

# **Duty of Confidentiality in Financial Transactions**

## **- A Comparative Analysis Among Legal Systems of E.U. Countries and the United States -**

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### **Abstract**

Duty of confidentiality of financial institutions is the duty of not disclosing information concerning their customers, which was obtained while providing services, to a third party. Although this duty was not placed into law, financial institutions were assumed to undertake this duty as a collateral or expletive duty, given the nature of various contracts that they executed with their customers. Research of foreign legislation related to protection of personal information was done actively following the enactment of the Personal Information Protection Act. However, there was very little research, including comparative law analysis, on the duty of confidentiality of financial institutions which is the other pillar for protecting customer information with areas overlapping with the Personal Information Protection Act.

This paper presents the results of the authors' research on the duty of confidentiality of financial institutions of the United Kingdom, France, Germany, and the United States, which was done over a period of two and a half years. The paper compares the regulatory system that governs the duty of confidentiality among the four countries, and points out the differences and similarities among them, given the diversities among them regarding their historical development, on who the system protects, who the system regulates, and relationship between the regulatory systems that governs personal information protection. Further, the paper aims to provide useful material to set a direction for the future of protecting customer information of financial institutions, which is a major issue for financial institutions and their customers, as Japan has started to review its personal information protection policy.

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