

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R130-01

June 25, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-45, NRS 679B.130 and 686A.025.

Section 1. Chapter 679B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 41, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 18, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Affiliate” means any company that controls, is controlled by or is under common control with another company.*

Sec. 4. 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. *For the purposes of this section, a notice from a licensee is:*

(a) “Designed to call attention to the nature and significance of the information in the notice” if the notice:

(1) Uses a heading in plain language to call attention to the notice;

(2) Uses a typeface and a type size that are easy to read;

(3) Provides wide margins and ample line spacing;

(4) Uses boldface and italics type for key words; and

(5) Uses distinctive type size and style, and graphic devices, including, without limitation, shading and sidebars, in a form that combines the notice from a licensee with other information.

(b) “Reasonably understandable” if the notice:

(1) Presents the information in the notice in clear, concise sentences, paragraphs and sections;

(2) Uses short explanatory sentences or bullet lists whenever possible;

(3) Avoids multiple negatives;

(4) Whenever possible, avoids legal and business terminology that is highly technical; and

(5) Avoids explanations that are imprecise and readily subject to different interpretations.

Sec. 5. *“Collect” means to obtain any information that a licensee organizes or can retrieve by:*

1. The name of a natural person; or

2. An identifying number, symbol or other identifying particular assigned to the natural person.

Sec. 6. *“Company” means a corporation, limited-liability company, business trust, general partnership, limited partnership, association, sole proprietorship or similar organization.*

Sec. 7. *1. “Consumer” means a natural person, or the legal representative of a natural person:*

(a) Who seeks to obtain or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes; and

(b) About whom the licensee has nonpublic personal financial information.

2. The term includes:

(a) A natural person who provides nonpublic personal financial 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, regardless of whether the licensee establishes an ongoing advisory relationship.

(b) An applicant for insurance before the inception of insurance coverage.

(c) If the licensee discloses nonpublic personal financial information about the natural person to a nonaffiliated third party other than a third party authorized to receive such information pursuant to sections 35, 36 and 37 of this regulation, a natural person who is:

(1) An insured pursuant to a policy issued by the licensee;

(2) An annuitant pursuant to an annuity issued by the licensee; or

(3) A mortgagor of a mortgage covered by a mortgage insurance policy.

(d) If the licensee does not meet all the conditions set forth in paragraph (d) of subsection 3, a natural person who is a holder of a contract for a group annuity.

3. The term does not include:

(a) A natural person who is a consumer of another financial institution solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(b) A natural person solely because he is a beneficiary of a trust for which the licensee is a trustee.

(c) A natural person solely because he has designated the licensee as trustee for a trust.

(d) If a licensee provides the initial, annual and revised notices pursuant to sections 22, 23 and 30, respectively, of this regulation to the holder of a contract for a group annuity, the holder of a contract for group or blanket insurance or the sponsor of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary, and if, except as otherwise provided in sections 35, 36 and 37 of this regulation, a licensee does not disclose nonpublic personal financial information to a nonaffiliated third party about such a natural person, a natural person solely because he is:

(1) A participant in 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; or

(2) Covered by a contract for a group annuity or group or blanket insurance issued by the licensee.

Sec. 8. *“Consumer reporting agency” has the meaning ascribed to it in 15 U.S.C. § 1681a(f) of the Fair Credit Reporting Act.*

Sec. 9. *“Control” means:*

1. Ownership or power to vote, directly or indirectly, 25 percent or more of the outstanding shares of any class of voting security of the company;

2. Directing, in any manner, the election of a majority of the directors, trustees, general partners or other persons 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.

Sec. 10. 1. *“Customer” means a consumer who has a customer relationship with a licensee.*

2. The term does not include a natural person solely because of his status as an annuitant pursuant to a contract for a group annuity issued by the licensee.

Sec. 11. 1. *“Customer relationship” means a continuing relationship between a consumer and a licensee in 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. For the purposes of this section:

(a) A consumer has a “continuing relationship” with a licensee if:

(1) A consumer is a current policyholder of an insurance product issued by or through the licensee; or

(2) A 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:

(1) A consumer applies for insurance, but does not purchase the insurance;

(2) A licensee sells the consumer airline travel insurance in an isolated transaction;

(3) A natural person is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(4) The consumer is a claimant pursuant to a policy and has submitted a claim for a settlement option involving an ongoing relationship with the licensee pursuant to the policy;

(5) The consumer is a claimant pursuant to a policy and has submitted a claim for a lump sum settlement option pursuant to the policy;

(6) The policy of a consumer is lapsed, expired or otherwise inactive or dormant pursuant to the business practices of the licensee, and, other than annual privacy notices,

material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials, the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months;

(7) The natural person is an insured or an annuitant pursuant to an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity;
or

(8) The last known address of a natural person according to the records of a licensee is deemed invalid.

(c) A licensee establishes a “customer relationship” when the consumer:

(1) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer;

(2) In the case of a licensee that is an insurance producer or surplus line broker, obtains insurance through that licensee; or

(3) Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

(d) An address of record is deemed “invalid” if:

(1) Mail sent to the address of record by the licensee has been returned as undeliverable; and

(2) Subsequent attempts by the licensee to obtain a current valid address for the natural person have been unsuccessful.

Sec. 12. 1. “Financial institution” means any institution engaged in activities that are financial in nature or incidental to such financial activities as described in 12 U.S.C. § 1843(k) of the Bank Holding Company Act of 1956.

2. The term 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 pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.;

(b) The Federal Agricultural Mortgage Corporation or any similar entity operating pursuant to the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq.; or

(c) If an institution does not sell or transfer nonpublic personal financial information to a nonaffiliated third party, an institution chartered by Congress specifically to engage in:

(1) Securitizations;

(2) Secondary market sales, including, without limitation, sales of servicing rights; or

(3) Similar transactions related to a transaction of a consumer.

Sec. 13. 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. The term includes an evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

3. The term does not include:

(a) Insurance products or services that are not used primarily for personal, family or household purposes; or

(b) Products or services for health care coverage.

Sec. 14. 1. “Licensee” means all:

(a) Authorized insurers;

(b) Licensed producers; and

(c) Other persons who, pursuant to the insurance laws of this state, are:

(1) Licensed, authorized or registered, except pursuant to chapter 690C of NRS; or

(2) Required to be licensed, authorized or registered.

2. The term includes an unauthorized insurer that accepts business placed through a surplus lines broker who is licensed in this state, but only with regard to the placement of surplus lines pursuant to chapter 685A of NRS.

3. The term does not include service contract providers or persons licensed pursuant to chapter 690C of NRS.

Sec. 15. 1. “Nonaffiliated third party” means any person except:

(a) An affiliate of a licensee; or

(b) A person employed jointly by a licensee and any company that is not the affiliate of a licensee.

2. The term includes:

(a) Any other company that jointly employs the person; or

(b) Any company that is an affiliate solely by direct or indirect ownership, or control of the company by the licensee or its affiliate in conducting:

(1) Merchant banking or investment banking activities of the type described in 12 U.S.C. § 1843(k)(4)(H) of the Bank Holding Company Act of 1956; or

(2) Insurance company investment activities of the type described in 12 U.S.C. § 1843(k)(4)(I) of the Bank Holding Company Act of 1956.

Sec. 16. 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 regarding consumers that is derived using any personally identifiable financial information which is not publicly available.

2. The term includes any list of names and street addresses of natural persons that is derived in whole or in part using personally identifiable financial information which is not publicly available, including, without limitation, account numbers.

3. The term does not include:

(a) Except as otherwise provided in sections 2 to 41, inclusive, of this regulation, publicly available information;

(b) Any list, description or other grouping of consumers and publicly available information pertaining to such consumers that is derived without using any personally identifiable financial information which is not publicly available;

(c) Any list of names and addresses of natural persons that:

(1) Contains only publicly available information;

(2) Is not derived in whole or in part using personally identifiable financial information which is not publicly available; and

(3) Is not disclosed in a manner which indicates that any of the natural persons on the list is a consumer of a financial institution; or

(d) Any information related to health care or workers' compensation coverage.

Sec. 17. 1. “Personally identifiable financial information” means any information:

(a) That 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) That the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

2. The term includes:

(a) Information that a consumer provides to a licensee on an application to obtain an insurance product or service;

(b) Account balance information and payment history;

(c) The fact that a natural person is or has been one of the customers of the licensee or has obtained an insurance product or service from the licensee;

(d) Any information about the consumer of the licensee if it is disclosed in a manner which indicates that the natural person is or has been a consumer of the licensee;

(e) Any information which a consumer provides to a licensee or which the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(f) Any information that the licensee collects through an Internet cookie or other similar devices for collecting information on a web server; and

(g) Information from a consumer report.

3. The term does not include:

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

(b) Information that does not identify a consumer;

(c) Aggregate information or blind data that does not contain personal identifiers, including, without limitation:

- (1) Account numbers;*
- (2) Names; or*
- (3) Addresses; or*
- (d) Any information related to health care or workers' compensation coverage.*

Sec. 18. 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. For the purposes of this section:

(a) Publicly available information from federal, state or local government records may include information in government real estate records and security interest filings.

(b) Publicly available information from widely distributed media may include information from a:

- (1) Telephone book;*
- (2) Television;*
- (3) Radio program;*
- (4) Newspaper; or*
- (5) Website that is available to the general public on an unrestricted basis.*

(c) If access is available to the general public, a website is not restricted solely because an Internet service provider or a site operator requires a fee or a password.

(d) A licensee has a reasonable basis to believe that:

(1) Information is lawfully made available to the general public if the licensee has taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether a natural person can direct that the information not be made available to the general public and, if so, that the consumer has not done so.

(2) Mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included in the public record of the jurisdiction where the mortgage is or will be recorded.

(3) A telephone number of a natural person is lawfully made available to the general public if:

(i) The licensee has located the telephone number in a telephone book; or

(ii) The consumer has informed the licensee that the telephone number is listed.

Sec. 19. *The provisions of sections 2 to 41, inclusive, of this regulation govern the disclosure and use of nonpublic personal financial information about natural persons by all licensees.*

Sec. 20. 1. *The provisions of sections 2 to 41, inclusive, of this regulation apply to nonpublic personal financial information regarding a natural person who obtains products or services primarily for personal, family or household purposes from a licensee.*

2. The provisions of sections 2 to 41, inclusive, of this regulation do not apply to information about companies or about natural persons who obtain products or services for business, commercial or agricultural purposes.

Sec. 21. *The provisions of sections 2 to 41, inclusive, of this regulation must not be construed to:*

1. Interfere with or supersede other applicable provisions of NRS or NAC related to medical records, or the privacy of health or insurance information, including, without limitation, the provisions of NAC 679B.560 to 679B.750, inclusive.

2. Modify, limit or supersede the operation of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

3. Imply that information is transaction or experience information pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

Sec. 22. *1. Except as otherwise provided in this section, a licensee shall provide a clear and conspicuous notice that accurately reflects the privacy policies and practices of the licensee to:*

(a) A natural person who becomes a customer of the licensee not later than when the licensee establishes a customer relationship.

(b) If the licensee makes a disclosure other than as authorized by sections 36 and 37 of this regulation, a consumer before the licensee discloses any nonpublic personal financial information about the consumer to a nonaffiliated third party.

2. A licensee is not required to provide an initial notice to a consumer pursuant to paragraph (b) of subsection 1 if:

(a) A notice has been provided by an affiliated licensee, which notice clearly and accurately identifies all licensees and other institutions to whom the notice applies; or

(b) The licensee does not:

(1) Disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than a disclosure authorized by sections 36 and 37 of this regulation; and

(2) Have a customer relationship with the consumer.

3. 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 1 by providing a revised policy notice pursuant to section 30 of this regulation that covers the new insurance product or service obtained by the customer.

4. 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 is not required to provide a new privacy notice pursuant to subsection 1.

5. A licensee may provide the initial notice required by paragraph (a) of subsection 1 within a reasonable time after the licensee establishes a customer relationship if:

(a) Establishing the customer relationship is not at the election of the customer; or

(b) Providing a notice not later than when the licensee establishes a customer relationship:

(1) Would substantially delay the transaction of the customer; and

(2) The customer agrees to receive the notice at a later time.

6. For the purposes of subsection 5,

(a) A notice provided not later than when a licensee establishes a customer relationship substantially delays the transaction of a customer if the licensee and the natural person agree over the telephone to enter into a customer relationship involving the prompt delivery of the insurance product or service.

(b) A notice provided not later than when a licensee establishes a customer relationship does not substantially delay the transaction of a customer if the relationship is initiated in

person at the office of the licensee or through other means by which the customer may view the notice, including, without limitation, a website containing the notice.

7. If a licensee is required to deliver an initial privacy notice pursuant to this section, the licensee shall deliver the notice in the manner provided in section 31 of this regulation.

8. If a licensee uses a short form initial notice for noncustomers pursuant to section 25 of this regulation, the licensee may deliver its privacy notice in the manner provided in section 32 of this regulation.

9. For the purposes of this section, a customer relationship is not established at the election of a customer if:

(a) A licensee acquires or is assigned a policy of a customer from another financial institution or residual market mechanism; and

(b) The customer does not have a choice about the acquisition or assignment of the policy by the licensee.

Sec. 23. *1. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects privacy policies and practices of the licensee not less than annually during the continuation of the customer relationship. A licensee may define the beginning of the period of 12 consecutive months, but the licensee must apply the period to customers on a consistent basis.*

2. A licensee provides a notice annually if the licensee:

(a) Defines the period of 12 consecutive months as a calendar year; and

(b) Provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice.

3. A licensee is not required to provide an annual notice to a former customer.

4. *A licensee no longer has a continuing relationship with a natural person if:*

(a) *The natural person no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.*

(b) *The policy of a natural person has lapsed, expired or is otherwise inactive or dormant pursuant to the business practices of the licensee, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.*

(c) *The last known address of a natural person according to the records of the licensee is invalid.*

5. *A licensee no longer has a “continuing relationship” with a customer in the case of providing real estate settlement services if, at the time the customer completes execution of all documents related to the real estate closing:*

(a) *Payment for those services has been received; or*

(b) *The licensee has completed all of his responsibilities with respect to the settlement, including, without limitation, filing documents on the public record, whichever occurs later.*

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6. *A licensee shall deliver the annual privacy notice required pursuant to this section in the manner provided by section 31 of this regulation.*

7. *For purposes of this section:*

(a) *“A former customer” is a natural person with whom a licensee no longer has a continuing relationship.*

(b) “Annually” means at least once in any period of 12 consecutive months during which the customer relationship exists.

(c) An address of record shall be deemed “invalid” if:

(1) Mail sent to that address by the licensee has been returned as undeliverable; and

(2) Subsequent attempts by the licensee to obtain a current valid address for the natural person have been unsuccessful.

Sec. 24. 1. *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 a privacy notice, the initial, annual and revised privacy notices that a licensee provides pursuant to sections 22, 23 and 30, respectively, of this regulation must include the following items of information:*

(a) The categories of nonpublic personal financial information that the licensee collects.

(b) The categories of nonpublic personal financial information about the customers and former customers of the licensee that the licensee discloses.

(c) 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 pursuant to sections 36 and 37 of this regulation.

(d) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the former customers of the licensee, other than those parties to whom the licensee discloses information pursuant to sections 36 and 37 of this regulation.

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party pursuant to section 35 of this regulation, and no other exception in sections 36 and 37 of this regulation 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.

(f) An explanation of the right of the consumer pursuant to section 32 of this regulation to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including, without limitation, the methods by which the consumer may exercise that right at that time.

(g) Any disclosures that the licensee makes pursuant to 15 U.S.C. § 1681a(d)(2)(A)(iii) of the Fair Credit Reporting Act, which concerns notices of the ability to opt out of disclosures of information among certain affiliates.

(h) The policies and practices of the licensee with respect to protecting the confidentiality and security of nonpublic personal financial information.

(i) Any disclosure that the licensee makes pursuant to subsection 2.

2. If a licensee discloses nonpublic personal financial information as authorized pursuant to sections 36 and 37 of this regulation, the licensee is not required to list those exceptions in the initial or annual privacy notices required by sections 22 and 23, respectively, of this regulation.

3. When describing the categories of parties to whom a disclosure is made, a licensee is required to state only that the disclosures are made to other affiliated or nonaffiliated third parties, if applicable, as permitted by law.

4. A licensee satisfies the requirement to categorize the nonpublic personal financial information collected by the licensee if the licensee categorizes the information according to the source of the information as follows:

(a) Information from the consumer;

(b) Information about the transactions of the consumer with the licensee or affiliates of the licensee;

(c) Information about the transactions of the consumer with nonaffiliated third parties; and

(d) Information from a consumer reporting agency.

5. A licensee satisfies the requirement to categorize nonpublic personal financial information disclosed by the licensee if the licensee categorizes the information according to the source of the information, as described in subsection 4, as applicable, and provides examples to illustrate the types of information in each category. These may include:

(a) Information from the consumer, including application information, such as assets and income, and identifying information, such as name, address and social security number;

(b) Transaction information, such as information about balances, payment history and parties to the transaction; and

(c) Information from consumer reports, such as a consumer's creditworthiness and credit history.

6. 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.

7. If a licensee reserves the right to disclose all 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 financial information that the licensee discloses.

8. 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. The types of businesses may be described in general terms only if the licensee uses illustrative examples of significant lines of business. A licensee may use the term “financial products or services” if it includes appropriate examples of significant lines of businesses, including, without limitation:

- (a) A life insurer;*
- (b) An automobile insurer; or*
- (c) A consumer banking or securities brokerage.*

9. A licensee may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

Sec. 25. 1. If a licensee discloses nonpublic personal financial information pursuant to the exception in section 35 of this regulation to a nonaffiliated third party to market products or services that the licensee offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of paragraph (f) of subsection 1 of section 24 of this regulation if the licensee:

(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 section 24 of this regulation, if applicable; and

(b) States whether the third party is:

(1) A service provider that performs marketing services on behalf of the licensee, or on behalf of the licensee and another financial institution; or

(2) A financial institution with whom the licensee has a joint marketing agreement.

2. 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 pursuant to sections 36 and 37 of this regulation, the licensee may simply state that fact, in addition to the information required pursuant to paragraphs (a), (i) and (j) of subsection 1 and subsection 2 of section 24 of this regulation.

3. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if the licensee 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 policy of the licensee. The licensee is not required to describe technical information about the safeguards used by the licensee.

4. A licensee may satisfy the initial notice requirements of sections 22 and 28 of this regulation 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 pursuant to section 28 of this regulation.

5. A short form initial notice must:

(a) Be clear and conspicuous;

(b) State that the privacy notice of the licensee is available upon request; and

(c) Explain a reasonable means for the consumer to obtain the notice.

6. A licensee shall deliver the short form initial notice in the manner provided by section 31 of this regulation. A licensee is not required to deliver the privacy notice with the short form initial notice. A licensee may provide the consumer with a reasonable means to obtain

the privacy notice. If a consumer who receives the short form notice of the licensee requests the privacy notice of the licensee, the licensee shall deliver the privacy notice in the manner provided by section 31 of this regulation.

7. The licensee's notice may include:

(a) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(b) 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.

8. For the purposes of this section, a licensee provides a reasonable means for a consumer to obtain a copy of the privacy notice of the licensee 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 offices of the licensee, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

Sec. 26. *A licensee who provides a notice on a website shall:*

1. Design the notice to call attention to the nature and significance of the information contained in the notice.

2. Use text or visual cues to encourage a reader of the notice to scroll down the page to view the entire notice.

3. Ensure that other elements on the website, including, without limitation, text, graphics, hyperlinks or sound, do not distract the attention of the reader from the notice.

4. *Place the notice or a direct link to the notice on a web page that consumers frequently access, including, without limitation, a web page used for transactions.*

5. *Label the direct link to a notice to convey the importance, nature and relevance of the notice.*

Sec. 27. 1. *A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in sections 2 to 41, inclusive, of this regulation if:*

(a) The licensee is an employee, agent or other representative of a principal who is another licensee;

(b) The principal otherwise complies with the requirements of sections 2 to 41, inclusive, of this regulation by providing the required notices; and

(c) The licensee does not disclose any nonpublic personal financial information to any person other than the principal or any affiliates of the principal in a manner permitted by sections 2 to 41, inclusive, of this regulation.

2. *A surplus lines broker or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in sections 2 to 41, inclusive, of this regulation if:*

(a) Except as otherwise permitted by section 36 or 37 of this regulation, the broker or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose, including, without limitation, joint servicing or marketing pursuant to section 35 of this regulation; and

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

Privacy Notice

The U.S. brokers that handled this insurance and the insurers that have underwritten this insurance will not disclose nonpublic personal financial information concerning the buyer to nonaffiliates of the brokers or insurers except as permitted by law.

3. For the purposes of this section, an employee, agent or other representative of a principal includes:

(a) An insurance producer, public adjuster or other licensee who is employed by another insurance producer, public adjuster or other licensee;

(b) An insurance producer of an insurer;

(c) An insurance producer that has binding authority for an insurer; or

(d) A sublicensee of a licensee, whether or not the sublicensee is licensed in any other capacity.

Sec. 28. 1. *If a licensee is required to provide an opt out notice pursuant to section 32 of this regulation, the notice must contain a clear and conspicuous notice that accurately explains the right to opt out. The notice must state:*

(a) That the licensee discloses or reserves the right to disclose nonpublic personal financial information about the 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 right to opt out.

2. A licensee provides adequate notice that the consumer may opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

(a) Identifies all of the categories of nonpublic personal financial information that the licensee discloses or reserves the right to disclose;

(b) In the manner provided in section 24 of this regulation, identifies all the categories of nonaffiliated third parties to which the licensee discloses the information;

(c) States that the consumer may opt out of the disclosure of the information; and

(d) Identifies the insurance products or services that the consumer obtains individually or jointly from the licensee to which an opt out direction will apply.

3. A licensee provides a reasonable means to exercise the right to opt out by:

(a) Designating check-off boxes in a prominent location on the relevant forms with the opt out notice;

(b) Including a reply form with the opt out notice;

(c) If the consumer agrees to the electronic delivery of information, providing an electronic means to opt out, including a form that can be sent via electronic mail or processed at the website of the licensee; or

(d) Providing a toll-free telephone number that a consumer may call to opt out.

4. A licensee does not provide a reasonable means of opting out if:

(a) The only means of opting out is for the consumer to write his own letter to exercise that right; or

(b) 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.

5. A licensee may require each consumer to use a specific means to opt out if the means of opting out is reasonable for that consumer.

6. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice that the licensee provides pursuant to section 22 of this regulation.

7. If a licensee provides the opt out notice later than required for the initial notice pursuant to section 22 of this regulation, the licensee must also include a written copy or, if the consumer agrees, an electronic copy of the initial notice with the opt out notice.

8. A licensee shall comply with the opt out direction of a consumer as soon as reasonably practicable after receipt of the direction by the licensee.

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

10. A direction of a consumer to opt out pursuant to this section or section 29 of this regulation is effective until the consumer revokes the direction in writing or, if the consumer agrees, electronically.

11. When a customer relationship terminates, the opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that customer relationship.

12. If the natural person 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 customer relationship.

13. When a licensee is required to deliver an opt out notice pursuant to this section or section 29 of this regulation, the licensee shall deliver the notice in the manner provided by section 31 of this regulation.

Sec. 29. *1. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice.*

2. In addition to the requirements of section 28 of this regulation, an opt out notice provided by a licensee must explain how the licensee will treat an opt out direction by a joint consumer.

3. Any joint consumer may exercise the right to opt out. The licensee may:

(a) Treat an opt out direction by a joint consumer as applying to all the associated joint consumers; or

(b) Permit each joint consumer to opt out separately.

4. 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.

5. A licensee may not require all joint consumers to opt out before implementing any opt out direction.

Sec. 30. *1. Except as otherwise provided in sections 2 to 41, inclusive, of this 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 a disclosure described in the initial notice that a licensee provides to a consumer pursuant to section 22 of this regulation, unless:*

(a) The licensee has provided the consumer with a clear and conspicuous revised notice that accurately describes the policies and practices of the licensee;

(b) The licensee has provided the consumer with a new opt out notice;

(c) Before the licensee discloses the information to a nonaffiliated third party, the licensee has given the consumer a reasonable opportunity to opt out of the disclosure; and

(d) The consumer does not opt out.

2. Except as otherwise authorized by sections 35, 36 and 37 of this regulation, if a former customer has not had the opportunity to exercise an opt out right, a licensee shall provide a revised notice to the former customer before disclosing:

(a) A new category of nonpublic personal financial information to any nonaffiliated third party;

(b) Nonpublic personal financial information to a new category of nonaffiliated third party; or

(c) Nonpublic personal financial information about a former customer to a nonaffiliated third party.

3. A revised notice is not required if a licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in a prior notice.

4. If a licensee is required to deliver a revised privacy notice pursuant to this section, the licensee shall deliver the notice in the manner provided in section 31 of this regulation.

Sec. 31. 1. *A licensee shall deliver any notice required pursuant to sections 2 to 41, inclusive, of this regulation so that a consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.*

2. 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 separately, or with a policy, bill or other written communication, to the last known address of the consumer;

(c) For a consumer who conducts transactions electronically, posts the notice electronically and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service; or

(d) For an isolated transaction with a consumer, 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.

3. A licensee may not reasonably expect that a consumer will receive actual notice of the privacy policies and practices if the licensee:

(a) Only posts a notice in the office of the licensee;

(b) Only publishes a general advertisement of the privacy policies and practices of the licensee; or

(c) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

4. A licensee may reasonably expect that a customer will receive actual notice of the annual privacy notice of the licensee if:

(a) The customer uses the website of the licensee to access insurance products and services electronically and agrees to receive notices at the website, and the licensee continuously posts a current privacy notice in a clear and conspicuous manner on the website; or

(b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the current privacy notice of the licensee remains available to the customer upon request.

5. A licensee may not provide any notice required pursuant to sections 2 to 41, inclusive, of this regulation solely by oral means, whether in person or by telephone.

6. A licensee shall provide customers with the following notices in a manner that allows a customer to retain or later obtain the notice in writing or, if the customer agrees, electronically:

(a) The initial notice required pursuant to section 22 of this regulation;

(b) The annual notice required pursuant to section 23 of this regulation; and

(c) The revised notice required pursuant to section 30 of this regulation, if any.

7. A licensee provides a privacy notice to the customer that the customer may retain or obtain 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 the current privacy notice of the licensee available on a website or a link to another website for a customer who:

(1) Obtains an insurance product or service electronically; and

(2) Agrees to receive the notice at the website.

8. A licensee may provide a joint notice from the licensee and one or more affiliates or other financial institutions as identified in the notice if the notice is accurate with respect to the licensee and the other institutions. A licensee may also provide a notice on behalf of another financial institution.

9. If two 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 22, 23 and 30 of this regulation, respectively, by providing one notice to those consumers jointly.

10. For purposes of this section, an isolated transaction with a consumer includes, without limitation, a licensee providing an insurance quote or selling travel insurance to a consumer.

Sec. 32. *1. Except as otherwise provided in this regulation, a licensee may not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:*

(a) The licensee has provided the consumer with an initial notice pursuant to section 22 of this regulation;

(b) The licensee has provided the consumer with an opt out notice pursuant to section 28 of this regulation;

(c) 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

(d) The consumer does not opt out.

2. A licensee provides a consumer with a reasonable opportunity to opt out if:

(a) The licensee mails the notices required by this subsection to the consumer and allows the consumer to opt out by:

(1) Mailing an opt out form;

(2) Calling a toll-free telephone number; or

(3) Any other reasonable means within 30 days from the date the licensee mails the notices.

(b) The customer opens an online account with a licensee and agrees to receive the notices electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(c) For an isolated transaction, including, without limitation, providing the consumer with an insurance quote, the licensee provides the notices required by this section at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether or not to opt out before completing the transaction.

3. A licensee shall comply with this section, regardless of whether or not the licensee and the consumer have established a customer relationship.

4. Until a licensee complies with this section, a licensee shall not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether or not the licensee collected the information before or after receiving the direction to opt out from the consumer.

5. 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.

6. For the purposes of this section, “opt out” means instructions from a consumer to a licensee to not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, except as otherwise provided in sections 35, 36 and 37 of this regulation.

Sec. 33. 1. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution pursuant to section 36 or 37 of this regulation, the licensee may:

(a) Disclose the information to the affiliates of the financial institution from which the licensee received the information;

(b) Disclose the information to affiliates of the licensee who may disclose and use the information only to the extent that the licensee may disclose and use the information; and

(c) Disclose and use the information pursuant to section 36 or 37 of this regulation in the ordinary course of business to carry out the activity covered by the exception pursuant to which the licensee received the information.

2. If a licensee receives information from a nonaffiliated financial institution for purposes of claims settlement, the licensee may disclose the information for fraud prevention or in response to a properly authorized subpoena. The licensee may not disclose the information to a third party for marketing purposes or use that information for its own marketing purposes.

3. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than information disclosed pursuant to section 36 or 37 of this regulation, the licensee may disclose the information:

(a) To the affiliates of the financial institution from which the licensee received the information;

(b) To the affiliates of the licensee who may disclose the information to the extent that the licensee is authorized to disclose such information; or

(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.

4. In addition to any applicable exceptions provided in sections 36 and 37 of this regulation, if a licensee obtains a customer list from a nonaffiliated financial institution:

(a) The licensee may use the list for its own purposes; and

(b) The licensee may disclose the list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to the third party.

5. A list disclosed pursuant to subsection 4 must be disclosed by a licensee in compliance with:

(a) The privacy policy of the financial institution from which the licensee received the list;

(b) The opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose; and

(c) The exceptions regarding disclosure in section 36 or 37 of this regulation.

6. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party pursuant to an exception in section 36 or 37 of this regulation, the third party may disclose the information:

(a) To the affiliates of the licensee;

(b) To the affiliates of the third party who may disclose and use the information only to the extent that the third party may disclose and use the information; and

(c) In the ordinary course of business to carry out the activity covered by an exception contained in section 36 or 37 of this regulation.

7. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than pursuant to an exception contained in section 36 or 37 of this regulation, the third party may disclose the information only:

(a) To the affiliates of a licensee;

(b) To the affiliates of the third party who may disclose the information only to the extent the third party can disclose the information; and

(c) To any other person, if such disclosure would be lawful if the licensee made the disclosure directly to that person.

Sec. 34. 1. *Except as otherwise provided in subsection 2, 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 the policy or transaction account of a consumer to any nonaffiliated third party for use in:*

(a) Telemarketing;

(b) Direct mail marketing; or

(c) Marketing through electronic mail to the consumer.

2. *The provisions of subsection 1 do not apply if a licensee discloses a policy number, or similar access number or access code, to:*

(a) A service provider of the licensee solely in order to perform the marketing of products or services of the licensee, as long as the service provider is not authorized to initiate directly charges to the account;

(b) A licensee who is a producer solely to perform marketing for the products or services of the licensee; or

(c) A participant in an affinity program or similar program where the participants in the program are identified to the customer when the customer enters into the program.

3. For the purposes of this section, a policy number, or similar form of access number or access code does not include a number or code in an encrypted form if the licensee does not provide the recipient with a means to decode the number or code.

4. For the purposes of this section:

(a) A policy or transaction account is an account other than a deposit account or a credit card account.

(b) A policy or transaction account does not include an account to which third parties cannot initiate charges.

Sec. 35. 1. The opt out requirements in sections 28 and 32 of this regulation 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 behalf of the licensee, if the licensee:

(a) Provides the initial notice in accordance with section 22 of this regulation; and

(b) Enters into a joint 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 pursuant to an exception in section 36 or 37 of this regulation in the ordinary course of business to carry out those purposes.

2. If a licensee discloses nonpublic personal financial information pursuant to this section to a financial institution with which the licensee performs joint marketing, the joint agreement of the licensee with the institution satisfies the requirements of subsection 1 if the

joint agreement prohibits the institution from disclosing or using the nonpublic personal financial information other than disclosure of information:

(a) Necessary to carry out joint marketing; or

(b) Pursuant to an exception in section 36 or 37 of this regulation, in the ordinary course of business to carry out joint marketing.

3. The services a nonaffiliated third party performs for a licensee pursuant to subsection 1 of this section may include marketing of:

(a) The products or services of the licensee; or

(b) Financial products or services offered pursuant to a joint agreement between the licensee and one or more financial institutions.

4. For the purposes of this section:

(a) “Financial product or service” means any 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 pursuant to 12 U.S.C. § 1843(k) of the Bank Holding Company Act of 1956. The term includes an evaluation or brokerage of information that a financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(b) “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.

Sec. 36. 1. *The requirements for initial notice pursuant to section 22 of this regulation, the opt out notice pursuant to sections 28 and 32 of this regulation, and the requirements applicable to service providers and joint marketing in section 35 of this regulation do not apply:*

(a) If the licensee discloses nonpublic personal financial information necessary to effect, administer or enforce a transaction that a consumer requests or authorizes; or

(b) In connection with:

(1) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the account of a consumer with a licensee, or with another entity as part of a program involving a private label credit card or other extension of credit on behalf of such an entity;

(3) A proposed or actual securitization, a secondary market sale, including sales of servicing rights, or a similar transaction related to a transaction of the consumer;

(4) Reinsurance, stop loss insurance or excess loss insurance; or

(5) Informing a policyholder, or the producer or broker of a policyholder, regarding a claim asserted by or paid to a consumer pursuant to a policy, including the servicing or processing of such a claim.

2. For the purposes of this section, “necessary to effect, administer or enforce a transaction” means that a disclosure is:

(a) Required to enforce the rights of a licensee or the rights of other persons engaged in carrying out the financial transaction or providing the product or service;

(b) One of the lawful or appropriate methods to enforce the rights of a licensee or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(c) Required, or is a usual, appropriate or acceptable method:

(1) To carry out the transaction or the product or service business of which the transaction is a part, and to record, service or maintain the account of the consumer in the ordinary course of providing the insurance product or service;

(2) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(3) 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 agent or producer of the consumer;

(4) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(5) To underwrite insurance at the request of a consumer or for any of the following purposes as they relate to insurance of a consumer:

(i) Account administration;

(ii) Reporting;

(iii) Investigating or preventing fraud;

(iv) Investigating or preventing material misrepresentation;

(v) Processing premium payments;

(vi) Processing insurance claims; or

(vii) Administering insurance benefits, including, without limitation, utilization review activities, participating in research projects, or as otherwise required or specifically permitted by federal or state law; or

(6) 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.

Sec. 37. 1. *The provisions of sections 28, 32 and 35 of this regulation do not apply to a licensee who discloses nonpublic personal financial information:*

(a) With the consent or at the direction of the consumer, if the consumer has not revoked the consent or direction;

(b) To protect the confidentiality or security of records of a licensee pertaining to the consumer, service, product or transaction;

(c) To prevent or protect against actual or potential fraud or unauthorized transactions;

(d) For required risk control of an institution, or for resolving consumer disputes or inquiries;

(e) To a person holding a legal or beneficial interest relating to the consumer;

(f) To a person acting in a fiduciary or representative capacity on behalf of the consumer;

(g) To provide information to a rate advisory organization;

(h) To provide information to a guaranty fund or agency;

(i) To provide information to an agency that is rating a licensee;

(j) To provide information to a person who is assessing the compliance of the licensee with industry standards;

(k) To provide information to the attorneys, accountants and auditors of the licensee;

(l) To the extent specifically permitted or required pursuant to other provisions of law;

(m) In accordance with the Right to Financial Privacy Act of 1978, 12 U.S.C. §§ 3401 et seq.;

(n) To a law enforcement agency for an investigation of a matter related to public safety;

(o) To a consumer reporting agency in accordance with the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.;

(p) From a consumer report that has been reported by a consumer reporting agency;

(q) 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;

(r) To comply with federal, state or local laws;

(s) To comply with a properly authorized civil, criminal or regulatory investigation;

(t) To comply with a properly authorized subpoena or summons from federal, state or local authorities;

(u) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other similar purposes authorized by law;

(v) For purposes related to the replacement of a workers' compensation policy; or

(w) In compliance with 12 U.S.C. §§ 1951 et seq. and 31 U.S.C. §§ 5311 et seq., to:

(1) A state insurance authority;

(2) The Federal Trade Commission;

(3) The Board of Governors of the Federal Reserve System;

(4) Office of the Comptroller of the Currency;

(5) Federal Deposit Insurance Corporation;

(6) Office of Thrift Supervision;

- (7) National Credit Union Administration;*
- (8) The Securities and Exchange Commission;*
- (9) The Secretary of the Treasury; or*
- (10) Other self-regulatory organizations.*

2. A consumer may revoke his consent to disclosure by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information in the manner provided in section 28 of this regulation.

3. A licensee placed into receivership or liquidation is exempt from the notice requirements in sections 2 to 41, inclusive, of this regulation. During the receivership or liquidation, the licensee shall not disclose any nonpublic personal financial information about customers or former customers except as otherwise authorized by law.

Sec. 38. *1. Licensees, including, without limitation, a group of affiliates of a financial holding company that uses a common privacy notice, may use the sample clauses in this section for purposes of complying with the notices required pursuant to sections 2 to 41, inclusive, of this regulation.*

2. The sample clauses in this section are not exclusive. A licensee who uses a sample clause shall, to the extent applicable, be deemed to be in compliance with the requirements of sections 2 to 41, inclusive, of this regulation.

3. To satisfy the requirements of section 24 of this regulation to describe the categories of nonpublic personal financial information the licensee collects, a licensee may use the following clause, which must be in substantially the following form:

We collect nonpublic personal financial 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.

4. A licensee may use the clause in paragraph (a) or (b) of this subsection, as applicable, to satisfy the requirements of section 24 of this regulation to describe the categories of nonpublic personal financial information the licensee discloses. A licensee may use a clause in this subsection if the licensee discloses nonpublic personal financial information other than as permitted by the exceptions in sections 35, 36 and 37 of this regulation. The clause must be in substantially one of the following forms:

(a) We may disclose the following kinds of nonpublic personal financial 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”).

(b) We may disclose all the information that we collect, as described (describe location in the notice, such as “above” or “below”).

5. A licensee may use the clause contained in this subsection, as applicable, to satisfy the requirements of section 24 of this regulation to describe the categories of nonpublic personal financial 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 the following clause if the licensee does not disclose nonpublic personal financial information to any party, other than as authorized by sections 36 and 37 of this regulation. The clause must be in substantially the following form:

We do not disclose any nonpublic personal financial information about our customers or former customers to anyone, except as permitted by law.

6. A licensee may use the clause contained in this subsection, as applicable, to meet the requirement of section 24 of this regulation to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information. The following clause may be used if the licensee discloses nonpublic personal financial information other than as authorized by section 35, 36 or 37 of this regulation. The clause must be in substantially the following form:

We may disclose nonpublic personal financial 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 producers”);

Nonfinancial companies, such as (provide illustrative examples, such as “retailers, direct marketers, airlines and publishers”); and

Others, such as (provide illustrative examples, such as “nonprofit organizations”).

We may also disclose nonpublic personal financial information about you to nonaffiliated third parties as permitted by law.

7. A licensee may use the clause contained in paragraph (a) or (b), as applicable, to satisfy the requirements of section 24 of this regulation concerning the exception for service providers and joint marketers in section 35 of this regulation. If a licensee discloses nonpublic personal financial information pursuant to the exception contained in section 35 of this regulation, the licensee may describe the categories of nonpublic personal financial information the licensee discloses and the categories of third parties with which the licensee has contracted. The clause must be in substantially one of the following forms:

(a) 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”).

(b) We may disclose all 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.

8. A licensee may use the clause contained in this subsection, as applicable, to satisfy the requirement of section 24 of this regulation to provide an explanation of the right of a consumer to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including, without limitation, the method by which the consumer may exercise that right. The licensee may use the following clause if the licensee discloses nonpublic personal financial information other than as authorized by sections 35, 36 and 37 of this regulation. The clause must be in substantially the following form:

If you prefer that we not disclose nonpublic personal financial 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).”

9. A licensee may use the following clause, as applicable, to satisfy the requirements of section 24 of this regulation to describe the policies and practices of the licensee for protecting the confidentiality and security of nonpublic personal financial information, which clause must be in substantially the following form:

We restrict access to nonpublic personal financial 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 financial information.

Sec. 39. *A licensee shall not unfairly discriminate against any consumer or customer because the consumer or customer has opted out from the disclosure of nonpublic personal financial information pursuant to sections 2 to 41, inclusive, of this regulation.*

Sec. 40. *Failure to comply with the requirements of sections 2 to 41, inclusive, of this regulation regarding notices and disclosures constitutes an undefined unfair trade practice pursuant to NRS 686A.170.*

Sec. 41. 1. *The provisions of sections 2 to 41, inclusive, of this regulation are hereby declared to be severable.*

2. *If any provision of sections 2 to 41, inclusive, of this regulation is held invalid, or if the application of any such provision to any person, thing or circumstance is held invalid, such invalidity does not affect any other provision of sections 2 to 41, inclusive, of this regulation that can be given effect without the invalid provision or application.*

Sec. 42. NAC 679B.650 is hereby amended to read as follows:

679B.650 **1.** “Personal information” means any identifiable piece of information gathered in connection with an insurance transaction from which judgments can be made about a natural person’s character, habits, avocations, finances, occupations, general reputation, credit, health or any other personal characteristics including, ~~[but not limited to,]~~ *without limitation*, his name, address and medical record information.

2. The term does not include ~~[privileged information.]~~ :

(a) Privileged information; or

(b) Nonpublic personal financial information, as that term is defined in section 16 of this regulation.

Sec. 43. NAC 679B.675 is hereby amended to read as follows:

679B.675 **1.** Except as otherwise provided in this section ~~[,]~~ *and sections 2 to 41, inclusive, of this regulation*, NAC 679B.560 to 679B.750, inclusive, apply to insurance institutions, agents or insurance support organizations which:

(a) In the case of life, health and disability insurance:

(1) Collect, receive or maintain information in connection with insurance transactions involving natural persons who are residents of this state; or

(2) Engage in insurance transactions with applicants, natural persons or policyholders who are residents of this state; or

(b) In the case of property or casualty insurance involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state:

(1) Collect, receive or maintain information in connection with insurance transactions; or

(2) Engage in insurance transactions.

2. Except as otherwise provided in this section ~~§~~ *and sections 2 to 41, inclusive, of this regulation*, the rights granted by NAC 679B.560 to 679B.750, inclusive, extend to:

(a) In the case of life, health or disability insurance, the following residents of this state:

(1) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions; and

(2) Applicants, natural persons or policyholders who engage in or seek to engage in insurance transactions; and

(b) In the case of property or casualty insurance:

(1) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state; and

(2) Applicants, natural persons or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

3. For the purposes of this section, a person shall be deemed a resident of this state if the person's last known mailing address, as shown in the records of the insurance institution, agent or insurance-support organization, is located in this state.

4. Notwithstanding subsections 1 and 2, NAC 679B.560 to 679B.750, inclusive, do not apply to ~~information~~ :

(a) *Information* collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this state ~~[-]~~ ; *or*

(b) *Nonpublic personal financial information, as that term is defined in section 16 of this regulation.*

Sec. 44. The amendatory provisions of this regulation do not apply to a contract that a licensee entered into with a nonaffiliated third party before the effective date of this regulation to perform services for a licensee or function on behalf of a licensee.

Sec. 45. 1. Except as otherwise provided in subsection 2, a licensee shall provide an initial notice pursuant to section 22 of this regulation to consumers who are the customers of the licensee within 90 days after the effective date of this regulation.

2. If a licensee does not disclose nonpublic personal financial information about a customer to any nonaffiliated third party, the licensee may delay providing the initial notice required pursuant to section 22 of this regulation until the renewal date of the policy or within 180 days after the effective date of this regulation, whichever is earlier.