PRIVACY OF CONSUMER ~~FINANCIAL AND HEALTH~~ INFORMATION ~~REGULATION~~ACT

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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~~1. Purpose ~~and Scope~~

~~A.~~ Purpose. This Act~~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 Act~~regulation~~:

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

B.~~(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

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

Drafting Note: Whether this model is adopted as an Act or Regulation will depend upon individual state law. If a state adopts the model as an Act, reference to the model as an Act should be updated throughout the model.

Section 2. Scope and Compliance

A.~~B.~~ Scope. This Act~~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~~ Act 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.

B.~~C.~~ Compliance. A licensee domiciled in this state that is in compliance with this Act ~~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 B~~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 Act~~regulation~~, the sample clauses in Appendix A, and the Federal Model Privacy Form in Appendix B of this Act~~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 Act~~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 Notice of Information Practices~~privacy notice~~ content requirements of this ~~regulation~~Act.

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~~ Act 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~~Act. ~~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~~ Act ~~for use of sample clauses in Appendix A sunsets on July 1, 2019.~~

Section 4. Definitions

As used in this Act~~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. "Biometric data" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, a voiceprint, eye retinas, irises or other unique biological patterns or characteristics that are used to identify a specific individual. "Biometric data" does not include a digital or physical photograph, an audio or video recording, or any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.

C~~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.

D~~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.

E~~D~~. "Commissioner" means the chief insurance regulatory official ~~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.

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

G~~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~~22, 23, and 24 of this ~~regulation~~Act.

(e) Provided that the licensee provides the initial, annual and revised notices under Sections ~~10~~ 7, 8, and 13 of this ~~regulation~~ Act 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~~22, 23, or 24 of this ~~regulation~~Act, 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~~ Act 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~~ consumers for purposes of this ~~regulation~~Act.

(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.

H~~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)).

I~~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.~~

~~(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.~~

J. "De-identified data" means information that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to such individual.

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 1843(k)(4)(B) ~~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 1843(k)(4)(B) ~~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.~~

M~~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 a insurance product or service.~~

~~Q~~N. (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~~ Act 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~~Act; 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~~Act.

(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~~ Act 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 22~~15~~ of this ~~regulation~~Act, except as permitted by Section 23~~16~~ or 24~~17~~ of this ~~regulation~~Act; and

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

NOTICE OF INFORMATION PRACTICES~~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~~O. (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)).

P. "Nonpublic personal h~~H~~ealth 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.

Q~~S~~. "Nonpublic personal information" means ~~nonpublic personal financial information and nonpublic personal health information.~~any personally identifiable information that is linked or reasonably linkable to an identified natural person. Nonpublic personal information does not include de-identified data or publicly available 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.~~

R~~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 consumers~~ustomers~~ 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;~~

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

(ii~~i~~) 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.

S~~X~~. "Opt in" means an affirmative direction by a consumer that authorizes a licensee to disclose the consumer's information.

T~~X~~. "Opt out" means a direction by a consumer that the licensee may not disclose nonpublic personal information about the consumer to a nonaffiliated third party, except as permitted under Sections 22,23, or 24 ~~15, 16, 17, and 18~~.

U~~W~~. (1) "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.

(2) 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.

(3) 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.

V. "Reasonable opportunity" means any of the following:

(1) ~~(a)~~ The licensee mails the notices required 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 sixty (60) days from the date the licensee mailed the notices;

(2) ~~(b)~~ Where a consumer agrees to receive the notices required by this Act electronically in accordance with UETA [insert state electronic transactions act statute], the licensee allows the consumer to opt out by any reasonable means at any time; or

(3) ~~(c)~~ For an isolated transaction, such as providing the consumer with an insurance quote, the licensee provides the notices required by this Act at the time of the transaction

and requests that the consumer decide, as a necessary part of the transaction.

X. -“Sale” or “selling” means the exchange of nonpublic personal information for monetary or other valuable consideration. A licensee does not sell nonpublic personal information when:

(1) The disclosure is to a third party for the purpose of or in support of providing a product or service requested by the consumer.

~~(1)~~(2) A licensee provides information to or receives anything of value from an insurance support organization, statistical agent, or reinsurer;

~~(2)~~(3) A licensee provides nonpublic personal information to an affiliate or to a financial institution with which the licensee performs joint marketing;

~~(3)~~(4) The business transfers to a third party the nonpublic personal information as an asset that is part of a merger, acquisition, bankruptcy, or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction in which the party assumes control of all or part of the licensee’s assets; or

(5) A consumer uses or directs the business to (i) disclose nonpublic personal information; or (ii) interact with one or more third parties including but not limited to referrals to other licensees.

Y. “Sensitive Personal Information” means personally identifiable “nonpublic personal information” about a consumer that includes:

(1) Racial or ethnic origin, religious beliefs, sexual orientation, or citizenship or citizenship status; or

(2) Genetic information or biometric data that may be processed for the purpose of uniquely identifying an individual.

Z. (1) “Targeted advertising” means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests.

(2) “Targeted advertising” does not include:

(a) Online advertisements based on activities within a Licensee’s own websites or online applications;

(b) Online advertisements based on the context of a consumer's current search query, visit to a website, or online application;

(c) Online advertisements directed to a consumer in response to the consumer's request for information or feedback; or

(d) Processing Nonpublic Personal Information solely for measuring or reporting advertising performance, reach, or frequency.

AA. "Third party service provider" or "third party" means a person or entity not otherwise defined as a licensee or affiliate of a licensee that:

(1) Provides services to the licensee; and

(2) Maintains, processes or otherwise is permitted access to nonpublic personal information through its provisions of services to the licensee.

ARTICLE II. THIRD-PARTY SERVICE PROVIDER ARRANGEMENTS ~~PRIVACY AND OPT -OUT NOTICES FOR FINANCIAL INFORMATION~~

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 to delete, destroy, de-identify or return all nonpublic personal information to the licensee when requested by the licensee; or to delete nonpublic personal information after it is no longer necessary to fulfill a legal requirement or to meet the record retention requirements of the licensee or third-party service provider, and to notify the licensee of the action taken;

(3) Requires the third-party service provider to notify the licensee if it can no longer comply with its obligations under this contract and provides the licensee with a right to terminate the contract;

(4) Requires that any contract between a third-party service provider and a subcontractor 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 from unauthorized access, destruction, use, modification, or disclosure;

(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.

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 of receiving an authenticated request from a consumer for their 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 whom 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 actions and notify the consumer:

(a) Correct the nonpublic personal information in dispute as requested by the consumer;

(b) Delete the nonpublic personal information in dispute; or

(~~b~~c) Deny the request and provide:

(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 how the consumer will be notified of the decision on appeal.

(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 process for appeal of the decision; or

(b) The nonpublic personal information that is the subject of the request 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 incorrect.

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), 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

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 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.

(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 maintain 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.

ARTICLE IV. NOTICE OF INFORMATION PRACTICES AND OPT-OUT AND OPT-IN NOTICES FOR NONPUBLIC PERSONAL INFORMATION

Section 7~~85~~. Initial and Subsequent Delivery Notice of Information Practices~~Privacy Notice~~ to Consumers Required

A. Initial Delivery of Notice~~notice requirement~~. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to~~:~~ all consumers no later than when the licensee obtains access to the consumer's nonpublic personal information, except that a licensee may provide the initial notice within a reasonable time after access to the consumer's nonpublic personal information if:

(1) Obtaining access to the consumer's nonpublic personal information is not at the consumer's election and the licensee follows the Notice of Information Practices previously sent to the consumer; or

(2) Providing notice when the licensee obtains access to the consumer's nonpublic personal i~~I~~nformation would substantially delay the consumer's transaction and the consumer agrees to receive the notice at a later time.

B. Subsequent Delivery of Notice

When a consumer with an existing relationship with a licensee 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 notice, under Section 13 , that covers the consumer's new insurance product or service; or

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

C. For purposes of this section:

(1) "Not at consumer's election" includes the scenario where a licensee acquires or is assigned a consumer's policy from another financial institution or residual market mechanism and the consumer does not have a choice about the licensee's acquisition or assignment.

(2) "Substantially delay the consumer's transaction" includes the scenario where the licensee and the individual agree over the telephone or electronically to enter into a consumer relationship involving prompt delivery of the insurance product or service but does not include the scenario where the relationship is initiated in person at the licensee's office or through other means by which the consumer may view the notice, such as on a website.

~~(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~~8. Annual ~~Privacy~~ Notice of Information Practices to ~~Customers~~ Consumers Required

~~A. (1)~~ General rule. A licensee shall provide a clear and conspicuous notice to consumers~~ustomers~~ 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 consumer~~ustomer~~ on a consistent basis.

A.~~(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 consumer~~ustomer~~ once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a consumer~~ustomer~~ opens an account on any day of year 1, the licensee shall provide an annual notice to that consumer~~ustomer~~ by December 31 of year 2.

(1) Exceptions. ~~to general rule.~~

(1) A licensee that provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections ~~15, 16, or 17~~22, 23, or 24 and has not changed its policies and practices with regard to disclosing ~~n~~Nonpublic ~~P~~Personal ~~I~~Information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section or Section 7~~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.

(2) A licensee is not required to provide notice if the licensee no longer has access to the consumer's nonpublic personal information.

(2) For the purposes of this Act, a licensee no longer has an obligation to continue to notify a consumer if the licensee's records do not contain a valid address. An address is deemed invalid if electronic or regular mail sent to that address by the licensee has been returned as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

~~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 9~~7~~. Information to be Included in ~~Privacy~~ Notices of Information Practices

A. General rule. The initial, annual and revised ~~privacy notices~~ Notice of Information Practices that a licensee provides under Sections ~~5~~7, ~~, 6~~8, and ~~3~~13~~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:~~ Notice of Information Practices:

~~(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;~~

(1) The categories of nonpublic personal information that the licensee collects, including, but not limited to, whether information is collected from the consumer, through the consumer's transactions with affiliates or nonaffiliated third parties, or consumer reporting agencies;

(2) The categories of nonpublic personal information that the licensee discloses, including at least one example in each category. Categories may include, but are not limited to, application information, transaction information, or consumer reports;

(3) The categories of affiliates and nonaffiliated third parties, and the types of business in which they engage, to whom the licensee discloses nonpublic personal information, other than those parties to whom the licensee discloses information under Sections ~~20 and 21~~22, 23, and 24. The types of businesses may be described in general terms only if the licensee uses illustrative examples of each significant line of business;

(4~~6~~) An explanation of the consumer's right under Section 12~~A~~ 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;

(5) An explanation of the consumer's rights with regard to the sale of nonpublic personal information and disclosure of sensitive personal information pursuant to Sections 20 and 21;

(6) A description of the consumer's options to request access, correction, or deletion of nonpublic personal information about the consumer as established under this Act and the instructions for exercising such options;

(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; by~~and~~

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

(b) Stating 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; and

~~(9)~~(c) Any disclosure that the licensee makes ~~under Subsection B of this section.~~ as authorized under Section 22, 23, or 24~~21~~, except that the licensee is not required to list those exceptions in the initial or annual Notice of Information Practices required by Sections ~~9~~7 and ~~10~~8. 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.

~~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.~~

B. The licensee's notice may include:

(1) Categories of nonpublic personal 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 information.

C. Exceptions:~~Examples.~~
If a licensee does not disclose, and does not reserve the right to disclose, nonpublic personal information about consumers to affiliates or nonaffiliated third parties except as authorized under Sections~~ 20 and 21~~22, 23, or 24, the licensee shall state that in its notice, in addition to the information it shall provide under Subsections A(1) and A(8) and Subsection B of this section.

D. Sample Clauses and Federal Model Privacy Form.

(1) Licensees are not required to use any prescribed clauses or model form.

(2) The commissioner may determine that a Licensee's use of any of the following constitutes compliance with this Act:

(a) Sample clauses illustrating some of the notice content required by this section which are developed by the National Association of Insurance Commissioners or the commissioner;

(b) Model forms illustrating notice content required by this section which are developed by the National Association of Insurance Commissioners or the commissioner; or

(c) The Federal Model Privacy Forms are included in Appendix A and Appendix B, of this Act.

~~(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.~~

~~(c) 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.~~

~~(4) 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.~~

~~(5) 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.~~

~~(6) 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.~~

~~(1) 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.~~

~~(2) 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.~~

~~(3) 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.~~

~~(4) 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 10. Short Form Initial Notice of Information Practices

A. A licensee may satisfy the initial notice requirements in Sections 7A and 13A by providing a Short Form Initial Notice of Information Practices at the same time the licensee delivers an opt-out notice as required in Section 12 if:

(1) The licensee provides the consumer a reasonable means to obtain its Notice of Information Practices; and

(2) The licensee provides the Notice of Information Practices upon request.

B. A Short Form Initial Notice of Information Practices shall meet all of the following requirements.

(1) Be clear and conspicuous;

(2) State that the licensee's Notice of Information Practices is available upon request;

(3) Explain the reasonable means to obtain the licensee's Notice of Information Practices;

(4) Contain contact information for the commissioner; and

(5) Describe how the consumer can request access to or correction of their nonpublic personal information.

C. For purposes of this section "reasonable means to obtain the licensee's Notice of Information Practices" includes:

(1) Providing a toll-free telephone number that the consumer may call to request the notice;

(2) Providing a website or other electronic medium that is easily accessible by the consumer; or

(3) Maintaining copies of the notice at the licensee's place of business to be provided upon

request.

Section 11~~8~~. Form of Opt-In~~Out~~ Notice to Consumers and Opt-In~~Out~~ Methods

A. ~~(1) Form of opt out notice.~~ If a licensee is required to provide an opt-in ~~ou~~t notice under Sections ~~12A~~2220 or ~~23~~21, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the ~~right~~ information proposed to be disclosed, the use of that information, and the consumer's option to opt in to that use.~~out under that section.~~ The notice shall state:

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

(2~~b~~) ~~That T~~The consumer has the ~~right~~ option to opt in to ~~out of~~ that disclosure; and

(3) A reasonable means by which the consumer may exercise the option to opt in~~out right~~.

B. The licensee shall not disclose that information to a nonaffiliated third party unless the consumer has affirmatively opted in to the use.

C. The opt-in must be an affirmative act by the consumer. The licensee cannot deem a failure to respond as an opt-in or use pre-checked boxes.

D. The opt-in should be obtained separately from any other communication or consent.

E. The opt-in may be revoked at any time by the consumer.

~~(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 12. Form of Opt-Out Notice to Consumers and Opt-Out Methods

A. (1) If a licensee is required to provide an opt-out notice, it shall provide a clear and conspicuous notice to each consumer that accurately explains the right to opt out under that section. To the extent applicable, the notice shall state:

(a) That the licensee discloses or reserves the right to disclose nonpublic personal 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) Requirements

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

(i) Identifies all of the categories of nonpublic personal information it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to whom the licensee discloses the information, as described in Section ~~11~~9A(2) and (3), and states the consumer can opt out of the disclosure of that information; and

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

(b) 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 website, 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) 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 a letter to the licensee to exercise their 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) A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

B. 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 7.

C. If a licensee provides the opt-out notice after it provides the initial notice, the licensee shall 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 (2) 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 the joint consumers.

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

E. A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable but no later than 10 days after the licensee receives it.

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

Section 13~~9~~. Revised ~~Privacy~~ Notice of Information Practices~~s~~

A. ~~General rule.~~Except as otherwise authorized in this Act~~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~~7, 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 19~~5~~, 20~~16~~ and 21~~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; or

(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 14~~0~~. ~~Privacy~~ Notice~~s~~ of Information Practices to Group Policyholders

Unless a licensee is providing notices of information practices~~privacy notices~~ directly to covered individuals described in Section 4~~F~~(G)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 contract holder, or workers' compensation policyholder, in the manner described in Sections 97~~5~~ through 13~~9~~ of this Act~~regulation~~, describing the licensee's privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts or plans. Compliance with this section satisfies the licensees initial, annual and renewal Notice of Information Practices as required by Sections 7 and 8 and delivery provisions of Section 15.

Section 15~~1~~. Delivery

A. ~~How to provide notices.~~ A licensee shall provide any notices that this Act~~regulation~~ requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer interacts with the licensee online or in some other electronic fashion, ~~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, in accordance with UETA (insert state electronic transactions act statute), 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;

(i) The notice should be posted in a manner that enables a consumer to print or save it using programs or apps that are widely available and free of charge.

(ii) Notice is available electronically as long as it is in force.

(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.

(e) Provides the notice by any other means authorized by the commissioner.

(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 otherwise communicate with ~~obtain an insurance product or service from~~ the licensee electronically.

C. ~~Annual notices only.~~ A licensee may reasonably expect that a consumer~~ustomer~~ will receive actual notice of the licensee's ~~annual privacy n~~Notice ~~if:~~ of Information Practices if:

(1) The consumer~~ustomer~~ 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 consumer~~ustomer~~ has requested that the licensee refrain from sending any information regarding the consumer~~ustomer~~ relationship, and the licensee's current privacy notice remains available to the consumer~~ustomer~~ upon request.

D. A licensee may not provide any notice required by this Act solely by orally explaining the notice, either in person or over the telephone.

E. 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.

F. 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 7A, 8A and 13A, respectively, by providing one notice to those consumers jointly.

~~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; or~~

~~(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 V~~III~~. LIMITS ON DISCLOSURES OF NONPUBLIC~~FINANCIAL~~ PERSONAL INFORMATION

Section 16. General Rules for Use and Disclosure of Nonpublic Personal Information

A. Use and Disclosure

(1) A licensee may use and disclose nonpublic personal information about a consumer for purposes of processing a business transaction requested or authorized by the consumer.

(2) A licensee may disclose nonpublic personal information with affiliates, provided the affiliates' use and disclosure comply with this Act.

(3) A licensee shall not disclose nonpublic personal information to a nonaffiliated third party except as permitted by this Act.

(4) This section applies to nonpublic personal information collected before and after a consumer exercises an opt-out right under Section 19 or an opt-in right under Sections 20 and 21.

(5) If a consumer submits an opt-out request during a transaction and the requested information is necessary to complete that transaction, the licensee shall:

(a) Inform the consumer that the transaction cannot be completed without the information; and

(b) Confirm whether the consumer wishes to proceed.

B. Limits on Disclosure**.** Except as provided by Section 16A(1), before disclosing a consumer's nonpublic personal information to a nonaffiliated third party, whether directly or through an affiliate, a licensee shall:

(1) Provide the initial notice required by Section 7;

(2) Provide a clear and conspicuous notice to the consumer that details:

(a) The consumer's right to opt out of disclosure for targeted advertising under Section 19;

(b) The consumer's option to opt in to the sale of nonpublic personal information under Section 20; or

(c) The consumer's option to opt in to the disclosure of sensitive personal information Section 21.

(3) Provide a reasonable opportunity for the consumer to exercise any applicable opt-out right before disclosure; and

(4) Obtain and document the consumer's opt-in or opt-out election, as applicable.

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

~~A. (1) 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 17~~3~~. 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 third-party service provider~~financial institution~~ under an exception in ~~Sections~~ 20~~16 or 17 or~~ Article VI of this Act~~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~~

~~(ac)~~ t~~T~~he licensee may use and disclose 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 third-party service provider~~financial institution~~ other than under an exception in ~~Sections 20 or~~ Article VI~~16 or 17~~ of this Act~~regulation~~, the licensee may disclose the information only to the following, provided the disclosure is consistent with this Act:

(a) ~~To the~~ A~~a~~ffiliates of the third party-service provider~~financial institution~~ from which the licensee received the information; and

(b) ~~To its~~ A~~a~~ffiliates of the licensee who may~~, but its affiliates may, in turn,~~ disclose the information only to the extent that the ~~licensee may disclose the information;~~disclosure would be permissible by the licensee pursuant to this Act. ~~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 third-party service provider~~financial institution~~ outside of the exceptions in ~~Sections 16 or 17:20 or~~ Article VI:

(a) The licensee may use that list for its own purposes~~; and~~ consistent with this Act; and

(b) The licensee may disclose that list to another nonaffiliated third-party service provider only as permitted by this Act.~~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 service provider under an exception in S~~ections 16 or 17 20 or~~ Article VI of this Act~~of this regulation~~, the third party-service provider:~~ may disclose and use that information only as follows:~~

(1) ~~The third party~~ M~~m~~ay disclose the information to the licensee's affiliates; and

~~(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~~

(2~~3~~) ~~The third party~~ M~~m~~ay 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 service provider other than under an exception in ~~Sections 20 16 or 17 or~~ Article VI of this Act~~regulation~~, the third-party service provider may disclose the information only:

(1) To the licensee's affiliates~~;~~ who may disclose the information only to the extent that it would be permissible for the licensee to disclose the information pursuant to this Act: and

~~(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~~

(2~~3~~) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 18~~14~~. Limits on Sharing Access Number or Access Code~~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 consumer~~ustomer~~ when the consumer~~ustomer~~ enters into the program.

(4) Where the policy number, or similar form of access number or access code, is in an encrypted form, as long as the licensee does not provide a means to decode the access number or access code.

~~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.~~

Section 19. Limits on Disclosure of Nonpublic Personal Information in Targeted ~~Marketing~~ Advertising

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 been provided clear and conspicuous notice and a reasonable opportunity to opt out of targeted advertising in accordance with the requirements of Section 12 of this Act.

B. A licensee shall act on a consumer's request to opt out within 15 days of receipt.

C. A licensee is under no obligation to obtain additional information to execute the opt-out request.

D. A licensee may not solicit the consumer to change their election to opt -out for twelve months.

E. A consumer has the right to opt out at any time.

Section 20. Limits on Sale of Nonpublic Personal Information

Before a licensee may sell nonpublic personal information:

A. The licensee shall provide a clear and conspicuous notice to the consumer in accordance with the requirements of Section 11; and

B. The consumer must affirmatively opt in to the sale of their nonpublic personal information.

Section 21. Limits on Disclosure of Sensitive Personal Information

A. Except as provided by Subsection B below, a licensee may disclose a consumer's sensitive personal information only for those purposes and uses identified in Article VI and as expressly permitted or required by Article VI or other provisions of this Act.

B. Before a licensee may disclose a consumer's sensitive personal information for purposes other than those specified in subsection A of this section:

(1) A licensee shall provide a clear and conspicuous notice to the consumer in accordance with the requirements of Section 11; and

(2) The consumer must affirmatively opt in to disclosure of their sensitive personal information.

ARTICLE ~~I~~VI. EXCEPTIONS TO LIMITS ON DISCLOSURES OF ~~FINANCIAL~~ NONPUBLIC PERSONAL INFORMATION

Section 22~~5~~. 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 12 ~~8~~ and ~~16~~219 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 ~~95~~7; 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 25~~16 or~~ 26~~17~~23 or 24 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 25~~16 or~~ 26~~17~~23 or 24 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 23~~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 97~~5~~A(2), the opt-~~-~~out in Sections 12~~8~~ and ~~16~~219, and service providers and joint marketing in Section 24~~15~~22 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 24~~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 9~~5~~7A(2), the opt-~~-~~out in Sections 12~~8~~ and 1~~6~~9~~2~~, and service providers and joint marketing in Section 24~~1~~9~~5~~22 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;

(f) To prevent, detect, and investigate security incidents that compromise the availability, authenticity, integrity, or confidentiality of stored or transmitted nonpublic personal information.

(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 ~~128F.~~12F.

Drafting Note: Because the notice requirements of this Act ~~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 Act~~regulation~~.

ARTICLE VII. RULES FOR HEALTH INFORMATION

Section 25~~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.~~

(1) Claims administration any processing~~claims~~;

(2) Claims adjustment and management;

(3) Detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity;

(4) Underwriting;

(5) Policy placement or issuance;

(6) Loss control;

(7) Ratemaking and guaranty fund functions;

(8) Reinsurance and excess loss insurance;

(9) Risk management;

(10) Case management;

(11) Disease management;

(12) Quality assurance;

(13) Quality improvement;

(14) Performance evaluation;

(15) Provider credentialing verification;

(16) Utilization review;

(17) Peer review activities;

(18) Actuarial, scientific, medical or public policy research;

(19) Grievance procedures;

(20) Internal administration of compliance, managerial, and information systems;

(21) Policyholder service functions;

(22) Auditing;

(23) Reporting;

(24) Database security;

(25) Administration of consumer disputes and inquiries;

(26) External accreditation standards;

(27) The replacement of a group benefit plan or workers' compensation policy or program;

(28) Activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit;

(29) 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 or other applicable laws;

(30) 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 including subrogation, and

(31) Any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with the legal process.

C. 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

Section ~~19~~26. Authorizations

A. A valid authorization to disclose nonpublic personal health information pursuant to this Article VII 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, including electronic signatures, 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.

(6) Any additional information necessary to comply with HIPAA or any other applicable law.

B. An authorization for the purposes of this Article VII 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 VII 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.

E. A signed copy of the authorization shall be provided to the consumer.

Section 27.~~0.~~ 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 ~~15~~112, 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 ~~18~~25A.

Section 28~~1~~. Relationship to Federal Rules

A licensee that is subject to and governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), and the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5, HITECH), and that maintains nonpublic personal information in the same manner as protected health information shall be deemed to comply with the requirements of this Act.

This Act shall not apply to nonprofits, such as the National Association of Insurance Commissioners or the National Insurance Crime Bureau, when processing or sharing information solely for investigating criminal or fraudulent insurance acts. ~~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~~ Act ~~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~~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 a~~A~~rticle as of the date the licensee comes into compliance with the HHS regulation.~~

Section 29~~2~~. Relationship to State Laws

Nothing in ~~this article~~this Article shall preempt or supersede ~~supercede~~ existing state law related to medical records, consumer data privacy, health or insurance information privacy.

ARTICLE VIII. ADDITIONAL PROVISIONS

Section 30~~23~~. Protection of Fair Credit Reporting Act

Nothing in this ~~regulation~~ Act 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 made ~~drawn on the basis of the provisions of this regulation Act~~ regarding whether information is transaction or experience information under Section 603 of that Act.

Section 31~~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~~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 ~~regulation~~Act.

Section 32~~25~~. Violation

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

Section 33~~26~~. Severability

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

Section 34. Individual Remedies

This Act may not be construed to create or imply a private cause of action for violation of its provisions, nor may it be construed to curtail a private cause of action which would otherwise exist in the absence of this Act.

Section 35~~27~~. Effective Date

A. Effective date. This Act~~regulation~~ has been~~is~~ effective since November 13, 2000. The amendments to this Act are effective [Insert Effective Date]. In order to provide sufficient time for licensees to establish policies and systems to comply with the amendments~~requirements~~ to~~of~~ this ~~regulation~~Act, the commissioner has extended the time for compliance with th~~is~~e amendments to this Act~~regulation~~ until [Insert Compliance Date]~~July 1, 2001~~.

B. ~~(1)~~ By [Insert Compliance Date], a licensee shall provide an initial notice, as required by Section 7, to any existing consumer who has not previously received a notice that complies with the amendments to this Act. ~~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~~ ~~[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 Compliance 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 ~~15~~22A(1)(b) of this ~~regulation~~Act, 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 Compliance Date]~~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~~9A(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~~9A(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~~22, ~~16~~ 23 and ~~17~~24.

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~~9A(2) and~~,~~ (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~~ 23 and ~~17~~24.

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~~9A(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~~22, ~~16~~ 23 and ~~17~~24~~, 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~~9A(~~5~~2) related to the exception for service providers and joint marketers in Section ~~15~~22. 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~~9A(~~6~~4) 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~~22, ~~16~~ 23 and ~~17~~24.

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~~9A(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 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~~ 9and ~~8~~ 11 of the NAIC *Privacy of Consumer ~~Financial and Health~~ Information Act~~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 "consumer~~ustomer~~" 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

3. The format of the Model Privacy Form.

The format of the Model 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.

(c) 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.

(d) 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~~ 23 and ~~17~~ 24 of NAIC model *Privacy of Consumer ~~Financial and Health~~ Information ~~Regulation~~Act*] and with service providers pursuant to [insert citation for section of statute or regulation that parallels Section ~~15~~ 22 of NAIC *Privacy of Consumer ~~Financial and Health~~ Information Act~~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~~ 22 of NAIC *Privacy of Consumer ~~Financial and Health~~Information ~~Regulation~~Act*]. 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~~ 22 of NAIC *Privacy of Consumer ~~Financial and Health~~Information ~~Regulation~~Act*]. 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.

(vi) 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 Act~~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.

(vii) 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~~ 11 and ~~12(A)~~16(B) of NAIC *Privacy of Consumer ~~Financial and Health~~ Information Act~~Regulation~~*]. A licensee that shares personal information for this reason must provide an opt-out.

(e) 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.

(f) 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.

(g) 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 consumers 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.

(i) 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)~~16(B) of NAIC *Privacy of Consumer ~~Financial and Health~~ Information Act~~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)~~15(E) of NAIC model *Privacy of Consumer ~~Financial and Health~~ Information Act~~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.

(v) "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~~9(A)(3) of NAIC *Privacy of Consumer ~~Financial and Health~~ Information ~~Regulation~~Act*], 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)~~(9)(A)(3) of NAIC *Privacy of Consumer ~~Financial and Health~~ Information ~~-~~Act~~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~~ 22 of NAIC *Privacy of Consumer ~~Financial and Health~~ Information Act~~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]."

(c) 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).
2002 Proc. 3rd Quarter12, 13, 71, 72-73 (amended).
2017 Spring National Meeting (amended).

Version 1:
Model Form with No Opt-Out

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] 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	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		

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

Page 2

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.]
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]

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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]

Rev. [insert date

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.

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		

Page 2

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		
Leave Blank OR [If you have a joint account, your choice(s) will apply to everyone on your account unless your mark below. ☐ Apply my choices only to me]	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.	
	Name	
	Address	
	City, State, Zip	
	[Account #]	
Mail To:	[Name of Licensee] [Address] [City], [ST] [ZIP]	

Page 3

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

Mail-in Form	
Leave Blank OR [If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below. ☐ Apply my choices only to me]	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. **Name** ______ **Address** ______ **City, State, Zip** ______ **[Account #]** ______
Mail To:	[Name of Licensee], [Address 1], [Address 2], [City], [ST] [ZIP]