

ARTICLE IV IS BEING EXPOSED AS A RESULT OF THE DRAFTING GROUP CALL ON FEBRUARY 28, 2025, AND THE REGULATOR-ONLY WORKING GROUP CALL ON APRIL 23, 2025. COMMENTS ARE NOT BEING REQUESTED ON ARTICLE IV AT THIS TIME. COMMENTS WILL BE REQUESTED AFTER THE NEXT FULL EXPOSURE OF THE MODEL.

**ARTICLE IV. NOTICE OF INFORMATION PRACTICES AND OPT OUT AND OPT IN NOTICES FOR NONPUBLIC PERSONAL INFORMATION~~II. PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION~~**

**Section 95. 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 Information 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 14, 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 106. Annual ~~Privacy~~ Notice of Information Practices to Customers Required**

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

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

B. ~~B.~~ Exceptions

- (1) ~~to general rule.~~ A licensee that provides ~~Nonpublic~~ ~~Personal~~ ~~Information~~ to nonaffiliated third parties only in accordance with Sections ~~195~~, ~~2016~~, or ~~2117~~ and has not changed its policies and practices with regard to disclosing ~~Nonpublic~~ ~~Personal~~ ~~Information~~ from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section or Section 5 shall not be required to provide an annual disclosure under this section until such time as the licensee fails to comply with any criteria described in this paragraph.
- (2) A licensee is not required to provide notice if the licensee no longer has access to the consumer's Nonpublic Personal Information.
- (3) 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.
- ~~(2) 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.~~
- ~~(3)~~
- ~~(4) (2) Examples.~~
- ~~(5)~~
- ~~(6) (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.~~
- ~~(7)~~
- ~~(8) (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.~~
- ~~(9)~~
- ~~(10) (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.~~
- ~~(11)~~
- ~~(12) (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.~~
- ~~(13)~~
- ~~(14) 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 117. 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 ~~95 and 106~~ 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) In specific terms and by the source of information, 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) In specific terms and by the source of information, 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;
  - ~~(1)(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. The types of businesses may be described in general terms only if the licensee uses illustrative examples of each significant line of business;
  - ~~(46)~~ An explanation of the consumer's right under Section 132A 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 and the consumer's opt-in right pursuant to Section 12;
  - (6) A description of the consumer's ability 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) Any disclosure that the licensee makes as authorized under Section 21, except that the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 9 and 10. 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.

~~under Subsection B of this section.~~

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

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 wish to reserve the right to disclose, Nonpublic Personal Information about consumers to affiliates or nonaffiliated third parties except as authorized under Sections 20 and 21, 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.

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 is developed by the National Association of Insurance Commissioners or the commissioner;
  - (b) Model forms illustrating notice content required by this section, which is developed by the National Association of Insurance Commissioners or the commissioner; or
  - (c) The Federal Model Privacy Form are included in Appendix A and Appendix B, respectively, of this regulation.
- (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 12. Short Form Initial Notice of Information Practices**

- A. A licensee may satisfy the initial notice requirements in Sections 9A and 14C for a consumer 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 17, if:
- (1) The licensee provides the consumer a reasonable means to obtain its Notice of Information Practices;
  - (2) The licensee provides the Notice of Information Practices upon request.
- B. A Short Form Initial Notice of Information Practices shall meet all 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;
  - (5) Describe how the consumer can request access to or correction of the information.
- C. For purposes of this section "reasonable means to obtain the licensee's Notice of Information Practices" include:
- (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;
  - (3) For a consumer who conducts business in person at the licensee's office, maintaining copies of the notice on hand that the licensee provides to the consumer immediately upon request.

## **Section 138. Form of Opt-~~In-Out~~ Notice to Consumers and Opt-~~In-Out~~ Methods**

- A. ~~Form of opt out notice.~~ If a licensee is required to provide an opt ~~in-out~~ notice under Sections ~~22 or 23~~ ~~12A~~, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the ~~right exact information proposed to be disclosed, the use of that information, and the right to opt in to that use.~~ ~~out under that section.~~ The notice shall state:
- ~~That-T~~the licensee discloses or reserves the right to disclose ~~N~~nonpublic ~~P~~personal ~~financial~~ information about its consumer to a nonaffiliated third party;
  - ~~That-T~~the consumer has the right to opt ~~in to~~~~out of~~ that disclosure; and
  - A reasonable means by which the consumer may exercise the opt-~~in-out~~ right.
- B. The licensee will not be able to use the information proposed for any consumer that does not affirmatively opt 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 prechecked boxes.

D. Consent should be obtained separately from any other communication or consent.

E. Consent 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 14. 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) The licensee discloses or reserves the right to disclose Nonpublic Personal Information about its consumer to a nonaffiliated third party;~~
  - ~~(b) 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 which the licensee discloses the information, as described in Section 11A(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 direction 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 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) 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 9.
  - C. If a licensee provides the opt-out notice later than required for the initial notice in accordance with Section 9, 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 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 159. Revised ~~Privacy~~ Notices of Information Practices**

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

- (1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;
- (2) The licensee has provided to the consumer a new opt out notice;
- (3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- (4) The consumer does not opt out.

- B. Examples.

- (1) Except as otherwise permitted by Sections ~~195~~, ~~20,16~~ and ~~2117~~, a licensee shall provide a revised notice before it:
  - (a) Discloses a new category of ~~N~~nonpublic ~~P~~personal ~~financial~~ ~~i~~nformation to any nonaffiliated third party;
  - (b) Discloses ~~N~~nonpublic ~~P~~personal ~~financial~~ ~~i~~nformation 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 ~~N~~nonpublic ~~P~~personal ~~financial~~ ~~i~~nformation 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 160. ~~Privacy~~ Notices of Information Practices to Group Policyholders**

Unless a licensee is providing privacy notices directly to covered individuals described in Section 4F(2)(e)(i), (ii) or (iii), a licensee shall provide initial, annual and revised notices to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, or workers' compensation policyholder, in the manner described in Sections ~~95~~ through ~~139~~ of this ~~Act~~, 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 licensee's initial, annual and renewal Notice of Information Practices as required by Sections 9 and 10 and delivery provisions of Section 16.

**Section 171. Delivery**

- A. ~~How to provide notices.~~ A licensee shall provide any notices that this ~~regulation Act~~ 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 or similar state 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 customer will receive actual notice of the licensee's ~~annual privacy Notice~~ of Information Practices if:
- (1) The customer uses the licensee's web site to access insurance products and services



electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or

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

~~D. 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 9A, 10A and 14A, 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.~~