Bank of America Sued Over Privacy Violations Due to Overseas Outsourcing

September 8, 2011 â€“ Last month, a new lawsuit was filed in District Court for the District of Columbia against Bank of America Corporation; the nations largest bank holding company. The suit alleges that B of A has been outsourcing certain functions to overseas companies and that as a result has given access to the personal financial records of American citizens to foreign nationals. If the allegation is correct, it would appear that B of A has violated the Right to Financial Privacy Act â€“ a federal law â€“ and could have exposed millions of account holders in such a way that they can easily become victims of financial crimes. Just as importantly, those same account holders may also be targeted for government snooping; no search warrant required.

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The allegations against B of A are fairly straight forward. The company has been using foreign corporations, as well as its own foreign subsidiaries, to provide a variety of services to the bank and its customers. They are accused of transferring financial records of American account holders to those foreign service providers and subsidiaries. If true, the bank may have created a variety of very serious privacy issues for its customers.

As soon as customer records are transferred overseas, they are no longer subject to US and state privacy laws. Not that the United States has the best financial privacy laws in the world, but our laws are much better that the laws of many other countries.

Once an overseas transfer of personally identifiable information â€“ especially financial information â€“ takes place, there is absolutely no way to know how that information will be used. There is no way to know if the company receiving that information actually has its own internal standards for handling sensitive data, or how well those standards are enforced. And because Americanâ€™s are often viewed as being wealthy by the standards of other countries, we make inviting targets.

It would be a fairly simple process for the employee of a foreign company living in a third world country to steal data. That data could then be sold to an identity thief, or used for other purposes by the person who actually stole it. It could even be used to get all of the documentation required to enter the United States and remain here illegally.

Just as importantly, the Right to Financial Privacy Act sets out specific rules that the government has to follow when it wants access to the financial records of US citizens. Those rules include either getting the permission of the owner of those records or obtaining a search warrant. But those rules only apply to financial records that are located within the United States. Once they are transferred to another country, they donâ€™t apply.

According to the law suit, B of A didnâ€™t obtain the permission of its customers before sending data overseas. Nor did the bank explain the legal and potential victimization issues that could arise as a result of the bankâ€™s actions. So essentially, the suit alleges that the bank waived the rights of its customers without their permission.

The suit is known as STEIN et al v. BANK OF AMERICA CORPORATION et al.

byJim Malmberg
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