

Overview of the Two Versions of the CSBS Model Data Security Law

There are two versions of the CSBS Model Data Security Law available for state regulator adoption: the full Nonbank Model Data Security Law and the alternative language requiring compliance with the FTC Safeguards Rule. Both versions aim to establish comprehensive and uniform standards for data security in financial institutions and mitigate cyber threats.

CSBS Nonbank Model Data Security Law

Pros:

- Provides a robust and comprehensive framework for data security in financial institutions.
- Offers flexibility for customization to fit the specific requirements and needs of each state.
- Includes notification requirements following a notification event.

Cons:

- Adoption may require a more extensive legislative process.
- The flexibility for customization may encourage states to implement different requirements and become unaligned with each other and the FTC Safeguards Rule.
- There is a potential for greater industry pushback due to the appearance of more requirements and the opportunity for uneven implementation state to state.

Alternative Language Requiring Compliance with the FTC Safeguards Rule

Pros:

- A streamlined approach for states looking to implement language without modifications.
- It simplifies the adoption process by requiring conformance to the FTC Safeguards Rule, which is already applicable to state covered nonbanks.
- Where allowed, future amendments to the FTC Safeguards Rule would be automatically updated by reference in state law or rule.
- Promotes consistency and harmonization with federal data security regulations.

Cons:

- May not address all specific requirements or challenges faced by nonbank financial institutions.
- Limited flexibility for customization to meet state-specific needs beyond what is covered by the FTC Safeguards Rule.
- States will not be notified following a notification event since the Safeguards Rule only requires notification to the FTC. The alternative language would need to be supplemented to add notification to the state regulator.

State regulators can evaluate these pros and cons to determine which version of the law best aligns with their state's goals, existing regulations, and data security priorities. The Nonbank Model Data Security Law offers comprehensive customization options, while the alternative language provides a streamlined approach conforming to the FTC Safeguards Rule.