The Market Regulation and Consumer Affairs (D) Committee met in New York, NY, Aug. 5, 2019. The following Committee members participated: Chlora Lindley-Myers, Chair (MO); Allen W. Kerr, Vice Chair, and Ryan James (AR); Trinidad Navarro represented by Frank Pyle (DE); John F. King represented by Justin Durrance (GA); Stephen W. Robertson represented by Holly Lambert (IN); Vicki Schmidt (KS); Anita G. Fox represented by Michele Riddering (MI); Mike Causey represented by Tracy Biehn (NC); Barbara D. Richardson (NV); Kent Sullivan (TX); Todd E. Kiser (UT); Tregenza A. Roach (VI); and Mike Kreidler and John Haworth (WA). Also participating were: Maria Ailor (AZ); Timothy Schott (ME); Bruce R. Ramge (NE); and Larry Deiter (SD).

1. **Adopted its July 15 Minutes**

The Committee met July 15 and took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted the insurance data security pre-breach and post-breach checklists; 3) adopted standardized data requests (SDRs) for private passenger auto in-force policies and claims, homeowners in-force policies and claims, and personal lines new business declinations; 4) adopted the short-term limited duration (STLD) data call template; 5) adopted the Market Conduct Annual Statement (MCAS) private flood data call and definitions; and 6) adopted revisions to the MCAS health data call and definitions.

Commissioner Kerr made a motion, seconded by Commissioner Kiser, to adopt the Committee’s July 15 minutes (Attachment One). The motion passed unanimously.

2. **Discussed Updates to the Best Practices and Guidelines for Consumer Information Disclosures**

Director Lindley-Myers said a review of the Best Practices and Guidelines for Consumer Information Disclosures arose from a request by the NAIC Consumer Representatives for the NAIC membership to consider best practices for consumer information disclosures. She said this resulted in the following charge for the Committee: “Review the Best Practices and Guidelines for Consumer Information Disclosures (adopted October 2012) and update as needed.”

Director Lindley-Myers said the Committee solicited comments on the Best Practices and Guidelines for Consumer Information Disclosures, which were adopted in 2012, and received extensive suggested revisions from the NAIC Consumer Representatives.

Birny Birnbaum (Center for Economic Justice—CEJ) said consumer information, education and disclosures have been one of the most common regulatory tools employed by state insurance regulators to address market problems. He noted the extensive experience over many years of Brenda J. Cude (University of Georgia), Karol Kitt (University of Texas at Austin – Human Ecology) and himself, contributing to more than 100 consumer information, education or disclosure initiatives over the years at the NAIC.

Mr. Birnbaum said a purpose of the 2012 Best Practices and Guidelines for Consumer Information Disclosures was to promote more consistent approaches, utilizing best practices, across the many NAIC consumer information and disclosure working groups. He noted that approaches by different working groups had varied widely and were often developed by subject matter experts (SMEs)—i.e., lawyers, actuaries and examiners—but not experts in the field of consumer information and education.

Mr. Birnbaum suggested that an update to the 2012 document was reasonable and necessary for several reasons. He said the Best Practices and Guidelines for Consumer Information Disclosures should be significantly expanded to both add more discussion of existing topics and add a number of new topics (e.g., insights from behavioral psychology and behavioral economics in the design of consumer information, education and disclosures (CIED); differences in CIED development depending upon intended manner of deployment [e.g., paper, electronic mobile, electronic computer]; new options for consumer testing and post-deployment evaluation) as well as describe the innovative approaches employed by a number of states described in a recent survey by Ms. Kitt and Ms. Cude. He said the NAIC committees continue to rely on consumer information and disclosure as a common regulatory tool; and he cited a recent NAIC Consumer Representative study identifying around 30 current and recently completed activities at the NAIC.
Draft Pending Adoption

Mr. Birnbaum said the NAIC consumer representatives submitted a redline version of the Best Practices and Guidelines for Consumer Information Disclosures that, while offering some additional content, focused on suggestions to restructure the document and identify additional topics to be included in the document.

Justin B. Ailes (American Land Title Association—ALTA) said this is important work for state insurance regulators to engage in; and he supported Mr. Birnbaum’s suggestions. He said a great deal of research on disclosures has been done since the 2008 financial crisis, and the Best Practices and Guidelines for Consumer Information Disclosures would benefit from the research. Jessica Fulginiti Waltman (Forward Health Consulting) agreed with Mr. Ailes and Mr. Birnbaum, and she noted the importance of effective disclosures to consumers.

Director Lindley-Myers said the Committee will expose the revisions for comment and suggestions for additional content. She said the work would be done at the Committee level for now.

3. Adopted its Task Force and Working Group Reports
   a. Antifraud (D) Task Force

Mr. Pyle said the Antifraud (D) Task Force met Aug. 4 to adopt its June 6 and Spring National Meeting minutes.

Mr. Pyle said the Task Force adopted a report from the Antifraud Education Enhancement (D) Working Group. He said the Working Group met July 30 to discuss training completed this year and upcoming webinars scheduled in August concerning opioid abuse and in October concerning the state insurance regulator version of the fraud investigator safety training. He said the Working Group requested state fraud directors to submit topics that they would like in future training.

Mr. Pyle said the Task Force adopted a report from the Antifraud Technology (D) Working Group. He said the Working Group met July 30 to discuss creating an antifraud plan repository to be housed at the NAIC. He said the repository will be used by insurers to create and store their electronic fraud plans. The Working Group plans to hold monthly calls to get this repository created.

Mr. Pyle said the Task Force requested comments on its 2019 charges with a deadline of Aug. 16. He said the Task Force will hold a conference call in September to review the comments submitted and adopt a revised version for its 2020 proposed charges.

Mr. Pyle said the Task Force received reports on matters of interest to the insurance fraud bureaus from the National Insurance Crime Bureau (NICB) and the Coalition Against Insurance Fraud (CAIF).

b. Market Information Systems (D) Task Force

Randy Helder (NAIC) said the Market Information Systems (D) Task Force met Aug. 3. He said, in addition to adopting its Spring National Meeting minutes, the Task Force adopted the report of the Market Information Systems Research and Development (D) Working Group, which reviewed its nine recommendations to address data quality issues identified in its analysis of the market information systems (MIS) metrics results. He said the Working Group also began its review of 2018 year-end MIS data analysis results.

Mr. Helder said the Task Force also heard a status report on outstanding system enhancement requests. He said the requests were split into those that are NAIC State Ahead strategic plan projects and those that lie outside of the strategic plan. He said the Task Force will consider how to more quickly address those requests that are not currently NAIC State Ahead strategic plan projects.

Mr. Helder said the Task Force discussed its 2019 charge to develop a plan for making publicly available data more accessible and meaningful. He said the Task Force clarified that the charge is not intended to broaden what is already publicly available; instead, it is intended to make the data more accessible. He said the Task Force heard a suggestion regarding providing all data in a single download for use by analysts, and it will continue to explore whether and how to implement this suggestion.
Draft Pending Adoption

c. Producer Licensing (D) Task Force

Director Deiter said the Producer Licensing (D) Task Force met Aug. 3 and adopted its Spring National Meeting minutes.

Director Deiter said the Task Force also adopted the report of the Producer Licensing Uniformity (D) Working Group, which is reviewing the State Licensing Handbook for potential revisions necessary to be consistent with established NAIC policy on producer licensing. He said the Working Group is reviewing comments on chapters 1–5.

Director Deiter said the Task Force adopted the report of the Uniform Education (D) Working Group. He said the Working Group met via conference call May 15 and April 16 to review suggested revisions to the Continuing Education Reciprocity (CER) Agreement. He said the agreement, which is signed by state insurance departments, is used to support the use of the CER form. Continuing education (CE) providers may use the CER form to streamline the course-approval process in multiple states. He said through the reciprocal approval process, the CE provider’s home state conducts a substantive review of the CE course; therefore, non-resident states do not need to perform a similar review for a course previously approved by the home state.

Director Deiter said the Task Force discussed the Surplus Lines (C) Task Force request to consider whether the requirement of a resident producer to hold underlying property/casualty (P/C) licenses before a surplus lines license is issued should be expanded to permit an accident and health (A&H) license to fulfill this requirement. He said the Task Force will issue a revised draft of its suggested amendments to the NAIC Uniform Licensing Standards (ULS) and the State Licensing Handbook, which would permit an A&H license to fulfill the underlying resident producer license requirement before a surplus lines license is issued.

Director Deiter said the Task Force heard a report from the National Insurance Producer Registry (NIPR) Board of Directors. He said the Board met Aug. 2 to hear a report from the NIPR Audit Committee regarding NIPR’s financials through June 2019. He said NIPR’s total revenues are $1,629,301 or 7.7% above budget. He said the Board also heard an update on the NAIC and NIPR’s progress on cloud migration, which is a strategic priority for NIPR. NIPR has launched new features to its mobile application, which allow insurance professionals to access their information on a mobile device, making compliance faster and more convenient. He said NIPR is also in the process of updating its website to improve the design, provide easier navigation, and improve the user experience.

Director Deiter said the Task Force discussed the NAIC Regulatory Information Retrieval System (RIRS) data retention and enhancements. He said NAIC staff will hold a webinar for state insurance regulators in October to discuss RIRS codes, the retention standards for RIRS data, and the importance of having accurate and complete RIRS data for the licensing of insurance producers.

Director Deiter said the Task Force also discussed the role of chatbots in the distribution of insurance. He said the Task Force will continue to receive comments and issue a draft outline of a white paper.

d. Market Conduct Examination Standards (D) Working Group

Director Ramge said since the Spring National Meeting, the Market Conduct Examination Standards (D) Working Group met via conference call July 18, June 18, May 30 and April 24.


Director Ramge said on June 18 the Working Group discussed new travel insurance-related exam standards for inclusion in the Handbook.

Director Ramge said during the April 24 and May 30 conference calls, the Working Group adopted new SDRs to address private passenger auto in-force policies, private passenger auto claims, personal lines declinations, homeowners in-force policies, and homeowners claims. He said the Working Group also adopted a new insurance data security pre-breach checklist for inclusion in the reference documents of the Handbook and a new insurance data security post-breach checklist for incorporation into the Handbook. The Working Group also received a report regarding potential inclusion of content from recently adopted NAIC models in the Handbook: Limited Long-Term Care Insurance Model Act (#642); Limited Long-Term Care Insurance Model Regulation (#643); and Travel Insurance Model Act (#632).
Mr. Haworth said the Market Analysis Procedures (D) Working Group met Aug. 4 to adopt its June 13 minutes. He said, during that conference call, the Working Group adopted the STLD data call template; and during the Aug. 4 meeting, the Working Group heard an update on the efforts to coordinate a centralized STLD data call using the template. He said 35 states have agreed to participate in the data call. He said the Working Group has a goal of sending a call letter by Sept. 1; but first, all participating jurisdictions need to sign an agreement between the state and the NAIC, and the Working Group has to be sure that the online collection tool is ready to go.

Mr. Haworth said the Working Group also considered the proposed scorecard ratios for the recently adopted disability insurance MCAS blank. He said the proposed ratios are very close to completion, and the Working Group expects to adopt them by its next conference call.

Mr. Haworth said the Working Group also considered a request to not post the health MCAS scorecard ratios for the health MCAS filings that were due June 30. He said a decision was made not to post individual state scorecards on the NAIC MCAS Scorecard page. However, the Working Group will decide later in August whether to post a national scorecard.

Finally, Mr. Haworth said the Working Group began consideration of a process for uniformly addressing MCAS extension requests and whether to require fraternals to report their market conduct data through MCAS.

Ms. Ailor said the Market Conduct Annual Statement Blank (D) Working Group did not meet at the Summer National Meeting. She said the Working Group met via conference call May 2. She said during that conference call, the Working Group adopted the private flood data call and definitions for MCAS. She noted that the private flood MCAS blank was subsequently adopted by the Market Regulation and Consumer Affairs (D) Committee on July 15. She said, as per the Market Conduct Annual Statement Element Revision Process, which was adopted in 2017, the first filing of the private flood MCAS will be due on April 30, 2021, covering the 2020 data year.

Ms. Ailor said during the May 2 conference call, the Working Group also adopted revisions to the MCAS health data call and definitions that were incorporated in order to add clarity to what companies are expected to file in the health MCAS.

Mr. Haworth said the Market Regulation Certification (D) Working Group did not meet at the Summer National Meeting. He said the Certification Pilot ended on Dec. 31, 2018. He said after the pilot concluded, the volunteer states provided numerous recommendations and suggestions for the improvement of the certification program. He said the volunteers are currently working through those suggestions in order to provide the Working Group with a manageable number of proposed revisions for it to adopt and take to the Market Regulation and Consumer Affairs (D) Committee.

Mr. Haworth said the volunteers should complete their work by September, and the Working Group will meet prior to the Fall National Meeting. By the Fall National Meeting, the Working Group will have a redline draft of the Market Regulation Certification Program for the Committee to consider for adoption.

Ms. Dingus said the Working Group met Aug. 3 to discuss issues of concern to the Market Actions (D) Working Group. Commissioner Kerr made a motion, seconded by Commissioner Kreidler to adopt the reports of the Committee’s task forces and working groups, including the Market Conduct Examination Standards (D) Working Group’s July 18 minutes (Attachment Two), the Market Analysis (D) Working Group’s Aug. 4 minutes (Attachment Three) and the Market Conduct Annual Statement Blanks (D) Working Group’s May 2 minutes (Attachment Four). The motion passed unanimously.

Director Lindley-Myers said at the Spring National Meeting, Mr. Birnbaum suggested a new charge for the Advisory Organization Examination Oversight (D) Working Group to: “Ensure that organizations that engage in advisory organization activities are properly licensed and subject to appropriate regulatory oversight.” She said she discussed the request with Commissioner Ommen, who chairs the Big Data (EX) Working Group. She said Commissioner Ommen agreed to have the

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Big Data (EX) Working Group discuss the regulation of data vendors and brokers under its first charge, which is to: “Review current regulatory frameworks used to oversee insurers' use of consumer and non-insurance data. If appropriate, recommend modifications to model laws and/or regulations regarding marketing, rating, underwriting and claims; regulation of data vendors and brokers; regulatory reporting requirements; and consumer disclosure requirements.”

Director Lindley-Myers said she wanted to hear from members of the Market Regulation and Consumer Affairs (D) Committee, the chair of the Working Group, and Mr. Birnbaum regarding Mr. Birnbaum’s suggested charge.

Mr. Birnbaum said the charge is designed for the oversight of vendors and making sure that organizations acting as advisory organizations are licensed. The charge is to be sure that the current law is enforced. Mr. Birnbaum said this is a function of the Advisory Organization Examination Oversight (D) Working Group more than the Big Data (EX) Working Group. However, he said he would work with the Big Data (EX) Working Group.

Mr. Schott agreed with the decision to move the charge to the Big Data (EX) Working Group. He said the Advisory Organization Examination Oversight (D) Working Group focuses on overseeing regularly scheduled examinations, not investigations.

Commissioner Kiser said the Financial Condition (E) Committee oversees the licensure of insurance companies, and it should also oversee the licensure of advisory organizations. Mr. Birnbaum said advisory organizations are more like producers than insurance companies, and producer licensing falls under the Market Regulation and Consumer Affairs (D) Committee. Commissioner Kiser said the licensing of agencies and companies should be under the same umbrella. Director Lindley-Myers said the Big Data (EX) Working Group is an Executive (EX) Committee Working Group, and the Executive (EX) Committee is better able to enforce policy and move the charge to the appropriate Working Group.

5. Discussed Other Matters

Director Lindley-Myers said the Innovation and Technology (EX) Task Force will be discussing data privacy and next steps. She said she understood that the Task Force will likely refer the issue of data privacy and consumer expectations regarding the use of data to the Market Regulation and Consumer Affairs (D) Committee.

Director Ramge recognized the past contributions to market regulation made by his former friend and Illinois insurance regulator, Michael Hessler (MWH Insurance Consultants). He said Mr. Hessler’s contributions were numerous and valuable. He asked for the minutes to reflect the Committee’s appreciation to Mr. Hessler who recently passed away. He said Mr. Hessler contributed in many ways to advance market regulation, including the Handbook, MCAS and P/C issues. He said Mr. Hessler always had consumer protection in mind with a sensible and knowledgeable approach. He said Mr. Hessler will be missed by fellow state insurance regulators, coworkers and friends.

Having no further business, the Market Regulation and Consumer Affairs (D) Committee adjourned.

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NAIC INSURANCE INFORMATION AND PRIVACY PROTECTION MODEL ACT

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Preamble

The purpose of this Act is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

Section 1. Scope

A. The obligations by this Act shall apply to those insurance institutions, agents or insurance support organizations which, on or after the effective date of this Act:

(1) In the case of life, health and disability insurance:

(a) Collect, receive or maintain information in connection with insurance transactions which pertains to natural persons who are residents of this state, or

(b) Engage in insurance transactions with applicants, individuals or policyholders who are residents of this state, and

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(2) In the case of property or casualty insurance:

(a) Collect, receive or maintain information in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, or

(b) Engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

B. The rights granted by this Act shall extend to:

(1) In the case of life, health or disability insurance, the following persons who are residents of this state:

(a) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions, and

(b) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions, and

(2) In the case of property or casualty insurance, the following persons:

(a) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, and

(b) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

C. For purposes of this section, a person shall be considered a resident of this state if the person's last known mailing address, as shown in the records of the insurance institution, agent or insurance support organization, is located in this state.

D. Notwithstanding Subsections A and B above, this Act shall not apply to information collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this state.

Section 2. Definitions

As used in this Act:

A. “Adverse underwriting decision” means:

(1) Any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(a) A declination of insurance coverage;

(b) A termination of insurance coverage;

(c) Failure of an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which is requested by an applicant;
(d) In the case of a property or casualty insurance coverage:

(i) Placement by an insurance institution or agent of a risk with a residual market mechanism, an unauthorized insurer or an insurance institution which specializes in substandard risks; or

(ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished;

Drafting Note: The use of the term “substandard” in Section 2A(d)(i) is intended to apply to those insurance institutions whose rates and market orientation are directed at risks other than preferred or standard risks. To facilitate compliance with this Act, Commissioners should consider developing a list of insurance institutions operating in their state which specialize in substandard risks and make it known to insurance institutions and agents.

(e) In the case of a life, health or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding Paragraph (1) above, the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(a) The termination of an individual policy form on a class or statewide basis;

(b) A declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or

(c) The rescission of a policy.

B. “Affiliate” or “affiliated” means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

C. “Agent” means [make reference here to every appropriate statutory category of producer, including brokers, authorized to do business in the state. This is necessary because in many states different types of producers, or producers for certain types of insurance institutions are referred to by specific statutory terms in the insurance code.]

D. “Applicant” means a person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

E. “Commissioner” means [insert the appropriate title and statutory reference for the principal insurance regulatory official of the State.]

F. “Consumer report” means a written, oral or other communication of information bearing on a natural person’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used in connection with an insurance transaction.

G. “Consumer reporting agency” means a person who:

(1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(2) Obtains information primarily from sources other than insurance institutions; and

(3) Furnishes consumer reports to other persons.
H. “Control,” including the terms “controlled by” or “under common control with,” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

I. “Declination of insurance coverage” means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

J. “Individual” means a natural person who:

(1) In the case of property or casualty insurance, is a past, present or proposed named insured or certificateholder;

(2) In the case of life, health or disability insurance, is a past, present or proposed principal insured or certificateholder;

(3) Is a past, present or proposed policyowner;

(4) Is a past or present applicant;

(5) Is a past or present claimant; or

(6) Derived, derives or is proposed to derive insurance coverage under an insurance policy or certificate subject to this Act.

K. "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution or insurance support organization, other than:

(1) An agent;

(2) The individual who is the subject of the information; or

(3) A natural person acting in a personal capacity rather than in a business or professional capacity.

L. "Insurance institution" means any corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance, including health maintenance organizations, medical service plans and hospital service plans as defined in [insert the applicable section of the State insurance code which defines health maintenance organizations or medical or hospital service plans.] "Insurance institution" shall not include agents or insurance support organizations.

M. "Insurance support organization" means:

(1) Any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including:

(a) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction, or

(b) The collection of personal information from insurance institutions, agents or other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.
Notwithstanding Paragraph (1) above, the following persons shall not be considered "insurance support organizations" for purposes of this Act: agents, government institutions, insurance institutions, medical care institutions and medical professionals.

N. "Insurance transaction" means any transaction involving insurance primarily for personal, family or household needs rather than business or professional needs which entails:

(1) The determination of an individual's eligibility for an insurance coverage, benefit or payment; or

(2) The servicing of an insurance application, policy, contract or certificate.

O. "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

P. "Medical-care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to: health-maintenance organizations home-health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies and skilled nursing facilities.

Q. "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a chiropractor, clinical dietician, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker or speech therapist.

R. "Medical record information" means personal information which:

(1) Relates to an individual's physical or mental condition, medical history or medical treatment; and

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent or legal guardian.

S. "Person" means any natural person, corporation, association, partnership or other legal entity.

T. "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" includes an individual's name and address and "medical record information" but does not include "privileged information".

U. "Policyholder" means any person who:

(1) In the case of individual property or casualty insurance, is a present named insured;

(2) In the case of individual life, health or disability insurance, is a present policyowner; or

(3) In the case of group insurance which is individually underwritten, is a present group certificateholder.

V. "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone he or she is not;

(2) Pretends to represent a person he or she is not in fact representing;

(3) Misrepresents the true purpose of the interview; or
(4) Refuses to identify himself or herself upon request.

W. "Privileged information" means any individually identifiable information that:

(1) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual; and

(2) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual; provided, however, information otherwise meeting the requirements of this subsection shall nevertheless be considered "personal information" under this Act if it is disclosed in violation of Section 13 of this Act.

Drafting Note: The phrase "in reasonable anticipation of a claim" contemplates that the insurance institution has knowledge of a loss but has not received formal notice of the claim.

X. "Residual market mechanism" means an association, organization or other entity defined or described in Sections(s) [insert those sections of the state insurance code authorizing the establishment of a FAIR Plan, assigned risk plan, reinsurance facility, joint underwriting association, etc.]

Drafting Note: Those states having a reinsurance facility may want to exclude it from this definition if the state's policy is not to disclose to insureds the fact that they have been reinsured in the facility.

Y. "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

Z. "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the Commissioner to transact the business of insurance in this state.

Drafting Note: Each state must make sure that this definition is consistent with its surplus lines laws.

Section 3. Pretext Interviews

No insurance institution, agent or insurance support organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction; provided, however, a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person about whom the information relates for the purpose of investigating a claim where, based upon specific information available for review by the Commissioner, there is a reasonable basis for suspecting criminal activity, fraud, material misrepresentation or material nondisclosure in connection with the claim.

Drafting Note: Some states may desire to eliminate the exception in this section and thereby prohibit pretext interviews in all instances. Other states may desire to broaden the exception so that pretext interviews can be utilized in underwriting and rating situations as well as claim situations. States may either expand or limit the prohibition against pretext interviews suggested in this section to accommodate their individual needs and circumstances. Deviation from the standard developed here should not seriously undermine efforts to achieve uniform rules for insurance information practices throughout the various states.

Section 4. Notice of Insurance Information Practices

A. An insurance institution or agent shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as provided below:

(1) In the case of an application for insurance, a notice shall be provided no later than:

(a) At the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant or from public records; or
(b) At the time the collection of personal information is initiated when personal information is collected from a source other than the applicant or public records;

(2) In the case of a policy renewal, a notice shall be provided no later than the policy renewal date, except that no notice shall be required in connection with a policy renewal if:

(a) Personal information is collected only from the policyholder or from public records; or

(b) A notice meeting the requirements of this section has been given within the previous twenty-four (24) months; or

(3) In the case of a policy reinstatement or change in insurance benefits, a notice shall be provided no later than the time a request for a policy reinstatement or change in insurance benefits is received by the insurance institution, except that no notice shall be required if personal information is collected only from the policyholder or from public records.

B. The notice required by Subsection A above shall be in writing and shall state:

(1) Whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) The types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect such information;

(3) The types of disclosures identified in Subsections B, C, D, E, F, I, K, L and N of Section 13 of this Act and the circumstances under which such disclosures may be made without prior authorization; provided, however, only those circumstances need be described which occur with such frequency as to indicate a general business practice;

(4) A description of the rights established under Sections 8 and 9 of this Act and the manner in which such rights may be exercised; and

(5) That information obtained from a report prepared by an insurance support organization may be retained by the insurance support organization and disclosed to other persons.

C. In lieu of the notice prescribed in Subsection B, the insurance institution or agent may provide an abbreviated notice informing the applicant or policyholder that:

(1) Personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) Such information as well as other personal or privileged information subsequently collected by the insurance institution or agent may in certain circumstances be disclosed to third parties without authorization;

(3) A right of access and correction exists with respect to all personal information collected; and

(4) The notice prescribed in Subsection B will be furnished to the applicant or policyholder upon request.

D. The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

Drafting Note: If permitted under Section 4A, an insurance institution or agent may include the notice in the insurance policy or certificate.
Section 5. Marketing and Research Surveys

An insurance institution or agent shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

Section 6. Content of Disclosure Authorization Forms

Notwithstanding any other provision of law of this state, no insurance institution, agent or insurance support organization may utilize as its disclosure authorization form in connection with insurance transactions a form or statement which authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent or insurance support organization unless the form or statement:

A. Is written in plain language;
B. Is dated;
C. Specifies the types of persons authorized to disclose information about the individual;
D. Specifies the nature of the information authorized to be disclosed;
E. Names the insurance institution or agent and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed;
F. Specifies the purposes for which the information is collected;
G. Specifies the length of time such authorization shall remain valid, which shall be no longer than:

(1) In the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for change in policy benefits:
   (a) Thirty (30) months from the date the authorization is signed if the application or request involves life, health or disability insurance;
   (b) One (1) year from the date the authorization is signed if the application or request involves property or casualty insurance;

(2) In the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy,
   (a) The term of coverage of the policy if the claim is for a health insurance benefit;
   (b) The duration of the claim if the claim is not for a health insurance benefit; and

H. Advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

Drafting Note: The standard established by this section for disclosure authorization forms is intended to supersede any existing requirements a state may have adopted even if such requirements are more specific or applicable to particular authorizations such as medical information authorizations. This section is intended to be the exclusive statutory standard for all authorization forms utilized by insurance institutions, agents or insurance support organizations. This section does not preclude the inclusion of a disclosure authorization in an application form nor invalidate any disclosure authorizations in effect prior to the effective date of this Act. Nor does this section preclude an insurance institution, agent or insurance support organization from obtaining, in addition to its own authorization form which complies with this section, an additional authorization form required by the person from whom disclosure is sought.
Section 7. Investigative Consumer Reports

A. No insurance institution, agent or insurance support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or agent informs the individual:

(1) That he or she may request to be interviewed in connection with the preparation of the investigative consumer report; and

(2) That upon a request pursuant to Section 8, he or she is entitled to receive a copy of the investigative consumer report.

B. If an investigative consumer report is to be prepared by an insurance institution or agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

C. If an investigative consumer report is to be prepared by an insurance support organization, the insurance institution or agent desiring such report shall inform the insurance support organization whether a personal interview has been requested by the individual. The insurance support organization shall institute reasonable procedures to conduct such interviews, if requested.

Section 8. Access to Recorded Personal Information

A. If any individual, after proper identification, submits a written request to an insurance institution, agent or insurance support organization for access to recorded personal information about the individual which is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance support organization, the insurance institution, agent or insurance support organization shall within thirty (30) business days from the date such request is received:

(1) Inform the individual of the nature and substance of such recorded personal information in writing, by telephone or by other oral communication, whichever the insurance institution, agent or insurance support organization prefers;

(2) Permit the individual to see and copy, in person, such recorded personal information pertaining to him or her or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent or insurance support organization has disclosed such personal information within two (2) years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance support organizations or other persons to whom such information is normally disclosed; and

(4) Provide the individual with a summary of the procedures by which he or she may request correction, amendment or deletion of recorded personal information.

B. Any personal information provided pursuant to Subsection A above shall identify the source of the information if such source is an institutional source.
C. Medical-record information supplied by a medical care institution or medical professional and requested under Subsection A, together with the identity of the medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent or insurance support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent or insurance support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

D. Except for personal information provided under Section 10, an insurance institution, agent or insurance support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

E. The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under Subsection A, an insurance institution, agent or insurance support organization may make arrangements with an insurance support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

F. The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

G. For purposes of this section, the term "insurance support organization" does not include "consumer reporting agency" except to the extent this section imposes more stringent requirements on a consumer reporting agency than other state or federal law.

Section 9. Correction, Amendment or Deletion of Recorded Personal Information

A. Within thirty (30) business days from the date of receipt of a written request from an individual to correct, amend or delete any recorded personal information about the individual within its possession, an insurance institution, agent or insurance support organization shall either:

1. Correct, amend or delete the portion of the recorded personal information in dispute; or

2. Notify the individual of:

   (a) Its refusal to make such correction, amendment or deletion;

   (b) The reasons for the refusal, and

   (c) The individual's right to file a statement as provided in Subsection C.

B. If the insurance institution, agent or insurance support organization corrects, amends or deletes recorded personal information in accordance with Subsection A(1) above, the insurance institution, agent or insurance support organization shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to:

1. Any person specifically designated by the individual who may have, within the preceding two (2) years, received such recorded personal information;
(2) Any insurance support organization whose primary source of personal information is insurance institutions if the insurance support organization has systematically received such recorded personal information from the insurance institution within the preceding seven (7) years; provided, however, that the correction, amendment or fact of deletion need not be furnished if the insurance support organization no longer maintains recorded personal information about the individual; and

(3) Any insurance support organization that furnished the personal information that has been corrected, amended or deleted.

C. Whenever an individual disagrees with an insurance institution's, agent's or insurance support organization's refusal to correct, amend or delete recorded personal information, the individual shall be permitted to file with the insurance institution, agent or insurance support organization:

(1) A concise statement setting forth what the individual thinks is the correct, relevant or fair information; and

(2) A concise statement of the reasons why the individual disagrees with the insurance institution's, agent's or insurance support organization's refusal to correct, amend or delete recorded personal information.

D. In the event an individual files either statement as described in Subsection C above, the insurance institution, agent or insurance support organizations shall:

(1) File the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it; and

(2) In any subsequent disclosure by the insurance institution, agent or support organization of the recorded personal information that is the subject of disagreement, clearly identify the matter or matters in dispute and provide the individual's statement along with the recorded personal information being disclosed; and

(3) Furnish the statement to the persons and in the manner specified in Subsection B above.

E. The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

F. For purposes of this section, the term "insurance support organization" does not include "consumer reporting agency" except to the extent that this section imposes more stringent requirements on a consumer reporting agency than other state or federal law.

Section 10. Reasons for Adverse Underwriting Decisions

A. In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision shall:

(1) Either provide the applicant, policyholder or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advise such person that upon written request he or she may receive the specific reason or reasons in writing; and
(2) Provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under Subsection B and Sections 8 and 9 of this Act.

B. Upon receipt of a written request within ninety (90) business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within twenty-one (21) business days from the date of receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to Subsection A(1);

(2) The specific items of personal and privileged information that support those reasons; provided, however:

(a) The insurance institution or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the Commissioner, that the applicant, policyholder or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation or material nondisclosure, and

(b) Specific items of medical-record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution or agent prefers, and

Drafting Note: The exception in Section 10B(2)(a) to the obligation of an insurance institution or agent to furnish the specific items of personal and privileged information that support the reasons for an adverse underwriting decision extends only to information about criminal activity, fraud, material misrepresentation or material nondisclosure that is privileged information and not to all information.

(3) The names and addresses of the institutional sources that supplied the specific items of information pursuant to Subsection B(2); provided, however, that the identity of any medical professional or medical care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the insurance institution or agent prefers.

C. The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

D. When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by Subsection A may be given orally.

Section 11. Information Concerning Previous Adverse Underwriting Decisions

No insurance institution, agent or insurance support organization may seek information in connection with an insurance transaction concerning:

A. Any previous adverse underwriting decision experienced by an individual; or

B. Any previous insurance coverage obtained by an individual through a residual market mechanism, unless such inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.
Section 12. Previous Adverse Underwriting Decisions

No insurance institution or agent may base an adverse underwriting decision in whole or in part:

A. On the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism; provided, however, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision;

B. On personal information received from an insurance support organization whose primary source of information is insurance institutions; provided, however, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as a result of information received from such insurance support organization.

Section 13. Disclosure Limitations and Conditions

An insurance institution, agent or insurance support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

A. With the written authorization of the individual, provided:

   (1) If such authorization is submitted by another insurance institution, agent or insurance support organization, the authorization meets the requirements of Section 6 of this Act; or

   (2) If such authorization is submitted by a person other than an insurance institution, agent or insurance support organization, the authorization is:

       (a) Dated;

       (b) Signed by the individual; and

       (c) Obtained one (1) year or less prior to the date a disclosure is sought pursuant to this subsection; or

B. To a person other than an insurance institution, agent or insurance support organization, provided such disclosure is reasonably necessary:

   (1) To enable such person to perform a business, professional or insurance function for the disclosing insurance institution, agent or insurance support organization and such person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

       (a) Would otherwise be permitted by this section if made by an insurance institution, agent or insurance support organization; or

       (b) Is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent or insurance support organization; or

   (2) To enable such person to provide information to the disclosing insurance institution, agent or insurance support organization for the purpose of:

       (a) Determining an individual's eligibility for an insurance benefit or payment; or

       (b) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction; or
C. To an insurance institution, agent, insurance support organization, or self-insurer, provided the information disclosed is limited to that which is reasonably necessary:

(1) To detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with insurance transactions; or

(2) For either the disclosing or receiving insurance institution, agent or insurance support organization to perform its function in connection with an insurance transaction involving the individual; or

D. To a medical care institution or medical professional for the purpose of:

(1) Verifying insurance coverage or benefits;

(2) Informing an individual of a medical problem of which the individual may not be aware; or

(3) Conducting an operations or services audit to verify the individuals treated by the medical professional or at the medical care institution; provided only such information is disclosed as is reasonably necessary to accomplish the foregoing purposes; or

E. To an insurance regulatory authority; or

F. To a law enforcement or other governmental authority:

(1) To protect the interests of the insurance institution, agent or insurance support organization in preventing or prosecuting the perpetration of fraud upon it; or

(2) If the insurance institution, agent or insurance support organization reasonably believes that illegal activities have been conducted by the individual; or

G. Otherwise permitted or required by law; or

H. In response to a facially valid administrative or judicial order, including a search warrant or subpoena; or

I. Made for the purpose of conducting actuarial or research studies, provided:

(1) No individual may be identified in any actuarial or research report;

(2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and

(3) The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance support organization; or

J. To a party or representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance institution, agent or insurance support organization, provided:

(1) Prior to the consummation of the sale, transfer, merger or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger or consolidation; and

(2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance support organization; or
K. To a person whose only use of such information will be in connection with the marketing of a product or service, provided:

1. No medical record information, privileged information or personal information relating to an individual's character, personal habits, mode of living or general reputation is disclosed, and no classification derived from such information is disclosed;

2. The individual has been given an opportunity to indicate that he or she does not want personal information disclosed for marketing purposes and has given no indication that he or she does not want the information disclosed; and

3. The person receiving such information agrees not to use it except in connection with the marketing of a product or service; or

L. To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; or

M. By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent; or

N. To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit; or

O. To a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional; or

P. To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable; or

Q. To a certificateholder or policyholder for the purpose of providing information regarding the status of an insurance transaction; or

R. To a lienholder, mortgagee, assignee, lessor or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance, provided that:

1. No medical record information is disclosed unless the disclosure would otherwise be permitted by this section; and

2. The information disclosed is limited to that which is reasonably necessary to permit such person to protect its interests in such policy.

Section 14. Power of Commissioner

A. The Commissioner shall have power to examine and investigate into the affairs of every insurance institution or agent doing business in this state to determine whether the insurance institution or agent has been or is engaged in any conduct in violation of this Act.

B. The Commissioner shall have the power to examine and investigate into the affairs of every insurance support organization acting on behalf of an insurance institution or agent which either transacts business in this state or transacts business outside this state that has an effect on a person residing in this state in order to determine whether such insurance support organization has been or is engaged in any conduct in violation of this Act.
Section 15. Hearings, Witnesses, Appearances, Production of Books and Service of Process

A. Whenever the Commissioner has reason to believe that an insurance institution, agent or insurance support organization has been or is engaged in conduct in this state which violates this Act, or if the Commissioner believes that an insurance support organization has been or is engaged in conduct outside this state which has an effect on a person residing in this state and which violates this Act, the Commissioner shall issue and serve upon such insurance institution, agent or insurance support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than [insert number] days after the date of service.

B. At the time and place fixed for such hearing the insurance institution, agent or insurance support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the Commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

C. At any hearing conducted pursuant to this section the Commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The Commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the Commissioner. If no stenographic record is made and if judicial review is sought, the Commissioner shall prepare a statement of the evidence for use on the review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted under the laws of this state.

D. Statements of charges, notices, orders and other processes of the Commissioner under this Act may be served by anyone duly authorized to act on behalf of the Commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this Act have been allegedly violated. A verified return setting forth the manner of service, or return postcard receipt in the case of registered mail, shall be sufficient proof of service.

Section 16. Service of Process - Insurance Support Organizations

For the purpose of this Act, an insurance support organization transacting business outside this state which has an effect on a person residing in this state shall be deemed to have appointed the Commissioner to accept service of process on its behalf; provided the Commissioner causes a copy of such service to be mailed forthwith by registered mail to the insurance support organization at its last known principal place of business. The return postcard receipt for such mailing shall be sufficient proof that the same was properly mailed by the Commissioner.

Section 17. Cease and Desist Orders and Reports

A. If, after a hearing pursuant to Section 15, the Commissioner determines that the insurance institution, agent or insurance support organization charged has engaged in conduct or practices in violation of this Act, the Commissioner shall reduce his or her findings to writing and shall issue and cause to be served upon such insurance institution, agent or insurance support organization a copy of such findings and an order requiring such insurance institution, agent or insurance support organization to cease and desist from the conduct or practices constituting a violation of this Act.

B. If, after a hearing pursuant to Section 15, the Commissioner determines that the insurance institution, agent or insurance support organization charged has not engaged in conduct or practices in violation of this Act, the Commissioner shall prepare a written report which sets forth findings of fact and conclusions of law. Such report shall be served upon the insurance institution, agent or insurance support organization charged and upon the person or persons, if any, whose rights under this Act were allegedly violated.
C. Until the expiration of the time allowed under Section 19 of this Act for filing a petition for review or until such petition is actually filed, whichever occurs first, the Commissioner may modify or set aside any order or report issued under this section. After the expiration of the time allowed under Section 19 of this Act for filing a petition for review, if no such petition has been duly filed, the Commissioner may, after notice and opportunity for hearing, alter, modify or set aside, in whole or in part, any order or report issued under this section whenever conditions of fact or law warrant such action or if the public interest so requires.

Section 18. Penalties

A. In any case where a hearing pursuant to Section 15 results in the finding of a knowing violation of this Act, the Commissioner may, in addition to the issuance of a cease and desist order as prescribed in Section 17, order payment of a monetary penalty of not more than [$500] for each violation but not to exceed [$10,000] in the aggregate for multiple violations.

B. Any person who violates a cease and desist order of the Commissioner under Section 17 of this Act may, after notice and hearing and upon order of the Commissioner, be subject to one or more of the following penalties, at the discretion of the Commissioner:

1. A monetary fine of not more than [$10,000] for each violation;

2. A monetary fine of not more than [$50,000] if the Commissioner finds that violations have occurred with such frequency as to constitute a general business practice; or

3. Suspension or revocation of an insurance institution's or agent's license.

Section 19. Judicial Review of Orders and Reports

A. Any person subject to an order of the Commissioner under Section 17 or Section 18 or any person whose rights under this Act were allegedly violated may obtain a review of any order or report of the Commissioner by filing in the [insert title] Court of [insert county] County, within [insert number] days from the date of the service of such order or report, a written petition requesting that the order or report of the Commissioner be set aside. A copy of such petition shall be simultaneously served upon the Commissioner, who shall forthwith certify and file in such court a transcript of the entire record of the proceeding giving rise to the order or report which is the subject of the petition. Upon filing of the petition and transcript the [insert title] Court shall have jurisdiction to make and enter a decree modifying, affirming or reversing any order or report of the Commissioner, in whole or in part. The findings of the Commissioner as to the facts supporting any order or report, if supported by clear and convincing evidence, shall be conclusive.

B. To the extent an order or report of the Commissioner is affirmed, the Court shall issue its own order commanding obedience to the terms of the order or report of the Commissioner. If any party affected by an order or report of the Commissioner shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there are reasonable grounds for the failure to produce such evidence in prior proceedings, the court may order such additional evidence to be taken before the Commissioner in such manner and upon such terms and conditions as the court may deem proper. The Commissioner may modify his or her findings of fact or make new findings by reason of the additional evidence so taken and shall file such modified or new findings along with any recommendation, if any, for the modification or revocation of a previous order or report. If supported by clear and convincing evidence, the modified or new findings shall be conclusive as to the matters contained therein.

C. An order or report issued by the Commissioner under Section 17 or 18 shall become final:

1. Upon the expiration of the time allowed for the filing of a petition for review, if no such petition has been duly filed; except that the Commissioner may modify or set aside an order or report to the extent provided in Section 17C; or
Upon a final decision of the [insert title] Court if the court directs that the order or report of the Commissioner be affirmed or the petition for review dismissed.

D. No order or report of the Commissioner under this Act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order or report from any liability under any law of this state.

Section 20. Individual Remedies

A. If any insurance institution, agent or insurance support organization fails to comply with Section 8, 9 or 10 of this Act with respect to the rights granted under those sections, any person whose rights are violated may apply to the [insert title] Court of this state, or any other court of competent jurisdiction, for appropriate equitable relief.

B. An insurance institution, agent or insurance support organization which discloses information in violation of Section 13 of this Act shall be liable for damages sustained by the individual about whom the information relates; provided, however, that no individual shall be entitled to a monetary award which exceeds the actual damages sustained by the individual as a result of a violation of Section 13 of this Act.

C. In any action brought pursuant to this section, the court may award the cost of the action and reasonable attorney's fees to the prevailing party.

D. An action under this section must be brought within two (2) years from the date the alleged violation is or should have been discovered.

E. Except as specifically provided in this section, there shall be no remedy or recovery available to individuals, in law or in equity, for occurrences constituting a violation of any provisions of this Act.

Section 21. Immunity

No cause of action in the nature of defamation, invasion of privacy or negligence shall arise against any person for disclosing personal or privileged information in accordance with this Act, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent or insurance support organization; provided, however, this section shall provide no immunity for disclosing or furnishing false information with malice or willful intent to injure any person.

Section 22. Obtaining Information Under False Pretenses

Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent or insurance support organization under false pretenses shall be fined not more than [$10,000] or imprisoned for not more than one year, or both.

Section 23. Severability

If any provisions of this Act or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.
Section 24. Effective Date

A. This Act shall take effect on [insert a date which allows at least a one year interval between the date of enactment and the effective date].

B. The rights granted under Sections 8, 9 and 13 of this Act shall take effect on [insert effective date] regardless of the date of the collection or receipt of the information which is the subject of such sections.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

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PRIVACY OF CONSUMER FINANCIAL AND HEALTH INFORMATION REGULATION

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ARTICLE I. GENERAL PROVISIONS

Section 1. Authority

This regulation is promulgated pursuant to the authority granted by Sections [insert applicable sections] of the Insurance Law.

Section 2. Purpose and Scope

A. Purpose. This regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the state insurance department. This regulation:

(1) Requires a licensee to provide notice to individuals about its privacy policies and practices;

(2) Describes the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and

(3) Provides methods for individuals to prevent a licensee from disclosing that information.

B. Scope. This regulation applies to:

(1) Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

(2) All nonpublic personal health information.

C. Compliance. A licensee domiciled in this state that is in compliance with this regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

Drafting Note: Subsection C is intended to give licensees some guidance for complying with Title V of the Gramm-Leach-Bliley Act in those states that do not have laws or regulations that meet GLBA’s privacy requirements.

Section 3. Rule of Construction

The examples in this regulation, the sample clauses in Appendix A, and the Federal Model Privacy Form in Appendix B of this regulation are not exclusive. Compliance with an example, use of a sample clause, or the Federal Privacy Model Form, to the extent applicable, constitutes compliance with this regulation.

Licensees may rely on use of the Federal Privacy Form in Appendix B, consistent with the attached instructions, as a safe harbor of compliance with the privacy notice content requirements of this regulation.

Use of the Federal Model Privacy Form is not required. Licensees may continue to use other types of privacy notices, including notices that contain the examples in this regulation and/or the sample clauses in Appendix A, provided that such notices accurately describe the Licensee’s privacy practices and otherwise meet the notice content requirements of this regulation. However, while Licensees may continue to use privacy notices that contain the examples in this regulation and/or the sample clauses in Appendix A, Licensees may not rely on use of privacy notices with the sample clauses in Appendix A as a safe harbor of compliance with the notice content requirements of this regulation after July 1, 2019.

Drafting Note: Safe harbor of compliance with this regulation for use of sample clauses in Appendix A sunsets on July 1, 2019.
Section 4. Definitions

As used in this regulation, unless the context requires otherwise:

A. “Affiliate” means a company that controls, is controlled by or is under common control with another company.

B. (1) “Clear and conspicuous” means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

(2) Examples.

(a) Reasonably understandable. A licensee makes its notice reasonably understandable if it:

(i) Presents the information in the notice in clear, concise sentences, paragraphs and sections;

(ii) Uses short explanatory sentences or bullet lists whenever possible;

(iii) Uses definite, concrete, everyday words and active voice whenever possible;

(iv) Avoids multiple negatives;

(v) Avoids legal and highly technical business terminology whenever possible; and

(vi) Avoids explanations that are imprecise and readily subject to different interpretations.

(b) Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

(i) Uses a plain-language heading to call attention to the notice;

(ii) Uses a typeface and type size that are easy to read;

(iii) Provides wide margins and ample line spacing;

(iv) Uses boldface or italics for key words; and

(v) In a form that combines the licensee’s notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(c) Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

(i) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

(ii) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.
C. “Collect” means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

D. “Commissioner” means the insurance commissioner of the state.

Drafting Note: Use the title of the chief insurance regulatory official wherever the term “commissioner” appears. If the jurisdiction of certain health licensees, such as health maintenance organizations, lies with some state agency other than the insurance department, or if there is dual regulation, a state should add language referencing that agency to ensure the appropriate coordination of responsibilities.

E. “Company” means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

F. (1) “Consumer” means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual’s legal representative.

(2) Examples.

(a) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(b) An applicant for insurance prior to the inception of insurance coverage is a licensee’s consumer.

(c) An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(d) An individual is a licensee’s consumer if:

(i) (I) The individual is a beneficiary of a life insurance policy underwritten by the licensee;

   (II) The individual is a claimant under an insurance policy issued by the licensee;

   (III) The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

   (IV) The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

(ii) The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections 15, 16 and 17 of this regulation.

(e) Provided that the licensee provides the initial, annual and revised notices under Section 10 of this regulation to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, or workers’ compensation policyholder, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual described in Item (i), (ii) or (iii), other than as permitted under Sections 15, 16 and 17 of this regulation, such an individual is not the consumer of the licensee solely because he or she is:
(i) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

(ii) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

(iii) A claimant covered by a workers’ compensation plan.

**Drafting Note:** In states where the workers’ compensation self-insurance or workers’ compensation state fund coverage is outside the commissioner’s jurisdiction, regulators may wish to urge the applicable agency or agencies to promulgate a regulation similar to this regulation in order to ensure parity in treatment of workers’ compensation plans and to ensure that all workers covered by such plans have privacy protections.

(f) (i) The individuals described in Subparagraph (e)(i) through (iii) of this paragraph are consumers of a licensee if the licensee does not meet all the conditions of Subparagraph (e).

(ii) In no event shall the individuals, solely by virtue of the status described in Subparagraph (e)(i) through (iii) above, be deemed to be customers for purposes of this regulation.

(g) An individual is not a licensee’s consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

(h) An individual is not a licensee’s consumer solely because he or she has designated the licensee as trustee for a trust.

G. “Consumer reporting agency” has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

H. “Control” means:

(1) Ownership, control or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

I. “Customer” means a consumer who has a customer relationship with a licensee.

J. (1) “Customer relationship” means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

(2) Examples.

(a) A consumer has a continuing relationship with a licensee if:

(i) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(ii) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.
Privacy of Consumer Financial and Health Information Regulation

(b) A consumer does not have a continuing relationship with a licensee if:

(i) The consumer applies for insurance but does not purchase the insurance;

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction;

(iii) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(iv) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

(v) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

(vi) The customer’s policy is lapsed, expired or otherwise inactive or dormant under the licensee’s business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

(vii) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(viii) For the purposes of this regulation, the individual’s last known address according to the licensee’s records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

K. (1) “Financial institution” means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) Financial institution does not include:

(a) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(b) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(c) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

L. (1) “Financial product or service” means a product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) Financial service includes a financial institution’s evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.
M. “Health care” means:

(1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

(a) Relates to the physical, mental or behavioral condition of an individual; or

(b) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

(2) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

N. “Health care provider” means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with state law, or a health care facility.

O. “Health information” means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(1) The past, present or future physical, mental or behavioral health or condition of an individual;

(2) The provision of health care to an individual; or

(3) Payment for the provision of health care to an individual.

P. (1) “Insurance product or service” means any product or service that is offered by a licensee pursuant to the insurance laws of this state.

(2) Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

Q. (1) “Licensee” means all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the Insurance Law of this state, [and health maintenance organizations holding a certificate of authority pursuant to Section [insert section] of this state’s Public Health Law].

Drafting Note: Add bracketed language if HMOs are licensed under other than insurance statutes, and cite appropriate state law.

(2) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in Articles I, II, III and IV of this regulation if the licensee is an employee, agent or other representative of another licensee (“the principal”) and:

(a) The principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(b) The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

(3) (a) Subject to Subparagraph (b), “licensee” shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker in this state, but only in regard to the excess lines placements placed pursuant to Section [insert section] of this state’s laws.

(b) An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in Articles I, II, III and IV of this regulation provided:
(i) The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 15 of this regulation, except as permitted by Section 16 or 17 of this regulation; and

(ii) The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

**PRIVACY NOTICE**

“Neither the U.S. brokers that handled this insurance nor the insurers that have underwritten this insurance will disclose nonpublic personal information concerning the buyer to nonaffiliates of the brokers or insurers except as permitted by law.”

**Drafting Note:** References to “excess lines broker” and “excess lines insurer” should be changed as necessary to correspond with the applicable terms used in each state.

R. (1) “Nonaffiliated third party” means any person except:

(a) A licensee’s affiliate; or

(b) A person employed jointly by a licensee and any company that is not the licensee’s affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(2) Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

S. “Nonpublic personal information” means nonpublic personal financial information and nonpublic personal health information.

T. (1) “Nonpublic personal financial information” means:

(a) Personally identifiable financial information; and

(b) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(2) Nonpublic personal financial information does not include:

(a) Health information;

(b) Publicly available information, except as included on a list described in Subsection T(1)(b) of this section; or

(c) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

(3) Examples of lists.

(a) Nonpublic personal financial information includes any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.
(b) Nonpublic personal financial information does not include any list of individuals’ names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

U. “Nonpublic personal health information” means health information:

   (1) That identifies an individual who is the subject of the information; or

   (2) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

V. (1) “Personally identifiable financial information” means any information:

   (a) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

   (b) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

   (c) The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

   (2) Examples.

   (a) Information included. Personally identifiable financial information includes:

      (i) Information a consumer provides to a licensee on an application to obtain an insurance product or service;

      (ii) Account balance information and payment history;

      (iii) The fact that an individual is or has been one of the licensee’s customers or has obtained an insurance product or service from the licensee;

      (iv) Any information about the licensee’s consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee’s consumer;

      (v) Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

      (vi) Any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and

      (vii) Information from a consumer report.

   (b) Information not included. Personally identifiable financial information does not include:

      (i) Health information;

      (ii) A list of names and addresses of customers of an entity that is not a financial institution; and

      (iii) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.
“Publicly available information” means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(a) Federal, state or local government records;

(b) Widely distributed media; or

(c) Disclosures to the general public that are required to be made by federal, state or local law.

Reasonable basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

(a) That the information is of the type that is available to the general public; and

(b) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee’s consumer has not done so.

Examples.

(a) Government records. Publicly available information in government records includes information in government real estate records and security interest filings.

(b) Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(c) Reasonable basis.

(i) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(ii) A licensee has a reasonable basis to believe that an individual’s telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.
ARTICLE II. PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION

Section 5. Initial Privacy Notice to Consumers Required

A. Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(1) Customer. An individual who becomes the licensee’s customer, not later than when the licensee establishes a customer relationship, except as provided in Subsection E of this section; and

(2) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 16 and 17.

B. When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under Subsection A(2) of this section if:

(1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 16 and 17, and the licensee does not have a customer relationship with the consumer; or

(2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

C. When the licensee establishes a customer relationship.

(1) General rule. A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

(2) Examples of establishing customer relationship. A licensee establishes a customer relationship when the consumer:

(a) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

(b) Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

D. Existing customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of Subsection A of this section as follows:

(1) The licensee may provide a revised policy notice, under Section 9, that covers the customer’s new insurance product or service; or

(2) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection A of this section.

E. Exceptions to allow subsequent delivery of notice.

(1) A licensee may provide the initial notice required by Subsection A(1) of this section within a reasonable time after the licensee establishes a customer relationship if:

(a) Establishing the customer relationship is not at the customer’s election; or
(b) Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer’s transaction and the customer agrees to receive the notice at a later time.

(2) Examples of exceptions.

(a) Not at customer’s election. Establishing a customer relationship is not at the customer’s election if a licensee acquires or is assigned a customer’s policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee’s acquisition or assignment.

(b) Substantial delay of customer’s transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer’s transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

(c) No substantial delay of customer’s transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer’s transaction when the relationship is initiated in person at the licensee’s office or through other means by which the customer may view the notice, such as on a web site.

F. Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to Section 11. If the licensee uses a short-form initial notice for non-customers according to Section 7D, the licensee may deliver its privacy notice according to Section 7D(3).

Section 6. Annual Privacy Notice to Customers Required

A. (1) General rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve (12) consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

(2) Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

B. Exception to general rule. A licensee that provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 15, 16, or 17 and has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section or Section 5 shall not be required to provide an annual disclosure under this section until such time as the licensee fails to comply with any criteria described in this paragraph.

C. (1) Termination of customer relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

(2) Examples.

(a) A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.
(b) A licensee no longer has a continuing relationship with an individual if the individual’s policy is lapsed, expired or otherwise inactive or dormant under the licensee’s business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

(c) For the purposes of this regulation, a licensee no longer has a continuing relationship with an individual if the individual’s last known address according to the licensee’s records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(d) A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

D. Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 11.

Section 7. Information to be Included in Privacy Notices

A. General rule. The initial, annual and revised privacy notices that a licensee provides under Sections 5, 6 and 9 shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(1) The categories of nonpublic personal financial information that the licensee collects;

(2) The categories of nonpublic personal financial information that the licensee discloses;

(3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 16 and 17;

(4) The categories of nonpublic personal financial information about the licensee’s former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee’s former customers, other than those parties to whom the licensee discloses information under Sections 16 and 17;

(5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 15 (and no other exception in Sections 16 and 17 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(6) An explanation of the consumer’s right under Section 12A to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(7) Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(8) The licensee’s policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and
(9) Any disclosure that the licensee makes under Subsection B of this section.

B. Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Sections 16 and 17, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 5 and 6. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

C. Examples.

(1) Categories of nonpublic personal financial information that the licensee collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

(a) Information from the consumer;
(b) Information about the consumer’s transactions with the licensee or its affiliates;
(c) Information about the consumer’s transactions with nonaffiliated third parties; and
(d) Information from a consumer reporting agency.

(2) Categories of nonpublic personal financial information a licensee discloses.

(a) A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in Paragraph (1), as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

(i) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number;
(ii) Transaction information, such as information about balances, payment history and parties to the transaction; and
(iii) Information from consumer reports, such as a consumer’s creditworthiness and credit history.

(b) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

(c) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(3) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

(a) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(b) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.
A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 15 to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection A(5) of this section if it:

(a) Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection A(2) of this section, as applicable; and

(b) States whether the third party is:

(i) A service provider that performs marketing services on the licensee’s behalf or on behalf of the licensee and another financial institution; or

(ii) A financial institution with whom the licensee has a joint marketing agreement.

Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Sections 16 and 17, the licensee may simply state that fact, in addition to the information it shall provide under Subsections A(1), A(8), A(9) and Subsection B of this section.

Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

(a) Describes in general terms who is authorized to have access to the information; and

(b) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee’s policy. The licensee is not required to describe technical information about the safeguards it uses.

D. Short-form initial notice with opt out notice for non-customers.

A licensee may satisfy the initial notice requirements in Sections 5A(2) and 8C for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in Section 8.

A short-form initial notice shall:

(a) Be clear and conspicuous;

(b) State that the licensee’s privacy notice is available upon request; and

(c) Explain a reasonable means by which the consumer may obtain that notice.

The licensee shall deliver its short-form initial notice according to Section 10. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee’s short-form notice requests the licensee’s privacy notice, the licensee shall deliver its privacy notice according to Section 11.

Examples of obtaining privacy notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:
(a) Provides a toll-free telephone number that the consumer may call to request the notice; or
(b) For a consumer who conducts business in person at the licensee’s office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

E. Future disclosures. The licensee’s notice may include:

(1) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(2) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

F. Sample Clauses and Federal Model Privacy Form. Sample clauses illustrating some of the notice content required by this section and the Federal Model Privacy Form are included in Appendix A and Appendix B, respectively, of this regulation.

Section 8. Form of Opt Out Notice to Consumers and Opt Out Methods

A. (1) Form of opt out notice. If a licensee is required to provide an opt out notice under Section 12A, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

(a) That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

(b) That the consumer has the right to opt out of that disclosure; and

(c) A reasonable means by which the consumer may exercise the opt out right.

(2) Examples.

(a) Adequate opt out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

(i) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 7A(2) and (3), and states that the consumer can opt out of the disclosure of that information; and

(ii) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(b) Reasonable opt out means. A licensee provides a reasonable means to exercise an opt out right if it:

(i) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

(ii) Includes a reply form together with the opt out notice;

(iii) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee’s web site, if the consumer agrees to the electronic delivery of information; or
(iv) Provides a toll-free telephone number that consumers may call to opt out.

(c) Unreasonable opt out means. A licensee does not provide a reasonable means of opting out if:

(i) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

(ii) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

(d) Specific opt out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

B. Same form as initial notice permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 5.

C. Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with Section 5, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

D. Joint relationships.

(1) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee’s opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in Paragraph (5) of this subsection).

(2) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(a) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(b) Permit each joint consumer to opt out separately.

(3) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(4) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(5) Example. If John and Mary are both named policyholders on a homeowner’s insurance policy issued by a licensee and the licensee sends policy statements to John’s address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

(a) Send a single opt out notice to John’s address, but the licensee shall accept an opt out direction from either John or Mary.

(b) Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John’s opt out direction.
(c) Permit John and Mary to make different opt out directions. If the licensee does so:

(i) It shall permit John and Mary to opt out for each other;

(ii) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

(iii) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

E. Time to comply with opt out. A licensee shall comply with a consumer’s opt out direction as soon as reasonably practicable after the licensee receives it.

F. Continuing right to opt out. A consumer may exercise the right to opt out at any time.

G. Duration of consumer’s opt out direction.

(1) A consumer’s direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(2) When a customer relationship terminates, the customer’s opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

H. Delivery. When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to Section 11.

Section 9. Revised Privacy Notices

A. General rule. Except as otherwise authorized in this regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 5, unless:

(1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(2) The licensee has provided to the consumer a new opt out notice;

(3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) The consumer does not opt out.

B. Examples.

(1) Except as otherwise permitted by Sections 15, 16 and 17, a licensee shall provide a revised notice before it:

(a) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

(b) Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or
(c) Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(2) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

C. Delivery. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to Section 11.

Section 10. Privacy Notices to Group Policyholders

Unless a licensee is providing privacy notices directly to covered individuals described in Section 4F(2)(e)(i), (ii) or (iii), a licensee shall provide initial, annual and revised notices to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, or workers’ compensation policyholder, in the manner described in Sections 5 through 9 of this regulation, describing the licensee’s privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts or plans.

Section 11. Delivery

A. How to provide notices. A licensee shall provide any notices that this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

B. (1) Examples of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

(a) Hand-delivers a printed copy of the notice to the consumer;

(b) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

(c) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;

(d) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(2) Examples of unreasonable expectation of actual notice. A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

(a) Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

(b) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

C. Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee’s annual privacy notice if:

(1) The customer uses the licensee’s web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or
(2) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee’s current privacy notice remains available to the customer upon request.

D. Oral description of notice insufficient. A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

E. Retention or accessibility of notices for customers.

(1) For customers only, a licensee shall provide the initial notice required by Section 5A(1), the annual notice required by Section 6A, and the revised notice required by Section 9 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(2) Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

(a) Hand-delivers a printed copy of the notice to the customer;

(b) Mails a printed copy of the notice to the last known address of the customer;

(c) Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

F. Joint notice with other financial institutions. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

G. Joint relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of Sections 5A, 6A and 9A, respectively, by providing one notice to those consumers jointly.
ARTICLE III. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 12. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties

A. Conditions for disclosure. Except as otherwise authorized in this regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

(a) The licensee has provided to the consumer an initial notice as required under Section 5;

(b) The licensee has provided to the consumer an opt out notice as required in Section 8;

(c) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(d) The consumer does not opt out.

(2) Opt out definition. Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 15, 16 and 17.

(3) Examples of reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if:

(a) By mail. The licensee mails the notices required in Paragraph (1) of this subsection to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(b) By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in Paragraph (1) of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(c) Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in Paragraph (1) of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

B. Application of opt out to all consumers and all nonpublic personal financial information.

(1) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(2) Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

C. Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.
Section 13. Limits on Redisclosure and Reuse of Nonpublic Personal Financial Information

A. (1) Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Sections 16 or 17 of this regulation, the licensee’s disclosure and use of that information is limited as follows:

(a) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

(b) The licensee may disclose the information to its affiliates, but the licensee’s affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

(c) The licensee may disclose and use the information pursuant to an exception in Sections 16 or 17 of this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(2) Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

B. (1) Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in Sections 16 or 17 of this regulation, the licensee may disclose the information only:

(a) To the affiliates of the financial institution from which the licensee received the information;

(b) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

(c) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(2) Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Sections 16 or 17:

(a) The licensee may use that list for its own purposes; and

(b) The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Sections 16 or 17, such as to the licensee’s attorneys or accountants.

C. Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Sections 16 or 17 of this regulation, the third party may disclose and use that information only as follows:

(1) The third party may disclose the information to the licensee’s affiliates;

(2) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and
(3) The third party may disclose and use the information pursuant to an exception in Sections 16 or 17 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

D. Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Sections 16 or 17 of this regulation, the third party may disclose the information only:

(1) To the licensee’s affiliates;

(2) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(3) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 14. Limits on Sharing Account Number Information for Marketing Purposes

A. General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer’s policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

B. Exceptions. Subsection A of this section does not apply if a licensee discloses a policy number or similar form of access number or access code:

(1) To the licensee’s service provider solely in order to perform marketing for the licensee’s own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(2) To a licensee who is a producer solely in order to perform marketing for the licensee’s own products or services; or

(3) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

C. Examples.

(1) Policy number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(2) Policy or transaction account. For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.
ARTICLE IV. EXCEPTIONS TO LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 15. Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing

A. General rule.

(1) The opt out requirements in Sections 8 and 12 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee’s behalf, if the licensee:

(a) Provides the initial notice in accordance with Section 5; and

(b) Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Sections 16 or 17 in the ordinary course of business to carry out those purposes.

(2) Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee’s contractual agreement with that institution meets the requirements of Paragraph (1)(b) of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Sections 16 or 17 in the ordinary course of business to carry out that joint marketing.

B. Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under Subsection A of this section may include marketing of the licensee’s own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

C. Definition of “joint agreement.” For purposes of this section, “joint agreement” means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

Section 16. Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions

A. Exceptions for processing transactions at consumer’s request. The requirements for initial notice in Section 5A(2), the opt out in Sections 8 and 12, and service providers and joint marketing in Section 15 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer’s account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(3) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

(4) Reinsurance or stop loss or excess loss insurance.

B. “Necessary to effect, administer or enforce a transaction” means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce the licensee’s rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or
(2) Required, or is a usual, appropriate or acceptable method:

(a) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer’s account in the ordinary course of providing the insurance product or service;

(b) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(c) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer’s agent or broker;

(d) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(e) To underwrite insurance at the consumer’s request or for any of the following purposes as they relate to a consumer’s insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or

(f) In connection with:

(i) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(ii) The transfer of receivables, accounts or interests therein; or

(iii) The audit of debit, credit or other payment information.

Section 17. Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information

A. Exceptions to opt out requirements. The requirements for initial notice to consumers in Section 5A(2), the opt out in Sections 8 and 12, and service providers and joint marketing in Section 15 do not apply when a licensee discloses nonpublic personal financial information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (a) To protect the confidentiality or security of a licensee’s records pertaining to the consumer, service, product or transaction;

(b) To protect against or prevent actual or potential fraud or unauthorized transactions;

(c) For required institutional risk control or for resolving consumer disputes or inquiries;

(d) To persons holding a legal or beneficial interest relating to the consumer; or

(e) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee’s compliance with industry standards, and the licensee’s attorneys, accountants and auditors;
(4) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;

(5) (a) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(b) From a consumer report reported by a consumer reporting agency;

(6) 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 financial information concerns solely consumers of the business or unit;

(7) (a) To comply with federal, state or local laws, rules and other applicable legal requirements;

(b) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities; or

(c) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

(8) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers’ compensation plan.

B. Example of revocation of consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under Section 8F.

Drafting Note: Because the notice requirements of this regulation could be a financial burden on a company in liquidation or receivership and negatively impact the ability of the liquidator or receiver to pay claims, regulators may want to consider adding an additional exception providing that licensees in liquidation or receivership are not subject to the notice provisions of this regulation.
ARTICLE V. RULES FOR HEALTH INFORMATION

Section 18. When Authorization Required for Disclosure of Nonpublic Personal Health Information

A. A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

B. Nothing in this section shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; ratemaking and guaranty fund functions; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service functions; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers compensation policy or program; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee’s rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process. Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

Section 19. Authorizations

A. A valid authorization to disclose nonpublic personal health information pursuant to this Article V shall be in written or electronic form and shall contain all of the following:

1. The identity of the consumer or customer who is the subject of the nonpublic personal health information;

2. A general description of the types of nonpublic personal health information to be disclosed;

3. General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used;

4. The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed; and

5. Notice of the length of time for which the authorization is valid and that the consumer or customer may revoke the authorization at any time and the procedure for making a revocation.

B. An authorization for the purposes of this Article V shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than twenty-four (24) months.

C. A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this Article V at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

D. A licensee shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information.
Section 20. Authorization Request Delivery

A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to Section 11, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to Section 18A.

Section 21. Relationship to Federal Rules

Irrespective of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services [insert cite] (the “federal rule”), if a licensee complies with all requirements of the federal rule except for its effective date provision, the licensee shall not be subject to the provisions of this Article V.

Drafting Note: The drafters note that the effective date of this regulation is July 1, 2001. The HHS regulation is anticipated to be promulgated in late 2000, thereby becoming effective in late 2002. As of July 1, 2001, if the licensee is in compliance with all requirements of the HHS regulation except its effective date provision, the licensee is not subject to the provisions of this article. If the licensee comes into compliance with the HHS regulation after that date, the licensee is no longer subject to the provisions of this article as of the date the licensee comes into compliance with the HHS regulation.

Section 22. Relationship to State Laws

Nothing in this article shall preempt or supercede existing state law related to medical records, health or insurance information privacy.
ARTICLE VI. ADDITIONAL PROVISIONS

Section 23. Protection of Fair Credit Reporting Act

Nothing in this regulation shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under Section 603 of that Act.

Section 24. Nondiscrimination

A. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this regulation.

B. A licensee shall not unfairly discriminate against a consumer or customer because that consumer or customer has not granted authorization for the disclosure of his or her nonpublic personal health information pursuant to the provisions of this regulation.

Section 25. Violation

Drafting Note: Cite state unfair trade practices act or other applicable state law.

Section 26. Severability

If any section or portion of a section of this regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.

Section 27. Effective Date

A. Effective date. This regulation is effective November 13, 2000. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this regulation, the commissioner has extended the time for compliance with this regulation until July 1, 2001.

B. (1) Notice requirement for consumers who are the licensee’s customers on the compliance date. By July 1, 2001, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee’s customers on July 1, 2001.

   (2) Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee’s existing customers.

C. Two-year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee’s behalf satisfies the provisions of Section 15A(1)(b) of this regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.
APPENDIX A – SAMPLE CLAUSES

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1–Categories of information a licensee collects (all institutions)
A licensee may use this clause, as applicable, to meet the requirement of Section 7A(1) to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

• Information we receive from you on applications or other forms;
• Information about your transactions with us, our affiliates or others; and
• Information we receive from a consumer reporting agency.

Drafting Note: The safe harbor of compliance for use of sample clause A-1 expires on July 1, 2019.

A-2–Categories of information a licensee discloses (institutions that disclose outside of the exceptions)
A licensee may use one of these clauses, as applicable, to meet the requirement of Section 7A(2) to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in Sections 15, 16 and 17.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

• Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
• Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
• Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Drafting Note: The safe harbor of compliance for use of sample clause A-2, Alternative 1 expires on July 1, 2019.

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

Drafting Note: The safe harbor of compliance for use of sample clause A-2, Alternative 2 expires on July 1, 2019.

A-3–Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)
A licensee may use this clause, as applicable, to meet the requirements of Sections 7A(2), (3), and (4) to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in Sections 16 and 17.
Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

*Drafting Note:* The safe harbor of compliance for use of sample clause A-3 expires on July 1, 2019.

**A-4–Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirement of Section 7A(3) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 15, 16 and 17, as well as when permitted by the exceptions in Sections 16 and 17.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

*Drafting Note:* The safe harbor of compliance for use of sample clause A-4 expires on July 1, 2019.

**A-5–Service provider/joint marketing exception**

A licensee may use one of these clauses, as applicable, to meet the requirements of Section 7A(5) related to the exception for service providers and joint marketers in Section 15. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

*Drafting Note:* The safe harbor of compliance for use of sample clause A-5, Alternative 1 expires on July 1, 2019.

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

*Drafting Note:* The safe harbor of compliance for use of sample clause A-5, Alternative 2 expires on July 1, 2019.
A-6–Explanation of opt out right (institutions that disclose outside of the exceptions)
A licensee may use this clause, as applicable, to meet the requirement of Section 7A(6) to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 15, 16 and 17.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)].

Drafting Note: The safe harbor of compliance for use of sample clause A-6 expires on July 1, 2019.

A-7–Confidentiality and security (all institutions)
A licensee may use this clause, as applicable, to meet the requirement of Section 7A(8) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Drafting Note: The safe harbor of compliance for use of sample clause A-7 expires on July 1, 2019.
APPENDIX B – FEDERAL MODEL PRIVACY FORM

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the Federal Model Privacy Form, if the Form is accurate for each institution that uses the Form. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A. General Instructions

1. How the Model Privacy Form is used.
   (a) The Model Form may be used, at the option of a “licensee”), including a group of licensees or other financial institutions that use a common privacy notice, to meet the content requirements of the privacy notice and opt-out notice set forth in [insert citation for sections of statute or regulation sections that parallel Sections 7 and 8 of the NAIC Privacy of Consumer Financial and Health Information Regulation]
   (b) The Model Form is a standardized form, including page layout, content, format, style, pagination, and shading. Licensees seeking to obtain the safe harbor through use of the Model Form may modify it only as described in these Instructions.
   (c) Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act (FCRA), codified at 15 U.S.C. §§ 1681-1681x, such as a requirement to permit a consumer to opt out of disclosures to affiliates, or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.
   (d) The word “customer” may be replaced by the word “member,” whenever it appears in the Model Form, as appropriate.

2. The Contents of the Model Privacy Form

   The Model Form consists of two pages, which may be printed on both sides of a single sheet of paper or may appear on two separate pages. Where a licensee provides a long list of licensees or financial institutions at the end of the Model Form in accordance with Instruction B3(a)(i), or provides additional information in accordance with Instruction B3(c) and such list or additional information exceeds the space available on Page Two of the Model Form, such list or additional information may extend to a third page.

(a) Page One. The first page consists of the following components:
   (1) Date last revised (upper right-hand corner)
   (2) Title
   (3) Key frame (Why? What? How?)
   (4) Disclosure table (“Reasons we can share your personal information”)
   (5) “To limit our sharing” box, as needed, for the licensee’s opt-out information
   (6) “Questions” box, for customer service contact information
   (7) Mail-in opt-out form, as needed

(b) Page Two. The second page consists of the following components:
   (1) Heading (Page 2)
   (2) Frequently Asked Questions (“Who we are” and “What we do”)
   (3) Definitions
   (4) “Other important information” box, as needed
The format of the Model Privacy Form may be modified only as described below.

(a) Easily readable type font. Licensees that use the Model Form must use an easily readable type font. While a number of factors together produce easily readable font, licensees are required to use a minimum of 10-point font (unless otherwise expressly permitted in these Instructions) and sufficient spacing between lines.

(b) Logo. A licensee may include a corporate logo on any page of the notice, so long as it does not interfere with the readability of the Model Form or the space constraints of each page.

(c) Page size and orientation. Each page of the Model Form must be printed in portrait orientation, the size of which must be sufficient to meet the layout and minimum font size requirements, with sufficient white space on the top, bottom, and sides of the content.

(d) Color. The Model Form must be printed on white or light color paper (such as cream) with black or other contrasting ink color. Spot color may be used to achieve visual interest, so long as the color contrast is distinctive and the color does not detract from the readability of the Model Form. Logos may also be printed in color.

(e) Languages. The Model Form may be translated into languages other than English.

B. Information Required in the Model Privacy Form

The information in the Model Form may be modified only as described below:

1. Name of licensee or group of affiliated licensees or institutions providing the notice

   Insert the name of the licensee providing the notice, or a common identity of the affiliated licensees or financial institutions jointly providing the notice on the form, wherever [name of licensee] appears.

2. Page One

   (a) Last revised date. The licensee must insert in the upper right-hand corner the date on which the notice was last revised. The information shall appear in minimum 8-point font as “rev. [month/year]” using either the name or number of the month, such as “rev. July 2016” or “rev. 7/16.”

   (b) General instructions for the “What?” box

      (i) The bulleted list identifies the types of personal information that the licensee collects and shares. All licensees must use the term “Social Security Number” in the first bullet.

      (ii) A licensee must use five (5) of the following terms, to complete the bulleted list: income; account balances; payment history; transaction history; transaction or loss history; credit history; credit scores; assets; investment experience; credit-based insurance scores; insurance claim history; medical information; overdraft history; purchase history; account transactions; risk tolerance; medical-related debts; credit card or other debt; mortgage rates and payments; retirement assets; checking account information; employment information; wire transfer instructions.
General instructions for the disclosure table. The left column lists reasons for sharing or using personal information. Each reason correlates to a specific legal provision described in Paragraph 2(d) of this Instruction. In the middle column, each licensee must provide a “Yes” or “No” response that accurately reflects its information-sharing policies and practices with respect to the reason listed on the left. In the right column, each licensee must provide in each box one of the following three (3) responses, as applicable, that reflects whether a consumer can limit such sharing:

“Yes,” if it is required to or voluntarily provides an opt-out; “No,” if it does not provide an opt-out; or

“We don’t share,” if it answers “No” in the middle column.

Only the sixth row (“For our affiliates to market to you”) may be omitted at the option of the licensee. See Paragraph 2(d)(6) of this instruction.

Specific disclosures and corresponding legal provisions

(i) For our everyday business purposes. This reason incorporates sharing information under [insert citation for sections of statute or regulation sections that parallel Sections 16 and 17 of NAIC model Privacy of Consumer Financial and Health Regulation] and with service providers pursuant to [insert citation for section of statute or regulation that parallels Section 15 of NAIC Privacy of Consumer Financial and Health Regulation] other than the disclosures described in Paragraphs (2)(d)(ii) or (2)(d)(iii) of this instruction.

(ii) For our marketing purposes. This reason incorporates sharing information with service providers by a licensee for its own marketing pursuant to [insert citation for section of statute or regulation that parallels Section 15 of NAIC Privacy of Consumer Financial and Health Regulation]. A licensee that shares for this reason may choose to provide an opt-out.

(iii) For joint marketing with other financial companies. This reason incorporates sharing information under joint marketing agreements between 2 or more licensees or financial institutions and with any service provider used in conjunction with such agreement pursuant to [insert citation for section of statute or regulation that parallels Section 15 of NAIC Privacy of Consumer Financial and Health Regulation]. A licensee that shares for this reason may choose to provide an opt-out.

(iv) For our affiliates’ everyday business purposes – information about transactions and experiences. This reason incorporates sharing information specified in Sections 603(d)(2)(A)(i) and (ii) of the FCRA. A licensee that shares information for this reason may choose to provide an opt-out.

(v) For our affiliates’ everyday business purposes – information about creditworthiness. This reason incorporates sharing information pursuant to Section 603(d)(2)(A)(iii) of the FCRA, A licensee that shares information for this reason must provide an opt-out.
For our affiliates to market to you. This reason incorporates sharing information specified in Section 624 of the FCRA. This reason may be omitted from the disclosure table when: the licensee does not have affiliates (or does not disclose personal information to its affiliates); the licensee’s affiliates do not use personal information in a manner that requires an opt-out; or the licensee provides the affiliate marketing notice separately. Licensees that include this reason must provide an opt-out of indefinite duration. A licensee that is required to provide an affiliate marketing opt-out, but does not include that opt-out in the Model Form under this part, must comply with Section 624 of the FCRA and [insert citation for statute or regulation that parallels NAIC Privacy of Consumer Financial and Health Information Regulation], with respect to the initial notice and opt-out and any subsequent renewal notice and opt-out. A licensee not required to provide an opt-out under this subparagraph may elect to include this reason in the Model Form.

For nonaffiliates to market to you. This reason incorporates sharing described in [insert citation for sections of statute or regulation sections that parallel Sections 8 and 12(A) of NAIC Privacy of Consumer Financial and Health Information Regulation]. A licensee that shares personal information for this reason must provide an opt-out.

to limit our sharing. A licensee must include this section of the Model Form only if it provides an opt-out. The word “choice” may be written in either the singular or plural, as appropriate. Licensees must select one or more of the applicable opt-out methods described: telephone, such as by a toll-free number; a web site; or use of a mail-in opt-out form. Licensees may include the word “toll-free” before telephone, as appropriate. A licensee that allows consumers to opt out online must provide either a specific web address that takes consumers directly to the opt-out page or a general web address that provides a clear and conspicuous direct link to the opt-out page. The opt-out choices made available to the consumer who contacts the licensee through these methods must correspond accurately to the “Yes” responses in the third column of the disclosure table. In the part entitled “Please note,” licensees may insert a number that is 30 days or greater in the space marked “[30].” Instructions on voluntary or state privacy law opt-out information are in Paragraph 2(g)(v) of these Instructions.

Questions box. Customer service contact information must be inserted as appropriate where [phone number] or [web site] appear. Licensees may elect to provide either a phone number, such as a toll-free number, or a web address, or both. Licensees may include the words “toll-free” before the telephone number, as appropriate.

Mail-in opt-out form. Licensees must include this mail-in form only if they state in the “To limit our sharing” box that consumers can opt out by mail. The mail-in form must provide opt-out options that correspond accurately to the “Yes” responses in the third column of the disclosure table. Licensees that require consumers to provide only name and address may omit the section identified as “[account #].” Licensees that require additional or different information, such as a random opt-out number or a truncated account number to implement an opt-out election should modify the “[account #]” reference accordingly. This includes licensees that require customers with multiple accounts to identify each account to which the opt-out should apply. A licensee must enter its opt-out mailing address in the far right of this form (see version 3); or below the form (see version 4). The reverse side of the mail-in opt-out form must not include any content of the Model Form.

Joint accountholder. Only licensees that provide their joint accountholders the choice to opt out for only one accountholder, in accordance with Paragraph 3(a)(5) of these Instructions, must include in the far left column of the mail-in form the following statement:
If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below.

☐ Apply my choice(s) only to me.

The word “choice” may be written in either the singular or plural, as appropriate. Licensees that provide insurance products or services, provide this option, and elect to use the Model Form may substitute the word “policy” for “account” in this statement. Licensees that do not provide this option may eliminate this left column from the mail-in form.

(ii) FCRA Section 603(d)(2)(A)(iii) opt-out. If the licensee shares personal information pursuant to Section 603(d)(2)(A)(iii) of the FCRA, it must include in the mail-in opt-out form the following statement:

☐ Do not share information about my creditworthiness with your affiliates for their everyday business purposes.

(iii) FCRA Section 624 opt-out. If the licensee uses Section 624 of the FCRA, in accord with paragraph 2(d)(6) of these Instructions, it must include in the mail-in opt-out form the following statement:

☐ Do not allow your affiliates to use my personal information to market to me.

(iv) Nonaffiliate opt-out. If the licensee shares personal information pursuant to [insert citation for section of statute or regulation that parallels Section 12(A) of NAIC Privacy of Consumer Financial and Health Information Regulation], it must include in the mail-in opt-out form the following statement:

☐ Do not share my personal information with nonaffiliates to market their products and services to me.

(v) Additional opt-outs. Licensees that use the disclosure table to provide opt-out options beyond those required by Federal law must provide those opt-outs in this section of the Model Form. A licensee that chooses to offer an opt-out for its own marketing in the mail-in opt-out form must include one of the two following statements:

☐ Do not share my personal information to market to me. or

☐ Do not use my personal information to market to me.

A licensee that chooses to offer an opt-out for joint marketing must include the following statement:

☐ Do not share my personal information with other financial institutions to jointly market to me.

(h) Barcodes. A licensee may elect to include a barcode and/or “tagline” (an internal identifier) in 6-point type at the bottom of page one, as needed for information internal to the licensee, so long as these do not interfere with the clarity or text of the form.
3. Page Two

(a) General Instructions for the Questions. Certain Questions on the Model Form may be customized as follows:

(i) “Who is providing this notice?” This question may be omitted where only one licensee provides the Model Form and that licensee is clearly identified in the title on Page One. Two or more licensees or financial institutions that jointly provide the Model Form must use this question to identify themselves as required by [insert citation for section of statute or regulation that parallels Section 11(F) of NAIC model Privacy of Consumer Financial and Health Information Regulation]. Where the list of licensees or financial institutions exceeds four (4) lines, the licensee must describe in the response to this question the general types of licensees or financial institutions jointly providing the notice and must separately identify those licensees or financial institutions, in minimum 8-point font, directly following the “Other important information” box, or, if that box is not included in the licensee’s form, directly following the “Definitions.” The list may appear in a multi-column format.

(ii) “How does [name of licensee] protect my personal information?” The licensee may only provide additional information pertaining to its safeguards practices following the designated response to this question. Such information may include information about the licensee’s use of cookies or other measures it uses to safeguard personal information. Licensees are limited to a maximum of 30 additional words.

(iii) “How does [name of licensee] collect my personal information?” Licensees must use five (5) of the following terms to complete the bulleted list for this question: open an account; deposit money; pay your bills; apply for a loan; use your credit or debit card; seek financial or tax advice; apply for insurance; pay insurance premiums; file an insurance claim; seek advice about your investments; buy securities from us; sell securities to us; direct us to buy securities; direct us to sell your securities; make deposits or withdrawals from your account; enter into an investment advisory contract; give us your income information; provide employment information; give us your employment history; tell us about your investment or retirement portfolio; tell us about your investment or retirement earnings; apply for financing; apply for a lease; provide account information; give us your contact information; pay us by check; give us your wage statements; provide your mortgage information; make a wire transfer; tell us who receives the money; tell us where to send the money; show your government-issued ID; show your driver’s license; order a commodity futures or option trade.

Licensees that collect personal information from their affiliates and/or credit bureaus must include the following statement after the bulleted list: “We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.” Licensees that do not collect personal information from their affiliates or credit bureaus but do collect information from other companies must include the following statement instead: “We also collect your personal information from other companies.” Only licensees that do not collect any personal information from affiliates, credit bureaus, or other companies can omit both statements.

(iv) “Why can’t I limit all sharing?” Licensees that describe state privacy law provisions in the “Other important information” box must use the bracketed sentence: “See below for more on your rights under state law.” Other licensees must omit this sentence.
“What happens when I limit sharing for an account I hold jointly with someone else?”

Only licensees that provide opt-out options must use this question. Other licensees must omit this question. Licensees must choose one of the following two statements to respond to this question: “Your choices will apply to everyone on your account.” or “Your choices will apply to everyone on your account—unless you tell us otherwise.” Licensees may substitute the word “policy” for “account” in these statements.

(b) General Instructions for the Definitions. The licensee must customize the space below the responses to the three definitions in this section. This specific information must be in italicized lettering to set off the information from the standardized definitions.

(i) Affiliates. As required by [insert citation for section of statute or regulation that parallels Section 7(A)(3) of NAIC Privacy of Consumer Financial and Health Information Regulation], where [affiliate information] appears, the licensee must:

(a) If it has no affiliates, state: “[name of licensee] has no affiliates”;

(b) If it has affiliates but does not share personal information with them, state: “[name of licensee] does not share with our affiliates”; or

(c) If it shares with its affiliates, state, as applicable: “Our affiliates include companies with a [common corporate identity of licensee] name; financial companies such as [insert illustrative list of companies]; nonfinancial companies, such as [insert illustrative list of companies]; and others, such as [insert illustrative list].”

(ii) Nonaffiliates. As required by [insert citation for section of statute or regulation that parallels Section 7(C)(3) of NAIC Privacy of Consumer Financial and Health Information Regulation], where [nonaffiliate information] appears, the licensee must:

(a) If it does not share with nonaffiliated third parties, state: “[name of licensee] does not share with nonaffiliates so they can market to you”; or

(b) If it shares with nonaffiliated third parties, state, as applicable: “Nonaffiliates we share with can include [list categories of companies such as mortgage companies, insurance companies, direct marketing companies, and nonprofit organizations].”

(iii) Joint Marketing. As required by [insert citation for section of statute or regulation that parallels Section 15 of NAIC Privacy of Consumer Financial and Health Information Regulation], where [joint marketing] appears, the licensee must:

(a) If it does not engage in joint marketing, state: “[name of licensee] doesn’t jointly market”; or

(b) If it shares personal information for joint marketing, state, as applicable: “Our joint marketing partners include [list categories of companies such as credit card companies].”
General instructions for the “Other important information” box. This box is optional. The space provided for information in this box is not limited, and an additional page may be used if necessary. Only the following types of information can appear in this box:

(i) State and/or international privacy law information; and/or

(ii) A form by which the consumer may acknowledge receipt of the notice.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC)

2000 Proc. 3rd Quarter 7, 10, 14-36, 904 (adopted).
2017 Spring National Meeting (amended).
Version 1:
Model Form with No Opt-Out

FACTS

WHAT DOES [Name of Licensee]
DO WITH YOUR PERSONAL INFORMATION?

Why?
Financial companies choose how they share your personal information. Federal law gives
consumers the right to limit some but not all sharing. Federal law also requires us to tell you
how we collect, share, and protect your personal information. Please read this notice carefully to
understand what we do.

What?
The types of personal information we collect and share depend on the product or service you
have with us. This information can include:

- Social Security number
- [income]
- [account balances] and [payment history]
- [credit history] and [creditscores]

When you are no longer our customer, we continue to share your information as described in this
notice.

How?
All financial companies need to share customers’ personal information to run their everyday
business. In the section below, we list the reasons financial companies can share their
customers’ personal information; the reasons [name of financial institution]
chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information

<table>
<thead>
<tr>
<th>Reasons we can share your personal information</th>
<th>Does [name of licensee] share?</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates’ everyday business purposes—information about your transactions and experiences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates’ everyday business purposes—information about your creditworthiness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates to market to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For nonaffiliates to market to you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Questions? Call [phone number] or go to [web site]
### Privacy of Consumer Financial and Health Information Regulation

<table>
<thead>
<tr>
<th>Page 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who we are</strong></td>
</tr>
<tr>
<td>Who is providing this notice?</td>
</tr>
<tr>
<td><strong>What we do</strong></td>
</tr>
<tr>
<td>How does [name of licensee] protect my personal information?</td>
</tr>
</tbody>
</table>
| How does [name of licensee] collect my personal information? | We collect your personal information, for example, when you:  
- [open an account] or [deposit money]  
- [pay your bills] or [apply for a loan]  
- [use your credit or debit card]  
[We also collect your personal information from other companies.] OR  
[We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.] |
| **Why can't I limit all sharing?** | Federal law gives you the right to limit only:  
- sharing for affiliates' everyday business purposes—information about your creditworthiness  
- affiliates from using your information to market to you  
- sharing for nonaffiliates to market to you  
State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.] |
| **Definitions** |
| Affiliates | Companies related by common ownership or control. They can be financial and nonfinancial companies.  
- [affiliate information] |
| Nonaffiliates | Companies not related by common ownership or control. They can be financial and nonfinancial companies.  
- [nonaffiliate information] |
| Joint marketing | A formal agreement between nonaffiliated financial companies that together market financial products or services to you.  
- [joint marketing information] |
| **Other important information** | [insert other important information] |
Version 2: Model Form with Opt-Out by Telephone and/or Online

Rev. [insert date]

FACTS

WHAT DOES [NAME OF LICENSEE] DO WITH YOUR PERSONAL INFORMATION?

Why?

Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

What?

The types of personal information we collect and share depend on the product or service you have with us. This information can include:

- Social Security number and [income]
- [account balances] and [payment history]
- [credit history] and [credit scores]

How?

All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information, the reasons [name of financial institution] chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information | Does [name of licensee] share? | Can you limit this sharing?
--- | --- | ---
For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus | | 
For our marketing purposes—to offer our products and services to you | | 
For joint marketing with other financial companies | | 
For our affiliates' everyday business purposes—information about your transactions and experiences | | 
For our affiliates' everyday business purposes—information about your creditworthiness | | 
For our affiliates to market to you | | 
For nonaffiliates to market to you | | 

To limit our sharing

- Call [phone number] —our menu will prompt you through your choice(s) or
- Visit us online: [web site]

Please note:
If you are a new customer, we can begin sharing your information [30] days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice.
However, you can contact us at any time to limit our sharing.

Questions?

Call [phone number] or go to [web site]
### Who we are

Who is providing this notice?  
[insert]

### What we do

#### How does **[name of licensee]** protect my personal information?
To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.

[insert]

#### How does **[name of licensee]** collect my personal information?
We collect your personal information, for example, when you:
- [open an account] or [deposit money]
- [pay your bills] or [apply for a loan]
- [use your credit or debit card]
[We also collect your personal information from other companies.] OR  
[We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]

#### Why can't I limit all sharing?
Federal law gives you the right to limit only:
- sharing for affiliates' everyday business purposes—information about your creditworthiness
- affiliates from using your information to market to you
- sharing for nonaffiliates to market to you

State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.]

#### What happens when I limit sharing for an account I hold jointly with someone else?
[Your choices will apply to everyone on your account.] OR  
[Your choices will apply to everyone on your account—unless you tell us otherwise.]

### Definitions

#### Affiliates
Companies related by common ownership or control. They can be financial and nonfinancial companies.
- [affiliate information]

#### Nonaffiliates
Companies not related by common ownership or control. They can be financial and nonfinancial companies.
- [nonaffiliate information]

#### Joint marketing
A formal agreement between nonaffiliated financial companies that together market financial products or services to you.
- [joint marketing information]

### Other important information

[insert other important information]
**Version 3: Model Form with Mail-in Opt-Out Form**

**FACTS**

**WHAT DOES [NAME OF LICENSEE] DO WITH YOUR PERSONAL INFORMATION?**

**Why?**

Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

**What?**

The types of personal information we collect and share depend on the product or service you have with us. This information can include:

- Social Security number and [income]
- [account balances] and [payment history]
- [credit history] and [credit scores]

**How?**

All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information, the reasons [name of financial institution] chooses to share, and whether you can limit this sharing.

<table>
<thead>
<tr>
<th>Reasons we can share your personal information</th>
<th>Does [name of licensee] share?</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your transactions and experiences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your creditworthiness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates to market to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For nonaffiliates to market to you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
To limit our sharing

- Call [phone number]—our menu will prompt you through your choice(s)
- Visit us online: [web site] or
- Mail the form below

Please note:
If you are a new customer, we can begin sharing your information [30] days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice.
However, you can contact us at any time to limit our sharing.

Questions?

Call [phone number] or go to [web site]

Mail-in Form

Mark any/all you want to limit:

- Do not share information about my creditworthiness with your affiliates for their everyday business purposes.
- Do not allow your affiliates to use my personal information to market to me.
- Do not share my personal information with nonaffiliates to market their products and services to me.

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
</tr>
<tr>
<td>City, State, Zip</td>
</tr>
<tr>
<td>[Account #]</td>
</tr>
</tbody>
</table>

Mail To:

[Name of Licensee]  
[Address]  
[City], [ST] [ZIP]
### Who we are

**Who is providing this notice?** [insert]

### What we do

**How does [name of licensee] protect my personal information?**

To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.

[insert]

**How does [name of licensee] collect my personal information?**

We collect your personal information, for example, when you
- [open an account] or [deposit money]
- pay your bills or [apply for a loan]
- [use your credit or debit card]
(We also collect your personal information from other companies.) OR
(We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.)

**Why can't I limit all sharing?**

Federal law gives you the right to limit only
- sharing for affiliates' everyday business purposes—information about your creditworthiness
- affiliates from using your information to market to you
- sharing for nonaffiliates to market to you

State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.]

**What happens when I limit sharing for an account I hold jointly with someone else?**

[Your choices will apply to everyone on your account.] OR
[Your choices will apply to everyone on your account—unless you tell us otherwise.]

### Definitions

- **Affiliates**
  - Companies related by common ownership or control. They can be financial and nonfinancial companies.
  - [affiliate information]

- **Nonaffiliates**
  - Companies not related by common ownership or control. They can be financial and nonfinancial companies.
  - [nonaffiliate information]

- **Joint marketing**
  - A formal agreement between nonaffiliated financial companies that together market financial products or services to you.
  - [joint marketing information]

### Other important information

[insert other important information]
### Version 4: Optional Mail-in Form

<table>
<thead>
<tr>
<th>Mail-in Form</th>
<th>Mark any/all you want to limit:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leave Blank</td>
<td>□ Do not share information about my creditworthiness with your affiliates for their everyday business purposes.</td>
</tr>
<tr>
<td>OR</td>
<td>□ Do not allow your affiliates to use my personal information to market to me.</td>
</tr>
<tr>
<td>(If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below.)</td>
<td>□ Do not share my personal information with nonaffiliates to market their products and services to me.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>[Name of Licensee]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>[Address 1]</td>
</tr>
<tr>
<td>City, State, Zip</td>
<td>[Address 2]</td>
</tr>
<tr>
<td></td>
<td>[City] [ST] [ZIP]</td>
</tr>
</tbody>
</table>

[Account #]

Mail To: [Name of Licensee], [Address 1], [Address 2], [City], [ST] [ZIP]