

## ARTICLE VIII. ADDITIONAL PROVISIONS

### Section 273. Protection of Fair Credit Reporting Act

Nothing in this ~~Act~~~~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 ~~Act~~~~regulation~~ regarding whether information is transaction or experience information under Section 603 of that Act.

### Section 284. 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~~~~Act~~.
- 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 ~~Act~~~~regulation~~.

### Section 295. Violation

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

### Section 3026. Severability

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

### Section 31. Individual Remedies

Nothing in this act shall be construed to create or imply a private cause of action for violation of its provisions.

### Section 3227. Effective Date

- A. Effective date. This ~~Act~~~~regulation~~ is effective ~~November 13, 2000~~~~[Insert Date]~~. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this ~~regulation~~~~Act~~, the commissioner has extended the time for compliance with this ~~Act~~~~regulation~~ until ~~[Insert Date]~~~~July 1, 2001~~.
- B. (1) Notice requirement for consumers who are the licensee's customers on the compliance date. By ~~[Insert Date]~~~~July 1, 2001~~, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee's customers on ~~[Insert Date]~~~~July 1, 2001~~.
- (2) Example. A licensee provides an initial notice to consumers who are its customers on ~~[Insert Date]~~~~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 ~~[Insert Date]~~~~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 195A(1)(b) of this Act 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 [Insert Date] July 1, 2000.

*Deleted all appendices at the end of the model.*

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:~~

- ~~1. Information we receive from you on applications or other forms;~~
- ~~1. Information about your transactions with us, our affiliates or others; and~~
- ~~1. 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:~~

- ~~1. 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”];~~
- ~~1. 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~~
- ~~1. 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:~~

~~1.—— Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];~~

~~1.—— Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and~~

~~1.—— 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:~~

~~1. 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”];~~

~~1. 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~~

~~1. 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.~~

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

*2000 Proc. 3<sup>rd</sup> Quarter 7, 10, 14-36, 904 (adopted).*

*2002 Proc. 3<sup>rd</sup> Quarter 12, 13, 71, 72-73 (amended).*

*2017 Spring National Meeting (amended).*