

ARTICLE III IS BEING EXPOSED AS A RESULT OF THE DRAFTING GROUP CALL ON DECEMBER 19, 2024, AND THE REGULATOR-ONLY WORKING GROUP CALL ON JANUARY 17, 2025. COMMENTS ARE NOT BEING REQUESTED ON ARTICLE III AT THIS TIME. COMMENTS WILL BE REQUESTED AFTER THE NEXT FULL EXPOSURE OF THE MODEL.

### ARTICLE III. CONSUMER REQUESTS

#### Section 6. Access, Correction, and Deletion of Nonpublic Personal Information

A. ~~Access to nonpublic personal information.~~ A consumer may file the following requests with a licensee, which shall be processed in accordance with the following standards:

(1) Within 45 days of ~~after~~ an authenticated ~~authorized~~ request from a consumer for their own nonpublic personal information, a licensee shall disclose:

(a) All ~~nonpublic~~ nonpublic personal information about a the consumer that is ~~requested by the consumer~~ and maintained by the licensee or any contracted third-party service provider; and that:

(b) A list of all third-party service providers to which the licensee disclosed the consumer's nonpublic personal information.

(2) A licensee shall not be required to disclose the following:

~~(i) Must include a list of all third party service providers to in which the licensee disclosed the consumer's nonpublic personal information; and~~

~~(ii) Must be provided in a format specific to the consumer and easily readable.~~

(2) In response to an authorized request from a consumer in (1) above, a licensee shall not disclose:

~~(a) i)~~ A consumer's Social Security Number, driver's license number or other government-issued identification number, financial account number(s), any health insurance or medical identification number, any account password(s), security questions and answers, ~~or~~ unique biometric data or other information that could create a high risk of identity theft. The licensee may instead disclose ~~in generic terms that it maintains this~~ the types of nonpublic personal information maintained and by listing each type of nonpublic personal information it has about the consumer;

~~(ii) Nonpublic personal information that is voluminous and repetitive, if the duplicative~~ Duplicative nonpublic personal information, if it is that has been withheld described in a manner reasonably understandable by the consumer and the consumer is offered an opportunity to review the nonpublic personal information for inconsistencies; or

~~(iii) Information that is outside the scope of the request, if the consumer has requested only~~ specified items or categories of information.

B. Correction of nonpublic personal information.

(1) A consumer may make an authenticated request for the correction of their nonpublic personal information by filing a request with the licensee that:

(a) Identifies the specific nonpublic personal information the consumer wishes to correct; and

(b) Provides an explanation of why the nonpublic personal information is incorrect.

~~(2) An authorized request from a consumer under this subsection shall identify the specific information that the consumer wishes to correct and provide explanation of why the licensee's information is incorrect.~~

~~(3 2) After receiving an authorized request under this subsection, a licensee shall, Wwithin 45 days of receipt of the request under this subsection, a licensee shall take one of the following steps and then notify the consumer of:~~

~~(a) Correction of the nonpublic personal information in dispute as requested by the consumer;~~

~~(b) Deletion of the nonpublic personal information in dispute; or~~

~~(~~b~~c) Denial of the correction, which must include:~~

~~(i) The basis for refusal to correct the nonpublic personal information as requested;~~

~~(ii) Information about how the consumer may ~~ability to submit an appeal~~ the denial; and~~

~~(iii) An explanation of how the appeal will be reviewed and the consumer will be notified of the decision.~~

~~(4 3) A licensee may deny a request for correction if:~~

~~(a) The licensee ~~believes the information is correct from clear documentation in its possession~~ nonpublic personal information is accurate and complete and if the licensee provides a robust process for appeal of this decision; or~~

~~(b) The licensee ~~received the nonpublic personal information from a third party, such as a healthcare provider, who has the responsibility or authority for determining the accuracy of the information that is the subject of the request for correction was not created by the licensee, unless there is a reasonable basis to believe that the originator of the nonpublic personal information is no longer available to act on the requested correction and the consumer has independently demonstrated the information is correct.~~~~

C. Deletion of nonpublic personal information.

(1) Within 45 days of an ~~authorized~~ authenticated request from a consumer, a licensee shall delete the nonpublic personal information about the consumer that is maintained by the licensee or ~~any~~ direct a third-party service provider to delete the nonpublic personal information on the licensee's behalf.

(2) The licensee ~~shall~~ is not required to delete nonpublic personal information if:

(a) The licensee is required by law or regulation to retain the nonpublic personal information;

(b) The nonpublic personal information may be necessary to perform the contract or service requested by or benefiting the consumer;

~~(i). To perform the contract or service request or benefiting the consumer; or~~

(# c) The information is necessary to comply with a legal obligation; or

(e d) The information is maintained in reasonable anticipation of a claim or civil or criminal proceeding.

(3) A licensee may delay fulfilling a consumer's request, up to 45 days, to delete ~~with respect to nonpublic personal~~ information stored on an ~~achieved~~ archived or backup system ~~until the archived or backup systems is deleted~~. A licensee must notify the consumer of such delay.

#### D. Request and Response Procedures

(1) ~~Guidelines for responding to authorized requests e~~Except as ~~otherwise~~ provided in subsection D(1)(b) below in this Act, a licensee shall respond to requests submitted under this Section within 45 days in the following manner:

(a) ~~A licensee shall respond to an authorized request received from a consumer under this section, unless fulfilling the request proves impossible due to the specific nonpublic personal information is not locatable or retrievable by the licensee.~~ may use its secure communications portal to authenticate requests from consumers holding current accounts with the licensee, unless the licensee has reason to believe the request has been submitted through an account that has been compromised. Otherwise, the licensee may use methods that are commercially reasonable, but not unduly burdensome, to authenticate the identity of the person making the request and to verify that this person is either:

(i) The consumer;

(ii) A person acting with the consumer's written authorization, including but not limited to a valid power of attorney;

(iii) The parent or legal guardian of a consumer who is a minor, except where the information relates to health insurance claims in circumstances where the child has a legal right to obtain the services in question without the parent's or guardian's consent;

(iv) The legal guardian or other person authorized by law to act on behalf of an incapacitated consumer; or

(v) The personal representative or other person authorized by law to act on behalf of a deceased consumer.

(b) A licensee is required to notify the consumer if either of the following prevents the licensee from complying with the request:

(i) The specific nonpublic personal information at issue is not locatable or retrievable by the licensee; or ~~if a licensee if unable to verify a request, the licensee shall not be required~~

~~to consider the request and may request that until the consumer provides additional information necessary to authenticate the consumer and the consumer's request~~

Drafting Note: Examiners should review licensees' notifications to consumers regarding nonpublic personal information that is not locatable or retrievable by the licensee and its justifications for irretrievability during Market Conduct and/or IT Exams.

(ii) The licensee is unable to verify the request after requesting that the consumer provide additional information necessary to authenticate the identity of the consumer and authenticate the consumer's request.

~~(c) If a licensee declines to take action regarding the consumer's request, the licensee shall inform the consumer of the basis for declining to take action the request and any relevant provide instructions for how to request review of the appeal the decision pursuant to subparagraph (B)(3)(b) of this section.~~

(2) There shall be no cap on the number of requests to correct or delete nonpublic personal information. A consumer may make up to two requests per subsection in a 12-month period.

~~(3) A child's parent or legal guardian may submit a request under this section on behalf of the child regarding processing nonpublic personal information belonging to the child.~~

(3) If a consumer disagrees with a licensee's refusal to correct or delete nonpublic personal information per the consumer's request, the consumer shall be permitted to file with the licensee:

(i) A concise statement setting forth why the consumer disagrees with the licensee's refusal and what the consumer thinks is the correct, relevant or fair information; and

(ii) The licensee shall file the statement with the disputed nonpublic personal information and allow anyone reviewing the disputed nonpublic personal information to be made aware of the dispute and have access to the consumer's statement.

## **Section 7 – Sale of Nonpublic Personal Information and use of Sensitive Personal Information**

A. The consumer's affirmative ("opt-in") written consent to the sale of nonpublic personal information as required by Section [X], or to the use or disclosure of sensitive personal information as required by Section [X], must be:

(a) Obtained separately from any other consent obtained from the consumer;

(b) Authenticated in accordance with Section 6D;

(c) Subject to revocation or modification at any time at the written request of the consumer or the consumer's authorized representative; and

(d) A licensee may not solicit the consumer to change their opt-out selection for twelve months.

## **Move to Article V**

### **Section #. Sale of Nonpublic Personal Information**

~~A. Before a licensee may sell a consumer's nonpublic personal information including for purposes of targeted advertising, that the licensee has obtained from a consumer, unless the consumer has affirmatively opted in to the sale of their nonpublic personal information after receiving clear and conspicuous notice.:~~

~~(1) The consumer must affirmatively opt in to the sale; and~~

~~(2) Prior to opting in, the consumer must receive clear and conspicuous notice including:~~

~~(a) A description of the categories of nonpublic personal information that the licensee intends to sell;~~

~~(b) The purpose for which the nonpublic personal information will be sold; and~~

~~(c) The consumer's right to refuse to opt out in of to the sale of nonpublic personal information.~~

~~C. Affirmative Consent: the consumer's affirmative opt in consent must be obtained separately from any other consent obtained from the consumer.~~

### **Section #. Disclosure of Nonpublic Personal Information in Targeted Marketing**

A. Except as otherwise authorized in this Act, a licensee may not directly or through any affiliate, disclose for the purpose of targeted advertising any nonpublic personal information about a consumer to a nonaffiliated third party unless the consumer has the right to opt out of targeted advertising.

B. A consumer may opt out of targeted advertising by submitting an opt-out request to the licensee. The licensee shall provide clear and conspicuous instructions on how to opt out.

C. A licensee shall act on the request within 15 days of receipt.

D. The following exceptions shall apply to this Section:

(1) A licensee shall not be obligated to act on any request where the personal data in the opt-out request does not match the licensee's records;

(2) A licensee is under no obligation to obtain additional data to execute the opt-out request;

(3) A licensee may not solicit the consumer to change their opt-out selection for twelve months.

E. A licensee may comply with the targeted advertising opt-out requirement by:

(1) Providing either a cookie banner or a link on the footer of their website homepage allowing a consumer to opt out of targeted advertising; or

(2) Using another method, if such approach can effectively identify a person and remove them from targeted advertising.

**Move to Article V**

**Section 8 #. ~~Use and~~ Disclosure of Sensitive Personal Information**

- A. Licensees may ~~utilize~~ disclose a consumer's sensitive personal information ~~only for certain identified purposes and uses, including those purposes and uses identified in~~ as expressly permitted or required by Article VI (Exceptions to Limits on Disclosures of Financial Nonpublic Personal Information) or other provisions of this Act, unless the consumer has affirmatively ("opted in" or "consented" as stated in B(3) below) to disclosure of their sensitive personal information after receiving clear and conspicuous notice as provided by this Section.
- B. ~~A consumer shall have the right, at any time, to direct a licensee that collects sensitive personal information about the consumer to limit its use of the consumer's sensitive personal information to the authorized purposes and uses;~~
- BC. ~~Before a~~ A licensee ~~that may disclose or processes~~ a consumer's sensitive personal information for purposes other than those specified in subsection A of this Section, a licensee shall provide a clear ~~and conspicuous~~ notice to the consumer, ~~which~~ including:
- (~~a~~ 1) A description of the categories of sensitive personal information that the licensee intends to disclose ~~or process~~;
  - (~~b~~ 2) The purpose for which the sensitive personal information will be disclosed ~~processed~~; and
  - (~~c~~ 3) Notice that the consumer must opt in to provide affirmative consent before the consumer's sensitive personal information may be disclosed. The consumer's right to opt out of the processing of sensitive personal information for those purpose.
- C. ~~A consumer's affirmative opt in consent must be obtained separately from any other consent obtained from the consumer.~~

**CLEAN VERSION**  
**ARTICLE III. CONSUMER REQUESTS**

**Section 6. Access, Correction, and Deletion of Nonpublic Personal Information**

A . A consumer may file the following requests with a licensee, which shall be processed in accordance with the following standards:

( 1 ) Within 45 days after an authenticated request from a consumer for their own nonpublic personal information, a licensee shall disclose:

(a) All nonpublic personal information about the consumer that is maintained by the licensee or any contracted third-party service provider; and

(b) A list of all third-party service providers to which the licensee disclosed the consumer's nonpublic personal information.

(2) A licensee shall not be required to disclose the following:

(a) A consumer's Social Security Number, driver's license number or other government-issued identification number, financial account number(s), any health insurance or medical identification number, any account password(s), security questions and answers, unique biometric data or other information that could create a high risk of identity theft. The licensee may instead disclose the types of nonpublic personal information maintained by listing each type of nonpublic personal information it has about the consumer;

(b) Duplicative nonpublic personal information, if it is described in a manner reasonably understandable by the consumer and the consumer is offered an opportunity to review the nonpublic personal information for inconsistencies; or

(c) Information that is outside the scope of the request, if the consumer has requested only specified items or categories of information.

B. Correction of nonpublic personal information.

(1) A consumer may make an authenticated request for the correction of their nonpublic personal information by filing a request with the licensee that:

(a) Identifies the specific nonpublic personal information the consumer wishes to correct; and

(b) Provides an explanation of why the nonpublic personal information is incorrect.

(2) Within 45 days of receipt of the request under this subsection, a licensee shall take one of the following steps and then notify the consumer of:

- (a) Correction of the nonpublic personal information in dispute as requested by the consumer;
  - (b) Deletion of the nonpublic personal information in dispute; or
  - (c) Denial of the correction, which must include:
    - (i) The basis for refusal to correct the nonpublic personal information as requested;
    - (ii) Information about how the consumer may appeal the denial; and
    - (iii) An explanation of how the appeal will be reviewed and the consumer will be notified of the decision.
- (3) A licensee may deny a request for correction if:
- (a) The nonpublic personal information is accurate and complete and if the licensee provides a robust process for appeal of this decision; or
  - (b) The nonpublic personal information that is the subject of the request for correction was not created by the licensee, unless there is a reasonable basis to believe that the originator of the nonpublic personal information is no longer available to act on the requested correction and the consumer has independently demonstrated the information is correct.

C. Deletion of nonpublic personal information.

- (1) Within 45 days of an authenticated request from a consumer, a licensee shall delete the nonpublic personal information about the consumer that is maintained by the licensee or direct a third-party service provider to delete the nonpublic personal information on the licensee's behalf.
- (2) The licensee is not required to delete nonpublic personal information if:
  - (a) The licensee is required by law or regulation to retain the nonpublic personal information;
  - (b) The nonpublic personal information may be necessary to perform the contract or service requested by or benefiting the consumer;
  - (c) The information is necessary to comply with a legal obligation; or
  - (d) The information is maintained in reasonable anticipation of a claim or civil or criminal proceeding.
- (3) A licensee may delay fulfilling a consumer's request up to 45 days, to delete nonpublic personal information stored on an archived or backup system. A licensee must notify the consumer of such delay.



D. Request and Response Procedures

- (1) Except as provided in subsection D(1)(b) below, a licensee shall respond to requests submitted under this Section within 45 days in the following manner:
  - (a) A licensee may use its secure communications portal to authenticate requests from consumers holding current accounts with the licensee, unless the licensee has reason to believe the request has been submitted through an account that has been compromised. Otherwise, the licensee may use methods that are commercially reasonable, but not unduly burdensome, to authenticate the identity of the person making the request and to verify that this person is either:
    - (i) The consumer;
    - (ii) A person acting with the consumer's written authorization, including but not limited to a valid power of attorney;
    - (iii) The parent or legal guardian of a consumer who is a minor, except where the information relates to health insurance claims in circumstances where the child has a legal right to obtain the services in question without the parent's or guardian's consent;
    - (iv) The legal guardian or other person authorized by law to act on behalf of an incapacitated consumer; or
    - (v) The personal representative or other person authorized by law to act on behalf of a deceased consumer.
  - (b) A licensee is required to notify the consumer if either of the following prevents the licensee from complying with the request:
    - (i) The specific nonpublic personal information at issue is not locatable or retrievable by the licensee; or
    - (ii) The licensee is unable to verify the request after requesting that the consumer provide additional information necessary to authenticate the identity of the consumer and authenticate the consumer's request.
  - (c) If a licensee declines the consumer's request, the licensee shall inform the consumer of the basis for declining the request and provide instructions for how to request review of the decision.
- (2) There shall be no cap on the number of requests to correct or delete nonpublic personal information.

**Drafting Note:** Examiners should review licensees' notifications to consumers regarding nonpublic personal information that is not locatable or retrievable by the licensee and its justifications for irretrievability during Market Conduct and/or IT Exams.

- (3) If a consumer disagrees with a licensee's refusal to correct or delete nonpublic personal information per the consumer's request, the consumer shall be permitted to file with the licensee:
  - (a) A concise statement setting forth why the consumer disagrees with the licensee's refusal and what the consumer thinks is the correct, relevant or fair information; and
  - (b) The licensee shall file the statement with the disputed nonpublic personal information and allow anyone reviewing the disputed nonpublic personal information to be made aware of the dispute and have access to the consumer's statement.

**Section 7 Sale of Nonpublic Personal Information and use of Sensitive Personal Information**

- A. The consumer's affirmative ("opt-in") written consent to the sale of nonpublic personal information as required by Section [X], or to the use or disclosure of sensitive personal information as required by Section [X], must be:
  - (1) Obtained separately from any other consent obtained from the consumer;
  - (2) Authenticated in accordance with Section 6D;
  - (3) Subject to revocation or modification at any time at the written request of the consumer or the consumer's authorized representative; and
  - (4) A licensee may not solicit the consumer to change their opt-out selection for twelve months.

**Move to Article V**

**Section #. Sale of Nonpublic Personal Information**

- A. Before a licensee may sell nonpublic personal information:
  - (1) The consumer must affirmatively opt in to the sale; and
  - (2) Prior to opting in, the consumer must receive clear and conspicuous notice including:
    - (a) A description of the categories of nonpublic personal information that the licensee intends to sell;
    - (b) The purpose for which the nonpublic personal information will be sold; and
    - (c) The consumer's right to refuse to opt in to the sale of nonpublic personal information.

**Section #. Disclosure of Nonpublic Personal Information in Targeted Marketing**

- A. Except as otherwise authorized in this Act, a licensee may not directly or through any affiliate, disclose for the purpose of targeted advertising any nonpublic personal information about a consumer to a nonaffiliated third party unless the consumer has the right to opt out of targeted advertising.
- B. A consumer may opt out of targeted advertising by submitting an opt-out request to the licensee. The licensee shall provide clear and conspicuous instructions on how to opt out.
- C. A licensee shall act on the request within 15 days of receipt.
- D. The following exceptions shall apply to this Section:
  - (1) A licensee shall not be obligated to act on any request where the personal data in the opt-out request does not match the licensee's records;
  - (2) A licensee is under no obligation to obtain additional data to execute the opt-out request;
  - (3) A licensee may not solicit the consumer to change their opt-out selection for twelve months.
- E. A licensee may comply with the targeted advertising opt-out requirement by:
  - (1) Providing either a cookie banner or a link on the footer of their website homepage allowing a consumer to opt out of targeted advertising; or
  - (2) Using another method, if such approach can effectively identify a person and remove them from targeted advertising.

**Move to Article V**

**Section #. Disclosure of Sensitive Personal Information**

- A. Licensees may disclose a consumer's sensitive personal information only as expressly permitted or required by Article VI (Exceptions to Limits on Disclosures of Nonpublic Personal Information) or other provisions of this Act, unless the consumer has affirmatively ("opted in" or "consented" as stated in B(3) below) to disclosure of their sensitive personal information after receiving clear and conspicuous notice as provided by this Section.
- B. Before a licensee may disclose a consumer's sensitive personal information for purposes other than those specified in subsection A of this Section, a licensee shall provide a notice to the consumer, including:
  - (1) A description of the categories of sensitive personal information that the licensee intends to disclose;
  - (2) The purpose for which sensitive personal information will be disclosed; and

- (3) Notice that the consumer must opt in to provide affirmative consent before the consumer's sensitive personal information may be disclosed.