

Financial Engines Advisors L.L.C. Investment Adviser Policies and Procedures

This is a printed version of the online . It was printed on 01/09/2024 at 13:10. **Policies and procedures are current as of date and time of printing.**

XXII. Privacy Policy

Introduction and Background

Regulation S-P ("Reg S-P"), which was enacted by the SEC in response to the privacy provisions of the Gramm-Leach-Bliley Act (the "GLBA"), requires financial institutions, including investment advisors, to adopt policies and procedures to protect the "nonpublic personal information" of natural person consumers and customers and to disclose to such persons the policies and procedures for protecting that information. "NPI" is any non-public information "personally identifiable financial information" that a financial institution collects about an individual in connection with providing a financial product or service unless that information is otherwise "publicly available." NPI includes:

- any information an individual gives an institution to get a financial product or service (for example, name, address, income, Social Security number, or other information on an application);
- any information an institution gets about an individual from a transaction involving its financial product(s) or service(s) (for example, the fact that an individual is a consumer or customer, account numbers, payment history, loan or deposit balances, and credit or debit card purchases); or
- any information an institution gets about an individual in connection with providing a financial product or service (for example, information from court records or from a consumer report).

NPI does not include information that an institution has a reasonable basis to believe is lawfully made "publicly available." Therefore, information is not NPI when an institution has taken steps to determine:

- that the information is generally made lawfully available to the public; and
- that the individual can direct that it not be made public and has not done so.

For example, while telephone numbers are listed in a public telephone directory, an individual can elect to have an unlisted number. In that case, his or her phone number would not be "publicly available."

Who Gets a Privacy Notice?

Financial institutions must give their customers - and in some cases their consumers - a "clear and conspicuous" written notice describing their privacy policies and practices (a "Privacy Notice").

Under Reg S-P, a "consumer" is someone who obtains or has obtained a financial product or service from a financial institution that is to be used primarily for personal, family, or household purposes.

Examples of "consumer" relationships:

- cashing a check with a check-cashing company
- making a wire transfer
- applying for a loan, whether or not the individual actually obtains the loan.

"Customers" are a subclass of consumers who have a continuing relationship with a financial institution. It's the nature of the relationship - not how long it lasts - that defines an institution's customers. Even if an individual repeatedly uses a financial institution's services for unrelated transactions, he or she may not be considered a "customer."

Examples of a "customer" relationship include

- opening an account with the financial institution
- using the services of an investment advisor
- entering into an advisory contract

A former customer has obtained a financial product or service from a financial institution but no longer has a continuing relationship with it. For purposes of Reg S-P, a former customer is considered to be a consumer.

Whether or not a financial institution shares customer NPI, it must give all its customers a Privacy Notice, and must provide an "initial notice" by the time the customer relationship is established. If this would substantially delay the customer's transaction, an institution may provide the Privacy Notice within a reasonable time after the customer relationship is established, but only if the customer agrees.

If a financial institution shares NPI with nonaffiliated third parties outside of the exceptions described in Reg S-P, it also must give its customers:

- an "opt-out" notice explaining the individual's right to direct the institution not to share his or her NPI with a nonaffiliated third party;
- a reasonable way to opt out; and
- a reasonable amount of time to opt out before disclosure of his or her NPI.

Currently, the [Firm](#) does not share information with nonaffiliated parties in a manner that would allow customers to opt-out.

Before a financial institution can share NPI of non-customer consumers with nonaffiliated third parties outside of the exceptions enumerated in Reg S-P, a financial institution must provide its non-customer consumers with a Privacy Notice, including an opt-out notice. If a financial institution does not share information with nonaffiliated third parties, or if a financial institution only shares within the exceptions, a financial institution does not have to give a Privacy Notice to its non-customer consumers.

If a financial institution is required to provide a Privacy Notice to its non-customer consumers, it may choose to give them a "short-form notice" instead of a full Privacy Notice. The short form notice must:

- explain that the full Privacy Notice is available on request;
- describe a reasonable way that consumers may get the full Privacy Notice; and

- include an opt-out notice.

Generally, financial institutions are required to deliver an annual Privacy Notice to customers, however, Fixing America's Surface Transportation Act, which included an amendment of the consumer privacy provisions within the GLBA, eliminated a financial institution's obligation to comply with the annual requirement as long as the financial institution satisfies certain conditions.

Delivery of Privacy Notice

A financial institution must deliver its Privacy Notice to each consumer or customer in writing, or, if the consumer or customer agrees, electronically. Privacy Notices may be delivered by mail or by hand. For individuals who conduct transactions with a financial institution electronically, a financial institution may post its Privacy Notice on its website and require them to acknowledge receiving the Privacy Notice as a necessary part of obtaining a particular product or service. For annual Privacy Notices, an institution may reasonably expect that its customers have received the Privacy Notice if they use the institution's website to access financial products or services and agree to receive notices via the website, and the Privacy Notice is posted continuously in a clear and conspicuous manner on the website.

Exceptions to the Notice and Opt-Out Requirements

There are a number of exceptions to the notice and opt-out requirements. These exceptions are located in sections 313.14 ("section 14 exceptions") and 313.15 ("section 15 exceptions") of Reg S-P. If an institution shares information only under these sets of exceptions, it doesn't need to give its consumers a Privacy Notice, but it will need to give its customers a simplified initial and, if applicable, an annual Privacy Notice. Customers and consumers have no right to opt out of these disclosures of NPI.

The section 14 exceptions apply to various types of information-sharing that are necessary for processing or administering a financial transaction requested or authorized by a consumer. This includes, for example, disclosing NPI to service providers who help mail account statements and perform other administrative activities for a consumer's account.

The section 15 exceptions apply to certain types of information-sharing, including disclosures for purposes of preventing fraud, responding to judicial process or a subpoena, or complying with federal, state, or local laws. Examples of appropriate information disclosures under this exception include those made to technical service providers who maintain the security of records, and to attorneys or auditors.

Exception to the Opt-Out Requirement: Service Providers and Marketing

Another exception can be found in section 313.13 ("section 13 exception") of Reg S-P. If an institution shares information under this exception, it must give its customers - and its consumers if it shares their information - a Privacy Notice that describes this disclosure. However, its consumers and customers do not have a right to opt out of this information sharing.

The section 13 exception covers disclosures for certain service providers and for certain marketing activities. The section 13 exception covers disclosures to third party service providers whose services do not fall within the section 14

exceptions. For example, if an institution hires a nonaffiliated third party to provide services in connection with marketing its products, or to do a general analysis of its customer transactions, the institution's disclosure of NPI for these purposes does not fall under the section 14 exceptions. Therefore, it can use the section 13 exception for these types of service providers.

To take advantage of the section 13 exception, it must enter into a contract with those nonaffiliated third parties with whom it shares NPI. The agreement must guarantee the confidentiality of the information by prohibiting the third party from using or disclosing the information for any purpose other than the one for which it was received.

Currently the [Firm](#) shares information under the section 13 exemption, including hiring nonaffiliated third parties to provide services in connection with marketing its products. The [Firm](#) requires that each third party enter into a contract that includes a confidentiality provision which prohibits the third party from using or disclosing NPI for any purpose other than the one for which it was received.

As a registered investment adviser, FEA must comply with SEC Regulation S-P (or other applicable regulations), as well as with state privacy regulations such as the California Financial Information Privacy Act ("SB1") and the Massachusetts Data Protection Law (201 CMR 17), among others. The [Firm](#) will continue to monitor applicability of state privacy laws and will implement various procedures, as necessary.

The [Firm](#) has developed and implemented the following policies to meet these responsibilities and to comply with the Advisers Act and federal securities laws.

Policy Statement

The [Firm](#) has adopted this privacy policy ("Privacy Policy") in compliance with Reg S-P and other applicable regulations, to provide administrative, technical, and physical safeguards to assist employees in maintaining the confidentiality of NPI collected from consumers and customers. NPI, whether relating to prospective, current, or former [Clients](#), is subject to this Privacy Policy.

Responsible Parties

The EVP, Chief Legal & Risk Officer or designee has the overall responsibility for proposing revisions or amendments to the [Firm's](#) Privacy Policy for compliance with applicable laws and regulations.

The CCO is responsible for maintaining dated copies of the Privacy Policy and any Privacy Notice adopted for use by the Firm. The CCO may recommend to the EVP, Chief Legal & Risk Officer or the Chief Executive Officer, any disciplinary or other action as appropriate for a breach of the policy or procedures. The CCO is also responsible for distributing and conducting appropriate employee training regarding these policies and procedures.

The Chief Information Security Officer (CISO) has the overall responsibility for maintaining technical and physical safeguards to protect the confidentiality of NPI collected from the [Firm's](#) consumers and customers.

The SVP, Client Operations, working with the [CCO](#), has the overall responsibility for distribution of the [Firm's](#) Privacy Notice to workplace advisory prospects and workplace [Clients](#) and implementing any revisions to the Privacy Notice.

The EVP, Co-Chief Client Officer(s), working with the [CCO](#), has the overall responsibility for distribution of the [Firm's](#) Privacy Notice to Wealth Planning advisory prospects and Wealth Planning clients and implementing any revisions to the Privacy Notice.

The EVP, Product & Technology Officer, has the responsibility of updating the Privacy Notice on the [Firm's](#) websites.

Procedures

The [Firm](#) has adopted various procedures to implement the [Firm's](#) Privacy Policy and conducts reviews to monitor and assess whether the Privacy Policy is observed, properly implemented, and amended or updated, as appropriate, which include the following:

Non-Disclosure of Client Information

The [Firm](#) maintains safeguards to comply with applicable laws and regulations to guard each consumer and customer's NPI. The [Firm](#) has adopted a Privacy Policy for its advisory services. The [Firm](#) does not share NPI with any nonaffiliated third parties, except as disclosed in its Privacy Notice.

Employees are prohibited, either during or after termination of their employment, from disclosing NPI to any person or entity outside of the [Firm](#), including family members, except under the circumstances described in this Privacy Policy. An employee is permitted to disclose NPI only to such other employees who need to have access to such information to deliver services to its [Clients](#) or prospects.

Security of Client Information

The [Firm](#) restricts access to NPI to those employees who need to know such information to provide services to its [Clients](#) or prospects. The [Firm](#) has adopted an Information Security Policy that sets forth the procedures employees must follow to safeguard NPI. The [Firm](#) also has published a Security Statement on its website which describes the security measures implemented with respect to the services provided through the [Firm's](#) website.

Privacy Notices

The [Firm](#) will provide each natural person [Client](#) with its Privacy Notice when the [Client](#) relationship is established. Currently, the [Firm](#) provides its Privacy Notice in the following ways:

- *Online Advice:* The [Firm](#) provides its Privacy Notice to each [Client](#) receiving advisory services by using Online Advice at the time the [Client](#) enters into an Investment Services Agreement.
- *Professional Management:* The [Firm](#) provides its Privacy Notice to each [Client](#) receiving advisory services through its Professional Management service. The Privacy Notice is made available to the [Client](#) at or before the time the [Client](#) enrolls.
- *Personal Advisor (i.e., Workplace):* The [Firm](#) provides its Privacy Notice to each [Client](#) receiving advisory services through its Personal Advisor service. The Privacy Notice is made available to the [Client](#) at or before the time the [Client](#) executes new account paperwork for the Personal Advisor service.
- *Advisory Services Offered Directly (i.e., Retail):* The [Firm](#) provides its Privacy Notice to a [Client](#) receiving advisory

services for tax-deferred or taxable accounts directly from one of its retail Advisor Centers. The Privacy Notice is presented to the [Client](#) at or before the time the [Client](#) executes new account paperwork.

Currently, the [Firm](#) shares NPI with third parties in a manner which requires delivery of either a full Privacy Notice or short-form notice to certain non-customer consumers but does not share information with nonaffiliated parties in a manner that would allow non-customer consumers to opt-out. There are several ways that the full Privacy Notice or short-form notice is delivered to non-customer consumers (also referred to as prospects herein) which includes but is not limited to the following:

- Upon the initial meeting with an advisor/planner, retail prospects (i.e., consumers) are provided a full copy of the Privacy Notice.
- The full privacy notice is available for all customers and consumers who visit our [website](#).
- Short-form notice is included on most printed and electronic communications, sent to customers and consumers.

As interactions with clients and prospective clients evolve, the [CCO or designee](#) will continue to evaluate whether the current methods for delivering the Privacy Notice is sufficient and will update procedures if deemed necessary.

Revisions to the Firm's Privacy Notice and Annual Delivery Requirement

Should the [Firm](#) adopt a material change to its practices in order to share NPI in a manner that would permit a customer or consumer to opt-out, the [Firm](#) may be required to deliver to each affected consumer or customer a revised Privacy Notice and an opportunity to opt-out of such information sharing. Each year, the [Firm](#) analyzes whether it is required to deliver an annual Privacy Notice.

Recordkeeping Requirements

- By enrolling in Professional Management and Online Advice clients, must agree to the appropriate terms and conditions, including the Privacy Notice. The [Firm](#) maintains a record of enrollment and thus an acceptance of those terms and conditions..
- The [Firm](#) maintains records of legal booklets mailed to prospective workplace clients.
- The [Firm](#) maintains a record of a current sample packet of legal documents that are provided to retail clients.
- The [Firm](#) maintains records of written communications with [Client](#) and prospective clients, including communications containing short form notice.

References

- [Privacy Notice Link](#)

Related Information

[Regulation S-P – Privacy of Consumer Financial Information and Safeguarding Personal Information](#)

Last Updated 12/08/2023

Internal Use Only

