increased delays and disruptions of client service in the account transfer process. The account transfer process creates, in effect, a "blackout period" when clients generally cannot place trades or access their accounts. In these days of volatile markets, a few hours, let alone days or weeks, of a "blackout" can result in investors' losses, missed opportunities, and client complaints. Moreover, as the number of affected accounts increases and/or the time and cost of handling each account transfer increases, smaller accounts will either be lower in priority and many will, in fact or effect, be orphaned and abandoned. These are all unacceptable outcomes and are likely to result in serious client harm, as well as a significant increase in client complaints about the account transfer process. Account transfers are already the leading subject of clients' complaints to the SEC and the Financial Industry Regulatory Authority (FINRA) (formerly the National Association of Securities Dealers (NASD)).

According to the NASD Account Transfer Report, more than 17,000 full accounts or partial accounts are transferred via the Automated Customer Account Transfer Service (ACATS) *each day*.⁴ The report says, assuming that there are no problems with the transfer process, an ACATS transfer should generally

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take about *six to ten days* (presumably referring to business days and measured from the date when the signed and completed ACATS forms are actually presented to the clearing broker for processing to when the account's assets have actually been transferred). The NASD Account Transfer Report states that the level of customer dissatisfaction with the customer-account-transfer process is already "high." It further states that "in the past two years, more than 700 customers submitted complaints to NASD about the transfer of their accounts. In the same period, firms received more than 6,000 direct customer complaints about account transfers."⁵

The SEC staff concedes that few clients have complained about the sharing of their information in this context. When representatives change firms, their clients typically want to follow them to the new firm. This is not surprising because personal relationships of trust and confidence have been formed between the representative and his or her clients. Ironically, Regulation S-P allows the current firm to share a client's information with a complete stranger *within the firm without the client's prior consent* — which will come as a surprise to most clients — while precluding the information's use by the representative who, in fact, received it from the client in the first place. The relationship of trust and confidence that has been built up between the representative and the client is irrelevant to the SEC's application of Regulation S-P.

The SEC's enforcement position in the pending case was never raised in the SEC's release proposing Regulation S-P⁶ or the SEC's release adopting it.⁷ Nor has it been subsequently raised by the SEC⁸ or other regulators⁹ in any published or spoken guidance until this SEC enforcement action. "Rule-making by enforcement" is never effective in addressing the full range of problems raised by novel, complex, industry-wide problems. Neither the industry nor the public will have any opportunity to provide input about the unintended consequences of the SEC's position on clients and account transfers. The SEC's enforcement action only raises the issues — the industry will have to guess at what the SEC believes is required to comply with its views based on an administrative law judge's opinion that is focused on specific facts.

Duty of Loyalty – A Catch 22

Unless a firm's privacy notice explicitly states that the firm allows a representative to continue using client information after leaving the firm and provides an opt-out, a representative must, prior to departing, contact each client to obtain the clients' express consent to (i) continue using their information personally to service their accounts; and (ii) share the information with the new firm in the account transfer process. While this "just go ask" approach seems simple enough, in practice it will have serious unintended consequences for representatives and their clients.

Typically, there are too many clients affected when representatives change firms to contact them all by having personal meetings or making phone calls. This necessitates sending letters, typically to more than 25 existing retail customers. Before departing the current firm, representatives cannot simply do a mailing to all of their clients without the current firm's prior approval under NASD Rule 2211.¹⁰ Subsection (b)(1) of NASD Rule 2211, *Institutional Sales Material and Correspondence*, requires prior approval of correspondence to more than 25 existing customers within a 30-day period¹¹ and could be construed to apply in this context. In a perfect world, the current firm would give that approval, but nothing in any law or regulation compels it. In reality, some current firms may delay or refuse to approve the communication and instead reassign the clients to other representatives. If the current firm's approval is delayed or not received, then representatives face the dilemma before departing of either violating NASD Rule 2211 by sending a client mailing requesting information-sharing consents or, in the SEC's view, violating Regulation S-P by using information in preparation for the account transfer process without prior client consent. Either way, the current firm could report the representatives' alleged violations to FINRA or the SEC — enlisting the regulators to unwittingly fight its competitive battles.

The other horn of this dilemma is the SEC's view that at the moment the representative resigns, he or she becomes a "nonaffiliated third party" to the current firm and is, therefore, prohibited from using any client information — some of which may already be in his or her possession — to contact his or her clients. At that point, if the Adopting Release is applied literally, even the fact that a person was formerly a customer is itself nonpublic

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personal information.¹² Assuming that representatives could recreate a list of customers and contact information from memory without using any historical documents from the current firm, contact the client, and obtain information-sharing consent, then to the extent that the representatives does not already have the information in his or her possession, the representative must either go back to the current firm and request copies of each client's information—the current firm being under no legal obligation to provide it—or ask the clients to recreate the account information themselves. If the historical information is not provided by the current firm in a timely manner, the clients' only choice is to fill out blank ACATS forms and copy their own account statements. Most clients would be dumbfounded, and many would be highly irritated by the apparent lack of customer service from their representative.

The SEC's position creates a classic "Catch 22" scenario. A representative changing firms is caught between a common law duty of loyalty to his or her current firm and the regulatory requirements the SEC seeks to impose under Regulation S-P. A representative may prepare to compete but may not actually compete. Under the common law of principal and agency, a representative may breach his or her duty of loyalty if the representative contacts clients to advise them of his or her imminent departure or sends information about his or her new firm. Therefore, historically, when a representative changed firms, all of the client contacts came after the representative had left. But how can a representative contact clients to get the consents required by the SEC to comply with Regulation S-P without breaching his or her duty of loyalty? Is contacting clients and obtaining consent to use information at a competitor going too far under state common law? Those are just some of the many questions raised but not answered by the SEC's enforcement position.

The SEC's application of Regulation S-P ignores long-standing, pro-consumer, legal precedents in the context of post-employment restrictive covenants where "name brand" firms have long battled over who owns the client account and relationship.¹³ The GLB Act's legislative history states, in a number of places, that Congress intended to promote competition, choice, and efficiency to benefit customers and participants in the financial services marketplace. The SEC's po-

sition will, in effect, federalize states' laws of fair trade and unfair competition by applying Regulation S-P in such a way as to force representatives to get the current firm's consent in order to get their clients' consents. Many court decisions have emphasized the importance to clients of maintaining access to their representatives' services. The unintended effect of the SEC's position will be to interfere substantially with their access.

An Alternate Analysis of GLB Act and Regulation S-P

The SEC could take a different approach than the enforcement position explained in the first half of this article. The GLB Act and Regulation S-P can be interpreted to avoid these unintended consequences—balancing and safeguarding consumer interests while allowing for the free flow of clients, accounts, and related commerce among all types of financial institutions and their representatives. In commencing the current enforcement action, the SEC has rejected this interpretation.

Section 502 of the GLB Act, which is titled Obligations with Respect to Disclosures of Personal Information,¹⁴ contains the primary directives governing a financial institution's disclosure of nonpublic personal information. These include providing "customers" (a statutory term) with a notice containing the firm's privacy policy and an opportunity to "opt out" of a proposed disclosure of nonpublic personal information to a nonaffiliated third party. Based on the statutory definition, a representative becomes a "nonaffiliated third party" with respect to the current firm when he or she resigns or is terminated by the current firm. In the circumstances relevant here, the new firm is also a nonaffiliated third party.

Subsection 502(e) provides that the prior notice and opt-out requirements of Section 502(a) and (b) do not apply in two circumstances that are relevant in this context.¹⁵ Specifically, Subsections 502(e)(1) and (7) provide, in relevant part, that:

(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

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financial product or service requested or authorized by the consumer;

* * *

(7) *in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; (emphasis added).*

The statutory phrase “*as necessary to effect, administer, or enforce,*” underscored above, is defined in Section 509 of the GLB Act.¹⁶ It provides, in relevant part, that:

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

* * *

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

* * *

(ii) *the transfer of receivables, accounts or interests therein; (emphasis added).*

The above quoted statutory definition makes it clear that Congress envisioned that account transfers are within the scope of servicing a customer’s account for purposes of the exception to the notice and opt-out requirements under Section 502(e)(1), quoted above. By way of example from the banking context, it is common for banks or mortgage companies to sell branches or portfolios of mortgages or mortgage servicing rights with respect to a group of customers that the sellers choose. The sharing of nonpublic personal information about affected customers, either before or after the sale, is a well-recognized and permitted exception to Regulation S-P’s notice and opt-out requirements.

The statutory exception to the notice and opt-out requirements in Subsection 502(e)(7), quoted above, is also relevant in the context of the transfer of clients’ accounts when representatives change firms. Firms that conduct business using the independent contractor model believe that the representatives are the primary owners of the client relationships, not the firms, and so the representatives are free to join and leave the firm bringing with them their clients. The GLB Act does not

prescribe any characteristics or conditions to the transactions in which accounts are transferred, such as sale consideration, ownership, or method of transfer. Indeed, the statute simply uses the term “transfer” of accounts and does not require a “sale.”

The statute does not define the term “business or operating unit” as used in Section 502(e)(7). The logical and plain English meaning of those words should include an identifiable part of the business of a firm, such as the services performed for a group of clients serviced by one or more identifiable representatives. In the account transfer process, the representative’s part of the brokerage business, reflected in an identifiable group of clients he or she is servicing, is being transferred to the new firm. The overriding requirement of Subsection 502(e)(7) is that the nonpublic personal information to be disclosed must concern solely the customers of the business unit to be transferred. In the context of transitioning a representative between firms and the transfer of his or her client accounts, this means that the only nonpublic personal information that can be shared is limited to the clients to be transferred and limited in use to the account transfer process.

Regulation S-P mirrors the two exceptions in Section 502(e) described above in Rule 14, Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions, and Rule 15, Other Exceptions to Notice and Opt Out Requirements.¹⁷ Regulation S-P does not, however, provide further elaboration or any relevant examples to apply the GLB Act’s exceptions in the context of representatives and their customers changing firms. Indeed, in the SEC’s release adopting Regulation S-P, the SEC expressly declined to provide examples, stating that:

Several other commenters requested that the final rule provide specific examples of situations that would fall within the exception for processing and servicing customer accounts (*such as transfers from a broker-dealer to its registered representatives, or as necessary to arbitrate a dispute, with the consent of the consumer’s fiduciary or representative*). Others stated that certain services, such as those provided by attorneys, are “necessary” to effect, administer, or enforce a transaction. *We believe that disclosures to these types of professionals and under the circumstances pos-*

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*ited by the commenters may be necessary to effect, administer, or enforce a transaction in a given situation. (Emphasis added.)*¹⁸

Similarly, in commenting about the exceptions contained in Rule 14(a), the Adopting Release states:

Many commenters offered specific suggestions for additional exceptions or revisions to the proposed exceptions. In some cases, the suggestions are accommodated elsewhere in the regulation (*such as exceptions to permit disclosures to independent contractor registered representatives or attorneys to effect a transaction*). In other cases, the suggestions are inconsistent with the statute. Accordingly, we have retained the statement of the exceptions as proposed. (*Emphasis added.*)¹⁹ The Adopting Release does not indicate any limitation on the representative's use of the information in servicing or transferring the client's account. This is the only guidance provided—it does not address information sharing in the context of account transfers.

The SEC's Adopting Release does discuss what can be done with nonpublic personal information when it is received by a broker-dealer, either under a disclosure exception provided in Section 502(e) of the GLB Act or outside of those exceptions. Specifically, the Adopting Release states:

Limits on redisclosure and reuse when information is received under Section 502(e). If a broker-dealer, fund, or registered adviser receives nonpublic personal information provided under Section 502(e), it may disclose the information to its affiliates or to the affiliates of the financial institution from which it received the information. The broker-dealer, fund, or registered adviser also may disclose and use the information under the same type of exceptions in the ordinary course of business *to carry out the activity covered by the exception under which the institution received the information.* The affiliates of the broker-dealer, fund, or registered adviser may disclose and use the information, but only to the extent permissible for the broker-dealer, fund, or registered adviser. (*Emphasis added.*)²⁰

The Adopting Release also addresses what a firm must do with respect to nonpublic personal information in the event that it is

not received pursuant to an exception under Section 502(e). Specifically, it states:

Limits on redisclosure and reuse when information is not received under Section 502(e). If a broker-dealer, fund, or registered adviser receives nonpublic personal information *outside* one of the Section 502(e) exceptions, it may disclose the information to (i) its affiliates, (ii) the affiliates of the financial institution that made the initial disclosure, or (iii) any other person if the disclosure would be lawful if made directly by the financial institution from which the information was received. Thus, the receiving broker-dealer, fund, or registered adviser may disclose under one of the Section 502(e) exceptions. (*Emphasis added.*)²¹

Thus, in either scenario, a broker-dealer is permitted to share the nonpublic personal information with its affiliates, including its representatives, and to use the information for purposes of one of the permitted exceptions to Section 502(e) of the GLB Act discussed above.

When client information is shared solely for purposes of effecting account transfers, the SEC could permit firms and representatives to rely upon these permitted exceptions to the notice and opt-out requirements of the GLB Act and Regulation S-P. No harm has befallen the client from this limited information sharing.

Some Practical Implications

Until the SEC issues further guidance, SEC-regulated firms need to verify that incoming representatives have prior client consent to use *any* client information obtained while at their former firm—even the fact that a named person was the representative's client at that firm. If a firm *ever* allows a representative to continue using *any* client information—even just contact information—when they leave, the firm's privacy policy delivered to clients must say so.²² A client must be able to object to any continuing use of his or her information by a representative when the representative leaves the firm. The firm must be able to enforce a client's wishes if he or she "opts-out" of that information sharing. If the claim is that the contact information is public knowledge, the firm or the representative must be able to prove it was obtained from publicly available sources and that it was not

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compiled from a nonpublic source like a client list.

Conclusions

The SEC's enforcement position under Regulation S-P dictates that every SEC-regulated firm carefully examines its policies and procedures for recruiting and transitioning representatives. Firms that allow any information sharing need to disclose their practices and allow clients the opportunity to opt-out. Policies and procedures are necessary to track the opt-out clients and inform affected representatives. Firms that do not allow any information with former representatives should say so in order to avoid customer service issues with their clients whose expectations are likely to be different. All firms must have policies and procedures to "take back" client information that is already in their representatives' possession when they depart the firm, either because they do not allow this kind of sharing or because, at least theoretically, a client may choose to opt-out. Regulators expect there to be written supervisory procedures and related control procedures to assure representatives do not retain client information when they leave the firm if that is what the firm's privacy notice dictates.

The unintended consequences of the SEC's position will be to cause significant delays in the account transfer process, create orphaned client accounts, and cause actual harm to clients—when, ironically, extremely few clients have even questioned current industry practices in this context. Faced with the uncertainty about transferring their clients, representatives may be reluctant to change firms.

Stay tuned—if the SEC is successful in enforcing its position, can other federal regulators enforcing their own privacy regulations be far behind?

NOTES

1. SEC Order Instituting Administrative and Cease and Desist Proceedings In the Matter of NEXT Financial Group, Inc., File No. 3-12738, Aug. 24, 2007; see Administrative Proceedings Release 34-56316, Aug. 24, 2007 NEXT Financial Group, Inc., on the SEC's website: <http://www.sec.gov/litigation/admin.shtml>. The SEC alleges that the broker-dealer violated Rule 10, Limits on Disclosure of Nonpublic Personal Information to Nonaffiliated Third Parties, Rule 30, Procedures to Safeguard Customer Records and Information, Rule 4, Initial Privacy Notice to Consumers Required, Rule 6, Information to Be Included in Privacy Notices, and that the firm aided and abetted violations of Rule 10 by representatives who left their former broker-dealers to join the firm.

2. Title V of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, 113 Stat. 1338 (1999), 15 U.S.C. §§ 6801-6831.

3. Regulation S-P, Privacy of Consumer Financial Information, 12 C.F.R. Part 248, effective November 13, 2000.

4. NASD Account Transfer Report on page 4.

5. NASD Account Transfer Report page 4 at note 5.

6. SEC Release Nos. 34-42484, IC-24326, IA-1856; File No. S7-6-00 (March 2, 2000) ("Proposing Release").

7. SEC Release Nos. 34-42974, IC-24543, IA-1883; File No. S7-6-00 (June 22, 2000) ("Adopting Release").

8. A standardized form and format for the privacy notice has been proposed for all "financial institutions," including broker-dealers, investment advisers, mutual funds, insurance companies, banks, and others. The proposal was jointly proposed by the SEC, Commodities Futures Trading Commission, Federal Trade Commission, and the five federal banking regulators, each proposing the same model privacy notice form and format. Interagency Proposal for Model Privacy Form under the Gramm-Leach-Bliley Act, SEC Release Nos.: 34-55497, IA-2598, IC-27755, File No.: S7-09-07 (March 20, 2007). The proposal is silent on the client information sharing issues covered here.

9. FINRA's clarification in Regulatory Notice 07-36, Supervision of Recommendations after a Registered Representative Changes Firms, disclaims any incongruity between Regulation S-P and its requirements imposed under Notice to Members 07-06, Supervision of Recommendations after a Registered Representative Changes Firms, but begs the question about how Regulation S-P applies in the context of a representative changing firms.

10. At present, FINRA's rules continue to refer to the NASD Manual and selected New York Stock Exchange member rules.

11. See Notice to Members 06-45, SEC Approves Amendments to NASD Rule 2211 to Require Principal Pre-Use Approval of Certain Member Correspondence Sent to 25 or More Existing Retail Customers within a 30 Calendar-Day Period, effective December 1, 2006.

12. The Adopting Release says customers' names, addresses, telephone numbers, any compilations or customer lists (e.g., a rolodex, a PDA, a "birthday list"), and even the existence of a prior customer relationship are nonpublic personal information unless there is a reasonable basis to believe this information is, in fact, publicly available.

13. See, for example, *Morgan Stanley DW, Inc v Spencer Frisby and Patrick Lovell*, 163 F Supp 2d 1371, at 1378; (ND Ga 2001); *Dean Witter v Imperatore*, No C-32-97E (NJ Super Ct Feb. 14, 1997); *Prudential Securities v Plunkett*, 8 F Supp 2d 514, 520 (ED Va 1998); *Merrill Lynch, Pierce, Fenner & Smith Inc, v E F Hutton & Co, Inc, James Bond, Paul Camilleri, Arthur Ciagne and John Kulhavi*, 403 F Supp 336; (ED Mich 1975); *H&R Block Fin Advisors, Inc v Majkowski*, 410 F Supp 2d 1, (DC 2006); aff'd. and injunction denied, *H&R Block Fin Advisors, Inc v Majkowski*, (DC Cir Jan 30, 2006).

14. 15 USC 6802.

15. 15 USC 6802(e).

16. 15 USC 6809.

17. Regulation S-P, Rules 14 and 15, 12 C.F.R. §§ 248.14 and 248.15.

18. SEC Release Nos. 34-42974, IC-24543, IA-1883; File No. S7-6-00 (June 22, 2000) ("Adopting Release").

19. Id.

20. Id.

21. Id.



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