

Revisions to Section 5 of Chair Draft Dated 8/5/2024

SECTION 5 IS BEING EXPOSED AS A RESULT OF DRAFTING GROUP CALLS ON SEPTEMBER 30, OCTOBER 31, AND THE REGULATOR-ONLY WORKING GROUP CALL ON NOVEMBER 4. COMMENTS ARE NOT BEING REQUESTED ON SECTION 5 AT THIS TIME. COMMENTS WILL BE REQUESTED AFTER THE NEXT FULL EXPOSURE OF THE MODEL.

Section 5. Third-Party Service Provider Arrangements

- A. Contract Requirements. ~~Consistent with the size and complexity of the third party, a~~ A licensee that discloses a consumer's nonpublic personal information to a third-party service provider shall enter into a written contract with the third-party service provider that:
- (1) Prohibits the third-party service provider from processing the nonpublic personal information for any purpose other than those related to providing the services specified in the contract with the licensee, unless ~~retention~~ processing is necessary to comply with the law or a valid and binding order of a governmental body in which case the third-party service provider must notify the licensee within 48 hours unless prohibited by law;
 - (2) ~~Requires~~ Obligates the third-party service provider at the licensee's direction, to delete, destroy, de-identify or return all nonpublic personal information to the licensee when requested; or to delete nonpublic personal information after it is no longer necessary either to fulfill a legal requirement or to meet the record retention requirements of the licensee or third-party service provider and notify the licensee of that action;
 - (3) ~~Requires~~ Obligates the third-party service provider to notify the licensee if it can no longer comply with its obligations under this ~~agreement~~ contract regarding privacy and the handling and safeguarding of nonpublic personal information and provides the licensee with a right to terminate the ~~agreement~~ contract in ~~such~~ that case;
 - (4) Requires that any contract between a third-party service provider and a subcontractor of the third-party service provider, with access to a consumer's nonpublic personal information, must contain provisions no less protective of nonpublic personal information than those contained in the third-party service provider's agreement with the licensee; ~~Obligates the third party to enter into a written agreements with subcontractors that include provisions requiring them to meet the obligations of the third-party service provider with respect to personal information and provide copies of those contracts to the licensee;~~
 - (5) ~~Requires~~ Obligates the third-party service provider to provide ~~reasonable~~ assistance to the licensee in fulfilling obligations to respond to consumer requests under Article III of this Act.
 - (6) ~~Requires~~ Obligates the third-party service provider to implement and maintain ~~reasonable~~ administrative, technical, and physical data security practices to protect the nonpublic personal information ~~data~~ from unauthorized access, destruction, use, modification, or disclosure; and
 - (7) ~~Requires the third-party service provider and require notification to~~ notify the licensee of ~~a breach of this term~~ a failure to meet the obligations of Subsections (1) to (6) above within 48 hours of discovery by the third-party service provider.

- B. The A licensee that discloses a consumer's nonpublic personal information to a third-party service provider remains fully ~~is solely~~ responsible for ~~the administration of its data integrity and~~ compliance with this Act and the handling of nonpublic personal information.

Clean Version of Revisions to Section 5 of Chair Draft Dated 8/5/2024

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Section 5. Third-Party Service Provider Arrangements

A. Contract Requirements.

A licensee that discloses a consumer's nonpublic personal information to a third-party service provider shall enter into a written contract with the third-party service provider that:

- (1) Prohibits the third-party service provider from processing the nonpublic personal information for any purpose other than those related to providing the services specified in the contract with the licensee, unless processing is necessary to comply with the law or a valid and binding order of a governmental body in which case the third-party service provider must notify the licensee within 48 hours unless prohibited by law;
- (2) Requires the third-party service provider at the licensee's direction, to delete, destroy, de-identify or return all nonpublic personal information to the licensee when requested; or to delete nonpublic personal information after it is no longer necessary either to fulfill a legal requirement or to meet the record retention requirements of the licensee or third-party service provider and notify the licensee of that action;
- (3) Requires the third-party service provider to notify the licensee if it can no longer comply with its obligations under this contract regarding privacy and the handling and safeguarding of nonpublic personal information and provides the licensee with a right to terminate the contract in that case;
- (4) Requires that any contract between a third-party service provider and a subcontractor of the third-party service provider, with access to a consumer's nonpublic personal information, must contain provisions no less protective of nonpublic personal information than those contained in the third-party service provider's agreement with the licensee;
- (5) Requires the third-party service provider to provide assistance to the licensee in fulfilling obligations to respond to consumer requests under Article III of this Act;
- (6) Requires the third-party service provider to implement and maintain administrative, technical, and physical data security practices to protect the nonpublic personal information data from unauthorized access, destruction, use, modification, or disclosure; and
- (7) Requires the third-party service provider to notify the licensee of a failure to meet the obligations of Subsections (1) to (6) above within 48 hours of discovery by the third-party service provider.

B. A licensee that discloses a consumer's nonpublic personal information to a third-party service provider remains fully responsible for compliance with this Act and the handling of nonpublic personal information.