



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised May 2018

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Chapter Numbers and Years Enacted
(eg: 2015 Session Laws Chapter 154):

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

DEPARTMENT OF INSURANCE

STATE OF WYOMING

IN THE MATTER OF THE AMENDMENT)
OF CHAPTER 54 AND THE REPEAL)
OF CHAPTER 55 OF THE WYOMING)
DEPARTMENT OF INSURANCE RULES)
AND REGULATIONS,) Docket No. 17-17

STATEMENT OF PRINCIPAL REASONS

FOR

The amendment of Chapter 54 of the Wyoming Insurance Department Regulations and
The repeal of Chapter 55 of the Wyoming Insurance Department Regulations

The Department of Insurance (DOI) originally promulgated Chapter 54 of its Rules and Regulations in 2001, and has not been substantially modified since that date. The DOI has amended Chapter 54 to address changes in the insurance industry since the regulation was originally promulgated and to clarify the wording by removing ambiguity. In addition, changes have been made addressing changes to the notice requirements necessitated by changes to federal legislation.

In addition, on or about November 25, 2013, Governor Mead required all State Agencies to reduce their Rules both in number and in length. Changes have been made to reduce and reorganize the existing regulation to comply with the Governor's directive. Such changes include utilizing consistent language, removing unnecessary and duplicative wording, and eliminating reiteration of statutes. To reduce the number of regulations, and because they address the same subject matter, the DOI has incorporated the substance of its

Chapter 55 regulation into Chapter 54. Chapter 55 is being repealed as a result of this change.

The language of Chapter 54 is based largely upon model language drafted by the National Association of Insurance Commissioners (NAIC). The NAIC provides opportunity for input from all states, territories, and the insurance industry regarding the model regulation's proposed language. In amending Chapter 54, the DOI has made changes to reduce the wording, but has retained much of the model language to ensure the existing consumer protections in the regulation are not altered. The NAIC model language has been updated since Chapter 54 was originally promulgated. The DOI has made changes to the wording of Chapter 54 to make it consistent with the current version of the model language.

The changes to Chapter 54 have resulted in reducing the length of the regulation. Specifically, the modifications reduced the regulation from approximately 13,347 words in the prior version, to approximately 9,712 words in the amended version. This represents a reduction of approximately 27%. Although the desired 30% reduction in words has not been met, the changes have updated and clarified the regulation. In addition, the incorporation of the substance of Chapter 55 into Chapter 54 has reduced the overall number of rules without changing the consumer protections currently in place.

Chapter 54
Privacy of Consumer Financial and Health Information and
Standards for Safeguarding Customer Information

ARTICLE I. GENERAL PROVISIONS

Section 1. Authority. This regulation is promulgated pursuant to Wyoming Statutes §§ 26-2-110, 26-2-133, and 26-13-101 *et seq.*

Section 2. Applicability.

(a) This regulation applies to:

(i) Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family, or household purposes. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial, or agricultural purposes; and

(ii) All nonpublic personal health information.

(b) A licensee domiciled in Wyoming who is in compliance with this regulation in a state that has not enacted laws or regulations meeting the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed as in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

Section 3. Definitions.

(a) “Affiliate” means a company that controls, is controlled by, or is under common control with another company.

(b) “Clear and conspicuous” means a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained therein.

(i) A licensee makes its notice reasonably understandable if it:

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

(B) Uses short explanatory sentences or bullet lists;

(C) Uses definite, concrete, everyday words, and active voice;

(D) Avoids multiple negatives;

(E) Avoids legal and highly technical business terminology; and

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

(ii) A licensee shall design its notice to call attention to the nature and significance of the information by using:

(A) Plain-language headings to call attention to the notice;

(B) Typeface, type size, style, and graphic devices that are distinctive and easy to read;

(C) Wide margins and ample line spacing; and

(D) Boldface or italics for key words.

(iii) Notices on web sites shall call attention to the nature and significance of the information by using text or visual cues to encourage scrolling down the page to view the entire notice and to ensure other elements on the web site (such as text, graphics, hyperlinks, or sound) do not distract from the notice. The licensee shall either:

(A) Place the notice on a screen consumers frequently access, such as a page on which transactions are conducted; or

(B) Place a link on a screen consumers frequently access that connects directly to the notice and is labeled appropriately.

(c) “Collect” means to obtain information that the licensee can organize or retrieve by name of an individual, identifying number, symbol, or other identifying particular assigned to an individual, regardless of the underlying source of the information.

(d) “Company” means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(e) “Consumer” means an individual or that individual’s legal representative who is seeking or who has obtained an insurance product or service from a licensee to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information and includes:

(i) An individual who provides nonpublic personal information to a licensee in connection with seeking or obtaining financial, investment, or economic advisory services relating to an insurance product or service—regardless of whether the licensee establishes an ongoing advisory relationship.

(ii) An applicant for insurance prior to the inception of insurance coverage.

(iii) A consumer of another financial institution is not a licensee’s consumer

solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(iv) An individual is a licensee's consumer if the individual is:

- (A) A beneficiary of a life insurance policy underwritten by the licensee;
- (B) A claimant under an insurance policy issued by the licensee;
- (C) An insured or an annuitant under an insurance policy or an annuity issued by the licensee; or
- (D) A mortgagor of a mortgage covered under a mortgage insurance policy.

(v) Provided the licensee provides the initial, annual, and revised notices to the plan sponsor, group, or blanket insurance policyholder, group annuity contract holder, or workers' compensation policyholder, and the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under this regulation, an individual is **not** the consumer of the licensee solely because he or she is:

- (A) A participant or a beneficiary of an employee benefit plan the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;
- (B) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or
- (C) A claimant covered by a workers' compensation plan.

(vi) The individuals described in the above subparagraph (v)(A) through (C) are consumers of a licensee if the licensee does not meet all the conditions of subparagraph (v).

(vii) In no event shall the individuals, solely by virtue of the status described in subparagraph (v)(A) through (C) be deemed customers for purposes of this regulation.

(viii) An individual is not a licensee's consumer solely because he or she is a beneficiary or named trustee for a trust.

(f) "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(g) "Control" means:

(i) Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by the Commissioner.

(h) “Customer” means a consumer who has a customer relationship with a licensee.

(i) “Customer information” means nonpublic personal information, whether in paper, electronic, or other form, maintained by or on behalf of the licensee.

(j) “Customer information systems” means the electronic or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.

(k) “Customer relationship” means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer to be used primarily for personal, family, or household purposes.

(i) A consumer has a continuing relationship with a licensee if the consumer:

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

(B) Obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(ii) A consumer does **not** have a continuing relationship with a licensee if the consumer:

(A) Applies for insurance but does not purchase the insurance;

(B) Purchases airline travel insurance from the licensee in an isolated transaction;

(C) Is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(D) Is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

(E) Is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

(F) Had a policy that is lapsed, expired, or otherwise inactive or dormant under the licensee’s business practices, and the licensee has not communicated with the customer

for a period of twelve (12) consecutive months, other than providing annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

(G) Is an insured or an annuitant under an insurance policy or annuity but is not the policyholder or owner of the insurance policy or annuity; or

(H) The individual's last known address according to the licensee's records is deemed invalid.

(I) "Financial institution" means any institution whose business is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) or as otherwise defined by Wyoming Statute.

(i) Financial institution does not include:

(A) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(B) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a consumer transaction as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(m) "Financial product or service" means a product or service a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(i) Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(n) "Health care" means:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, services, procedures, tests, or counseling that:

(A) Relates to the physical, mental, or behavioral condition of an individual; or

(B) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

(C) Prescribing, dispensing, or furnishing to an individual drugs or biologicals, or medical devices, health care equipment, and supplies.

(o) “Health care provider” means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with state law, or a health care facility.

(p) “Health information” means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer relating to:

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) Payment for the provision of health care to an individual.

(q) “Insurance product or service” means any product or service offered by a licensee pursuant to the Wyoming Insurance Code.

(i) Insurance service includes a licensee’s evaluation, brokerage, or distribution of information the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(r) “Licensee” means all licensed insurers, producers, and other persons licensed or required to be licensed, pursuant to the Wyoming Insurance Code, except that “licensee” shall not include: a purchasing group; or an unauthorized insurer regarding surplus line business conducted pursuant to W.S. § 26-11-101 *et seq.*

(i) A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information set forth in Articles I, II, III, IV, and VII if the licensee is an employee, agent, or other representative of another licensee (the principal) and:

(A) The principal otherwise complies with and provides the notices required by this regulation; and

(B) The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

(ii) Subject to Subparagraph (B), “licensee” shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in Wyoming, but only regarding the surplus line placements placed pursuant to the Wyoming Insurance Code

(iii) A surplus lines broker or insurer shall be deemed in compliance with the notice and opt-out requirements for nonpublic personal financial information set forth in Articles I, II, III, IV, and VII provided:

(A) The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 14 of this regulation, except as permitted by Section 15 or 16 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 the following is printed in 16-point type:

PRIVACY NOTICE

“Neither the U.S. brokers that handled this insurance nor the insurers underwriting this insurance will disclose nonpublic personal information concerning the buyer to non-affiliates of the brokers or insurers except as permitted by law.”

(s) “Nonaffiliated third party” means any person except a licensee’s affiliate or a person employed jointly by a licensee and any company that is not the licensee’s affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(i) Nonaffiliated third party includes any company affiliated solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)) or as otherwise defined by Wyoming Statute.

(t) “Nonpublic personal information” includes nonpublic personal **financial** information and nonpublic personal **health** information.

(u) “Nonpublic personal **financial** information” means personally identifiable financial information and any list, description, or other grouping of consumers (and publicly available information pertaining to them) derived using any personally identifiable financial information that is not publicly available.

(i) Nonpublic personal financial information includes any list of individuals’ names and street addresses derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(ii) Nonpublic personal financial information does **not** include:

(A) Health information;

(B) Publicly available information, except as included on a list described

in subsection (3)(t) above; or

(C) Any list, description or other grouping of consumers (and publicly available information pertaining to them) derived without using any personally identifiable financial information that is not publicly available.

(D) Any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner indicating that any of the individuals on the list is a consumer of a financial institution.

(v) "Nonpublic personal **health** information" means health information:

(i) That identifies an individual who is the subject of the information; or

(ii) With respect to which there is a reasonable basis to believe the information could be used to identify an individual.

(w) "Personally identifiable financial information" means any information:

(i) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(ii) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

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

(A) Personally identifiable financial information includes:

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

(II) Account balance information and payment history;

(III) The fact an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(IV) Any information about the licensee's consumer if disclosed in a manner indicating that the individual is or has been the licensee's consumer;

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

(VI) Any information the licensee collects through an Internet

cookie (an information-collecting device from a web server); and

(VII) Information from a consumer report.

(B) Personally identifiable financial information does **not** include:

(I) Health information;

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

(III) Information that does not identify a consumer, such as aggregate information or blind data not containing personal identifiers such as account numbers, names or addresses.

(x) “Publicly available information” means any information a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(i) Federal, state, or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public required by federal, state, or local law.

(A) A licensee has a reasonable basis to believe 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 available to the general public; and

(II) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee’s consumer has not done so.

(iv) “Publicly available information” includes:

(A) Information in government records including real estate records and security interest filings.

(B) Information from widely distributed media such as a telephone book, a television or radio program, newspaper, or a website that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, if available to the general public.

(C) Information a licensee has a reasonable basis to believe is lawfully made available.

(I) Mortgage information is lawfully made available to the general public if the licensee has determined the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(II) An individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed licensee that the telephone number is not unlisted.

ARTICLE II. PRIVACY AND OPT-OUT NOTICES FOR FINANCIAL INFORMATION

Section 4. Initial Privacy Notice to Consumers Required.

(a) A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(i) An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship except as provided in Section 4(e) of this section; and

(ii) A consumer, before the licensee discloses any nonpublic personal financial information to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 15 and 16.

(b) A licensee is not required to provide an initial notice to a consumer under Section 4(a)(ii) of this section if:

(i) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 15 and 16, and the licensee does not have a customer relationship with the consumer; or

(ii) 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.

(i) A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship; or when

(A) The insurer delivers an insurance policy or contract to the consumer which was obtained through the licensee; or

(B) The consumer agrees to obtain financial, economic, or investment advisory services relating to insurance products or services for a fee from the licensee.

(d) When an existing customer obtains a new insurance product or service to be used

primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Section 4(a) if the licensee:

(i) Provides a revised policy notice, under Section 8 covering the customer's new insurance product or service; or

(ii) Recently provided initial, revised, or annual notice to the customer that was accurate with respect to the new insurance product or service.

(e) Exceptions to allow subsequent delivery of notice.

(i) A licensee may provide the initial notice required by Section 4(a) 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.

(ii) Exceptions include:

(A) 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) -Providing notice 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) -Providing notice 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) When a licensee is required to deliver an initial privacy notice, the licensee shall deliver it according to Section 10. If the licensee uses a short-form initial notice for non-customers according to Section 6(c), the licensee may deliver its privacy notice according to Section 6(c)(iii).

Section 5. Annual Privacy Notice to Customers Required.

(a) Except as indicated below, 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. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

(i) A licensee provides an annual notice if it provides notice in each calendar

year following the year in which the licensee provided the initial notice.

(b) A licensee is not required to provide an annual notice if:

(i) The licensee only provides nonpublic personal information about its customers to nonaffiliated third parties that require the information to perform specific services and functions on behalf of the financial institution, and the third party is contractually required to maintain the confidentiality of the customer information; and

(ii) The licensee has not changed its privacy policies and practices regarding disclosure to nonaffiliated third parties in a manner requiring it to offer an opt-out right to its customers since the last distribution of privacy notices.

(c) A licensee is not required to provide annual notice to a former customer.

(d) A licensee no longer has a continuing relationship with an individual if:

(i) The individual no longer holds a current policy or no longer uses insurance services with or through the licensee.

(ii) The individual's policy is lapsed, expired, or otherwise inactive and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide material required by law.

(iii) The individual's last known address is deemed invalid or undeliverable and subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(iv) 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.

(e) When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 10.

Section 6. Information to be Included in Privacy Notices.

(a) The initial, annual, and revised privacy notices that a licensee provides under Sections 4, 5, and 8 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:

(i) The categories of nonpublic personal financial information the licensee collects;

(ii) The categories of nonpublic personal financial information the licensee discloses;

(iii) 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 15 and 16;

(iv) The categories of nonpublic personal financial information about the licensee's former customers 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 15 and 16;

(v) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 15 (and no other exception in Sections 15 and 16 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;

(vi) An explanation of the consumer's right under Section 11(a) to opt-out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(vii) Any disclosures 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);

(viii) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(ix) Any disclosure the licensee makes under Subsection (b) of this section.

(b) If a licensee discloses nonpublic personal financial information as authorized under Sections 15 and 16, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 4 and 5. 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.

(c) Short-form initial notice with opt-out notice for non-customers.

(i) A licensee may satisfy the initial notice requirements in Sections 4(a)(ii) and 7 for a consumer who is not a customer by providing a short-form initial notice at the same time the licensee delivers an opt-out notice as required in Section 7.

(ii) 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.

(iii) The licensee shall deliver its short-form initial notice according to Section 9. The licensee is not required to deliver its privacy notice with its short-form initial notice, but may simply provide to 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 10.

(iv) The licensee provides a reasonable means for a consumer to obtain a copy of its privacy notice if the licensee:

(A) Provides a toll-free telephone number the consumer may call to request the notice; or

(B) Maintains copies of the notice on hand that the licensee provides to consumers immediately upon request.

(d) The licensee’s notice for future disclosures may include:

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

(ii) Categories of affiliated or nonaffiliated third parties to whom the licensee reserves the future right to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(e) Sample clauses illustrating some of the notice content required by this section are included in Appendix A, located on the Department of Insurance website at: DOI.wyo.gov.

Section 7. Form of Opt-Out Notice to Consumers and Opt-Out Methods.

(a) If a licensee is required to provide an opt-out notice under Section 11(a), it shall provide a clear and conspicuous notice to each of its consumers accurately explaining the right to opt-out under that section and stating:

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

(ii) That the consumer has the right to opt-out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt-out right.

(b) A licensee provides adequate opt-out notice to a nonaffiliated third party if the

licensee:

(i) Identifies all categories of nonpublic personal financial information it discloses or reserves the right to disclose, and all categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 6(a)(ii) and (iii), and states that 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.

(iii) A licensee provides a reasonable means to exercise an opt-out right if it:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt-out notice;

(B) Includes a reply form together with the opt-out notice;

(C) 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

(D) Provides a toll-free telephone number 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 exercising the 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 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.

(e) 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 4.

(f) If a licensee provides the opt-out notice later than required for the initial notice in accordance with Section 4, the licensee shall also include a copy of the initial notice with the opt-out notice in writing or, if the consumer agrees, electronically.

(g) 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 that explains how the licensee will treat an opt-out direction by a joint consumer.

(i) 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.

(ii) 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.

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

(h) A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

(i) A consumer may exercise the right to opt-out at any time.

(j) Duration of consumer's opt-out direction.

(i) 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.

(ii) When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information 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.

(k) When a licensee is required to deliver an opt-out notice, the licensee shall deliver it according to Section 10.

Section 8. Revised Privacy Notices.

(a) Except as otherwise authorized in 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 as described in the initial notice that the licensee provided to that consumer under Section 4, unless:

(i) The licensee has provided to the consumer a clear and conspicuous revised notice accurately describing its policies and practices;

(ii) The licensee has provided to the consumer a new opt-out notice;

(iii) 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

(iv) The consumer does not opt-out.

(b) Except as otherwise permitted by Sections 14, 15, and 16 a licensee shall provide a revised notice before it:

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

(ii) Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

(iii) 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.

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

(d) When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to Section 10.

Section 9. Privacy Notices to Group Policyholders. Unless a licensee is providing privacy notices directly to covered individuals described in Section 3(e)(v)(A), (B), or (C), 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 4, 5, and 8 of this regulation, describing the licensee's privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts, or plans.

Section 10. Delivery.

(a) A licensee shall provide any notices this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) A licensee may reasonably expect a consumer will receive actual notice if the licensee:

(i) Hand-delivers a printed copy of the notice to the consumer;

(ii) 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;

(iii) 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; or

(iv) 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.

(c) A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

(i) Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

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

(d) A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

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

(ii) 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.

(e) A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

(f) Retention or accessibility of notices for customers.

(i) For customers only, a licensee shall provide the initial notice required by Section 4(a), the annual notice required by Section 5(a), and the revised notice required by Section 8 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(ii) A licensee may provide a privacy notice to the customer so 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 website (or a link to another website) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the website.

(g) 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. A licensee also may provide accurate notice on behalf of another financial institution.

(h) 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 4(a), 5(a) and 8(a), respectively, by providing one notice to those consumers jointly.

ARTICLE III. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 11. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties.

(a) A licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

(i) The licensee has provided to the consumer an initial notice as required under Section 4;

(ii) The licensee has provided to the consumer an opt-out notice as required in Section 7;

(iii) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt-out of the disclosure; and

(iv) The consumer does not opt-out.

(b) Opt-out means a direction by the consumer that the licensee **not** disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 14, 15, and 16.

(c) A licensee provides a consumer with a reasonable opportunity to opt-out if:

(i) The licensee mails the required notices to the consumer and allows the consumer to opt-out by mailing a form, calling a toll-free telephone number, or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(ii) A customer opens an on-line account with a licensee and agrees to receive the required notices electronically, and the licensee allows the customer to opt-out by any reasonable means within thirty (30) days after the date the customer acknowledges receipt of the notices in conjunction with opening the account.

(iii) For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt-out if the licensee provides the required notices at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt-out before completing the transaction.

(d) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(v) Unless a licensee complies with this section, the licensee may **not**, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt-out from the consumer.

(e) A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties to which the consumer wishes to opt-out.

Section 12. Limits on Re-Disclosure and Reuse of Nonpublic Personal Financial Information.

(a) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in this regulation, the licensee's disclosure and use of that information is limited as follows. The licensee may disclose:

(i) Information to affiliates of the financial institution from which the licensee received the information;

(ii) Information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

(iii) Information pursuant to an exception in this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

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

(c) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in this regulation, the licensee may disclose the information only:

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

(ii) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

(iii) 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.

(d) If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in this regulation:

(i) The licensee may use that list for its own purposes; and

(ii) The licensee may disclose that 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 that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt-out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in this regulation, such as to the licensee's attorneys or accountants.

(iii) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception, the third party may disclose and use that information only as follows. The third party may disclose the information:

(A) To the licensee's affiliates;

(B) To its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(C) In the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(iv) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in this regulation, the third party may disclose the information only:

(A) To the licensee's affiliates;

(B) To the third party's affiliates, but the third party's affiliates may disclose the information only to the extent the third party can disclose the information; and

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

Section 13. Limits on Sharing Account Number Information for Marketing Purposes.

(a) A licensee shall **not**, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) Section 13(a) does not apply if a licensee discloses a policy number or similar form of access number or access code:

(i) To the licensee's service provider solely to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(ii) To a licensee who is a producer solely to perform marketing for the licensee's own products or services; or

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

(c) Policy number or transaction account.

(i) A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(ii) For purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

ARTICLE IV. EXCEPTIONS TO LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 14. Exception to Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing.

(a) The opt-out requirements in Sections 7 and 11 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

(i) Provides the initial notice in accordance with Section 4; and

(ii) Enters into a contractual agreement with the third party prohibiting the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in the ordinary course of

business to carry out those purposes.

(b) If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Section 14(a)(ii) if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in the ordinary course of business to carry out that joint marketing.

(c) The services a nonaffiliated third party performs for a licensee under Section 14(a) may include marketing the licensee's own products or services or marketing financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

(d) "Joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

Section 15. Exceptions to Notice and Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions.

(a) The requirements for initial notice in Section 4(a), the opt-out in Sections 7 and 11, and service providers and joint marketing in Section 14 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer, or enforce a transaction a consumer requests or authorizes, or in connection with:

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

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

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

(iv) Reinsurance, stop loss, or excess loss insurance.

(b) "Necessary to effect, administer, or enforce a transaction" means the disclosure is:

(i) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

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

(A) To carry out the transaction or the product or service business of

which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

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

(C) To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

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

(E) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by federal or state law; or

(iii) In connection with:

(A) 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;

(B) The transfer of receivables, accounts, or interests therein; or

(C) The audit of debit, credit, or other payment information.

Section 16. Other Exceptions to Notice and Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information.

(a) The requirements for initial notice to consumers in Section 4(a), the opt-out in Sections 7 and 11, and service providers and joint marketing in Section 14 do not apply when a licensee discloses nonpublic personal financial information:

(i) With the consent or at the direction of the consumer, provided the consumer has not revoked the consent or direction:

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

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

(C) For required institutional risk control or for resolving consumer disputes or inquiries;

(D) To persons holding a legal or beneficial interest relating to the consumer; or

(E) To persons acting in a fiduciary or representative capacity on behalf of the consumer.

(ii) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies rating a licensee, persons assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants, and auditors;

(iii) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

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

(v) From a consumer report reported by a consumer reporting agency;

(vi) 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;

(A) To comply with federal, state, or local laws, rules, and other applicable legal requirements;

(B) To comply with a properly authorized civil, criminal, or regulatory investigation, subpoena, or summons by federal, state, or local authorities; or

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

(vii) For purposes related to replacing a group benefit plan, group health plan, group welfare plan, or workers' compensation plan.

(b) A consumer may revoke consent by subsequently exercising the right to opt-out of

future disclosures of nonpublic personal information as permitted under Section 7.

ARTICLE V. RULES FOR HEALTH INFORMATION

Section 17. When Authorization Required for Disclosure of Nonpublic Personal Health Information.

(a) A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

(b) Nothing in this section shall prohibit, restrict, or require an authorization for the disclosure of nonpublic personal health information by a licensee for performance of insurance functions by or on behalf of the licensee and in accordance with federal privacy laws. Additional insurance functions may be added with approval of the Commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

Section 18. Authorizations.

(a) A valid authorization to disclose nonpublic personal health information pursuant to this Article V shall be in written or electronic form and shall contain all of the following:

(i) The identity of the consumer or customer who is the subject of the nonpublic personal health information; and

(ii) A general description of the types of nonpublic personal health information to be disclosed.

(b) Requirements.

(i) The signature of the consumer or customer who is the subject of the nonpublic personal health information, or the individual legally empowered to grant authority, and the date signed; and

(ii) Notice of the length of time the authorization is valid, that the consumer or customer may revoke the authorization at any time, and the procedure for making a revocation.

(c) An authorization for purposes of Article V shall specify a length of time the authorization shall remain valid, which in no event shall be for more than twenty-four (24) months.

(d) A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to Article V at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

(e) A licensee shall retain the authorization or a copy thereof in the record of the

individual who is the subject of nonpublic personal health information.

Section 19. Authorization Request Delivery. A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to Section 10, provided the request and authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to Section 17.

ARTICLE VI. SAFEGUARDING CUSTOMER INFORMATION

Section 20. Information Security Program. Each licensee shall implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for protecting customer information. The information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Section 21. Objectives of Information Security Program.

- (a) A licensee's information security program shall be designed to:
 - (i) Ensure the security and confidentiality of customer information;
 - (ii) Protect against any anticipated threats or hazards to the security or integrity of the information; and
 - (iii) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Section 22. Methods of Development and Implementation.

- (a) In assessing the risk, the licensee:
 - (i) Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;
 - (ii) Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - (iii) Assesses the sufficiency of policies, procedures, customer information systems, and other safeguards in place to control risks.
- (b) In managing and controlling the risk, the licensee:
 - (i) Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the

licensee's activities;

(ii) Trains staff, as appropriate, to implement the licensee's information security program; and

(iii) Regularly tests or otherwise regularly monitors the key controls, systems, and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

(c) In overseeing the service provider arrangements, the licensee:

(i) Exercises appropriate due diligence in selecting its service providers; and

(ii) Requires its service providers to implement appropriate measures designed to meet the objectives of this regulation, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm its service providers have satisfied these obligations.

(d) In adjusting the program, the licensee:

(i) Monitors, evaluates, and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems.

Section 23. Determined Violation. Any violation of this regulation constitutes an unfair or deceptive trade practice as determined by W.S. § 26-13-101 *et seq.*

ARTICLE VII. ADDITIONAL PROVISIONS

Section 24. Protection of Fair Credit Reporting Act. Nothing in this regulation shall be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

Section 25. Nondiscrimination.

(a) A licensee shall **not** unfairly discriminate against any consumer or customer who has opted out from the disclosure of his nonpublic personal financial information pursuant to this regulation.

(b) A licensee shall **not** unfairly discriminate against a consumer or customer who has **not** granted authorization for the disclosure of his nonpublic personal health information pursuant to this regulation.

Section 26. Effective Date. This regulation shall be effective upon filing with the Secretary of State.

CHAPTER 55
STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

REPEALED

Chapter 54
**Privacy of Consumer Financial and Health Information,
and Standards for Safeguarding Customer Information**

ARTICLE 4. GENERAL PROVISIONS

Section 1. Authority. ~~This regulation is promulgated pursuant to the authority granted by Wyoming Statutes, §§ 26-2-110, and 26-2-133, and 26-13-101 *et seq.* of the Wyoming Insurance Code.~~

Section 2. Purpose and Scope Applicability.

(a) ~~Purpose.~~ This regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the state insurance department. This regulation:

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

(ii) ~~Describes the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and~~

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

(b) ~~a) Scope.~~ This regulation applies to:

(i) Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family, or household purposes ~~from licensees~~. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial, or agricultural purposes; and

(ii) All nonpublic personal health information.

(b) ~~e) Compliance.~~ A licensee domiciled in ~~this state~~ Wyoming ~~that~~ who is in compliance with this regulation in a state that has not enacted laws or regulations ~~that meeting~~ the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) § 6801 through 6827 may nonetheless be deemed to ~~be~~ in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

Section 3. Rules of Construction

~~The examples in this regulation and the sample clauses in Appendix A of this regulation are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with this regulation.~~

Section 34. Definitions.

As used in this regulation, unless the context requires otherwise:

(a) “Affiliate” means a company that controls, is controlled by, or is under common control with another company.

(b) (i) “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~~ contained therein.

(ii) Examples:

(i) (A) ~~Reasonably understandable~~. A licensee makes its notice reasonably understandable if it:

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

(B) (ii) Uses short explanatory sentences or bullet lists ~~whenever possible~~;

(C) (iii) Uses definite, concrete, everyday words, and active voice ~~whenever possible~~;

(D) (iv) Avoids multiple negatives;

(E) (v) Avoids legal and highly technical business terminology ~~whenever possible~~; and

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

(ii) (B) ~~Designed to call attention~~. A licensee shall design its notice to call attention to the nature and significance of the information ~~in it if the licensee~~ by using:

(A) (i) ~~Uses a p~~ Plain-language headings to call attention to the notice;

(B) (ii) ~~Uses a t~~ Typeface, and type size, style, and graphic devices that are distinctive and easy to read;

(C) (iii) ~~Provides w~~ Wide margins and ample line spacing; and

(D) (iv) ~~Uses b~~ Boldface or italics for key words; and

~~(V) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.~~

~~(iii) (C) Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to shall call attention to the nature and significance of the information in it if the licensee uses by using text or visual cues to encourage scrolling down the page if necessary to view the entire notice and to ensure that other elements on the web site (such as text, graphics, hyperlinks, or sound) do not distract attention from the notice, and ~~the licensee shall~~ either:~~

~~(A) (I) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or~~

~~(B) (II) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.~~

(c) "Collect" means to obtain information that the licensee can organizes or ~~can~~ retrieve by the name of an individual, or identifying number, symbol, or other identifying particular assigned to the individual, ~~irrespective~~ regardless of the ~~source of the~~ underlying source of the information.

~~(d) "Commissioner" means the insurance commissioner of Wyoming.~~

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

~~(ef) (i) "Consumer" means an individual or that individual's legal representative who is seeking to obtain seeking, obtains or who has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information, ~~or that individual's legal representative and includes:-~~~~

~~(ii) Examples.~~

~~(i) (A) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to or obtaining financial, investment, or economic advisory services relating to an insurance product or service ~~is a consumer~~ regardless of whether the licensee establishes an ongoing advisory relationship.~~

~~(ii) (B) An applicant for insurance prior to the inception of insurance coverage ~~is a licensee's consumer.~~~~

~~(iii) (C) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.~~

(iv) ~~(D)~~ An individual is a licensee's consumer if the individual is:

~~(A) (1.)~~ (A) (1.) the individual is a beneficiary of a life insurance policy underwritten by the licensee;

~~(B) (2.)~~ (B) (2.) the individual is a claimant under an insurance policy issued by the licensee;

~~(C) (3.)~~ (C) (3.) the individual is an insured or an annuitant under an insurance policy or an annuity, ~~respectively,~~ issued by the licensee; or

~~(D) (4.)~~ (D) (4.) the individual is a mortgagor of a mortgage covered under a mortgage insurance policy; ~~and~~

~~(H) the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections 14, 15 and 16 of this regulation.~~

~~(v) (E) Provided that the licensee provides the initial, annual, and revised notices under Sections 5, 6 and 9 of this regulation to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, or workers' compensation plan participant policyholder, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Sections 14, 15 and 16 of this regulation, an individual is **not** the consumer of the licensee solely because he or she is:~~

~~(A) (1.)~~ (A) (1.) A participant or a beneficiary of an employee benefit plan ~~that~~ the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

~~(B) (2.)~~ (B) (2.) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

~~(C) (3.)~~ (C) (3.) A beneficiary claimant covered by in a workers' compensation plan.

~~(vi) (F) (1.)~~ (vi) (1.) The individuals described in ~~Subparagraph (E)(1) through (H) of this paragraph~~ the above subparagraph (v)(A) through (C) are consumers of a licensee if the licensee does not meet all the conditions of ~~Subparagraph (E)v~~ Subparagraph (v).

~~(vii) (H)~~ (vii) (H) In no event shall the individuals, solely by virtue of the status described in ~~Subparagraph (E)(1)(v)(A) through (H)(C) above,~~ Subparagraph (v)(A) through (C) above, be deemed to be customers for purposes of this regulation.

~~(viii) (G)~~ (viii) (G) An individual is not a licensee's consumer solely because he or she is a beneficiary ~~of a trust for which the licensee is a or named trustee for a trust.~~

~~(H)~~ An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

~~(fg)~~ "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

~~(gh)~~ "Control" means:

(i) Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as ~~the determined by the e~~Commissioner determines.

~~(ht)~~ "Customer" means a consumer who has a customer relationship with a licensee.

~~(i)~~ "Customer information" means nonpublic personal information, whether in paper, electronic, or other form, maintained by or on behalf of the licensee.

~~(j)~~ Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.

~~(kj)~~ ~~(t)~~ "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer ~~that are~~ to be used primarily for personal, family, or household purposes.

~~(ii)~~ ~~Examples.~~

~~(i)~~ ~~(A)~~ A consumer has a continuing relationship with a licensee if the consumer:

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

~~(B)~~ ~~(H)~~ ~~The consumer o~~Obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

~~(ii)~~ ~~(B)~~ A consumer does **not** have a continuing relationship with a licensee if the consumer:

~~(A)~~ ~~(t)~~ ~~The consumer a~~Applies for insurance but does not purchase the insurance;

~~(B) (II) The licensee sells the consumer~~ Purchases airline travel insurance from the licensee in an isolated transaction;

~~(C) (III) The individual is~~ no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

~~(D) (IV) The consumer is~~ a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

~~(E) (V) The consumer is~~ a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

~~(F) (VI) The customer's~~ Had a policy that 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 providing annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

~~(G) (VII) The individual is~~ an insured or an annuitant under an insurance policy or annuity, ~~respectively~~, but is not the policyholder or owner of the insurance policy or annuity; or

~~(H) (VIII) For purposes of this regulation, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.~~

~~(I) (i) "Financial institution" means any institution the business of which~~ whose business is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) or as otherwise defined by Wyoming Statute.

(ii) Financial institution does not include:

(A) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(B) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a consumer transaction ~~of a consumer~~, as long as the institutions do not sell or transfer

nonpublic personal information to a nonaffiliated third party.

(~~m~~) (~~i~~) “Financial product or service” means a product or service ~~that~~ a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(ii) Financial service includes a financial institution’s evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(~~n~~) “Health care” means:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, services, procedures, tests, or counseling that:

(A) Relates to the physical, mental, or behavioral condition of an individual; or

(B) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

(~~ii~~) (C) Prescribing, dispensing, or furnishing to an individual drugs or biologicals, or medical devices, ~~or~~ health care equipment, and supplies.

(~~o~~) “Health care provider” means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with state law, or a health care facility.

(~~p~~) “Health information” means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer ~~that~~ relates to:

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) Payment for the provision of health care to an individual.

(~~q~~) (~~i~~) “Insurance product or service” means any product or service ~~that~~ is offered by a licensee pursuant to the ~~insurance laws of this state~~ Wyoming Insurance Code.

(ii) Insurance service includes a licensee’s evaluation, brokerage, or distribution of information ~~that~~ the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

~~(p)~~ ~~(i)~~ “Licensee” means all licensed insurers, producers, and other persons licensed or required to be licensed, ~~or authorized or required to be authorized, or registered or required to be registered~~ pursuant to the Wyoming Insurance Code ~~Law of this state, except that “licensee” shall not include: a purchasing group; or an unauthorized insurer regarding surplus line business conducted pursuant to W.S. § 26-11-101 et seq. including W.S. § 26-34-101 et seq. of the Wyoming Insurance Code.~~

(ii) A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information set forth in Articles I, II, III, ~~and IV, and VII of this regulation~~ if the licensee is an employee, agent, or other representative of another licensee (“the principal”) and:

(A) The principal otherwise complies with, and provides the notices required by, ~~the provisions of this regulation;~~ and

(B) The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

~~(iii)~~ ~~(A)~~ Subject to Subparagraph (B), “licensee” shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in ~~this state Wyoming,~~ but only ~~in regard to~~ regarding the surplus lines placements placed pursuant to the Wyoming Insurance Code ~~W.S. § 26-11-101 et seq.~~

~~(iii)~~ ~~(B)~~ 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 Articles I, II, III, ~~and IV, and VII of this regulation~~ provided:

(A) ~~(i)~~ The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 14 of this regulation, except as permitted by Section 15 or 16 of this regulation; and

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

PRIVACY NOTICE

“Neither the U.S. brokers that handled this insurance nor the insurers ~~that have underwritten~~ ~~ten~~ this insurance will disclose nonpublic personal information concerning the buyer to non-affiliates of the brokers or insurers except as permitted by law.”

~~(sf)~~~~(i)~~ “Nonaffiliated third party” means any person except: ~~(A)~~ ~~A~~ a licensee’s affiliate; or ~~(B)~~ ~~A~~ a person employed jointly by a licensee and any company that is not the licensee’s affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(ii) Nonaffiliated third party includes any company ~~that is an~~ affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate

in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)) or as otherwise defined by Wyoming Statute.

(~~ts~~) “Nonpublic personal information” ~~means~~includes nonpublic personal **financial** information and nonpublic personal **health** information.

(~~ut~~)(~~t~~) “Nonpublic personal **financial** information” means: ~~(A) Personally identifiable financial information; and (B) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.~~

(i) Nonpublic personal financial information includes any list of individuals’ names and street addresses derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(ii) Nonpublic personal financial information does **not** include:

(A) Health information;

(B) Publicly available information, except as included on a list described in ~~Subsection (t)(i)(B) of this section~~(3)(t) above; or

(C) Any list, description or other grouping of consumers (and publicly available information pertaining to them) ~~that is derived~~ without using any personally identifiable financial information that is not publicly available.

(iii) ~~Examples of lists:~~

~~(A) Nonpublic personal financial information includes any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.~~

~~(DB) Nonpublic personal financial information does not include a~~Any list of individuals’ names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates~~indicating~~ that any of the individuals on the list is a consumer of a financial institution.

(~~v~~)(~~u~~) “Nonpublic personal **health** information” means health information:

(i) That identifies an individual who is the subject of the information; or

(ii) With respect to which there is a reasonable basis to believe ~~that~~ the information could be used to identify an individual.

(wv) (i) “Personally identifiable financial information” means any information:

(i) (A) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(ii) (B) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

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

(ii) ~~Examples:~~

(A) ~~Information included.~~ Personally identifiable financial information includes:

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

(II) Account balance information and payment history;

(III) The fact ~~that~~ an individual is or has been one of the licensee’s customers or has obtained an insurance product or service from the licensee;

(IV) Any information about the licensee’s consumer if ~~it is~~ disclosed in a manner ~~that indicates~~ ing that the individual is or has been the licensee’s consumer;

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

(VI) Any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and

(VII) Information from a consumer report.

(B) ~~Information not included.~~ Personally identifiable financial information does **not** include:

(I) Health information;

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

(III) Information that does not identify a consumer, such as aggregate information or blind data ~~that does not containing~~ ing personal identifiers such as account numbers, names or addresses.

(xw) (i) “Publicly available information” means any information a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(i) (A) Federal, state, or local government records;

(ii) (B) Widely distributed media; or

(iii) (C) Disclosures to the general public required to be made by federal, state, or local law.

(ii) (A) ~~Reasonable basis.~~ A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

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

(B) (II) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee’s consumer has not done so.

(iii) ~~Examples.~~ “Publicly available information” includes:

(A) ~~Government records.~~ Publicly available information in government records including ~~information in government~~ real estate records and security interest filings.

(B) ~~Widely distributed media.~~ Publicly available information from widely distributed media includes information from such as a telephone book, a television or radio program, a newspaper, or a web-site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is if available to the general public.

(C) ~~Reasonable basis.~~ Information a licensee has a reasonable basis to believe is lawfully made available.

(I) ~~A licensee has a reasonable basis to believe that m~~ Mortgage information is lawfully made available to the general public if the licensee has determined the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(II) ~~A licensee has a reasonable basis to believe that a~~ An individual’s telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed licensee that the telephone number is not unlisted.

**ARTICLE 2II. PRIVACY AND OPT-OUT NOTICES FOR
FINANCIAL INFORMATION**

Section 45. Initial Privacy Notice to Consumers Required;

(a) ~~Initial notice requirement.~~ A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(i) ~~Customer.~~ An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in ~~Subsection 4(e)~~ of this section; and

(ii) ~~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 15 and 16.

(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 4(a)(ii)~~ of this section if:

(i) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 15 and 16, and the licensee does not have a customer relationship with the consumer; or

(ii) 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.

(i) ~~General rule.~~ A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship; or when

(ii) ~~Examples of establishing customer relationship.~~ A licensee establishes a customer relationship ~~when the consumer:~~

(A) ~~Becomes a policyholder of a licensee that is an~~The 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, which was obtained insurance through that~~the licensee; or

(B) The consumer ~~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 4(a) of this section as follows if~~

the licensee:

(i) ~~The licensee may p~~Provides a revised policy notice, under Section ~~98,~~ that covers the customer's new insurance product or service; or

(ii) ~~If the initial, revised or annual notice that the licensee most r~~Recently provided initial, revised, or annual notice to that the customer that 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.

(i) A licensee may provide the initial notice required by ~~Subsection 4(a)(i) 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.

(ii) ~~Examples of e~~Exceptions include:-

(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 10. If the licensee uses a short-form initial notice for non-customers according to Section ~~6(c)7(d),~~ the licensee may deliver its privacy notice according to Section ~~7(d)~~ 6(c)(iii).

Section 56. Annual Privacy Notice to Customers Required.

(a) (i) ~~General rule.~~ Except as indicated below, 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.

(ii) ~~Example.~~ A licensee provides an annual 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) A licensee is not required to provide an annual notice if:

(i) The licensee only provides nonpublic personal information about its customers to nonaffiliated third parties that require the information to perform specific services and functions on behalf of the financial institution, and the third party is contractually required to maintain the confidentiality of the customer information; and

(ii) The licensee has not changed its privacy policies and practices regarding disclosure to nonaffiliated third parties in a manner requiring it to offer an opt-out right to its customers since the last distribution of privacy notices.

~~(c) (i) 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.~~

~~(ii) Examples.~~

(d) A licensee no longer has a continuing relationship with an individual if:

(i) (A) ~~A licensee no longer has a continuing relationship with an individual if~~ The individual no longer holds is a current policyholder of an insurance product or no longer uses obtains insurance services with or through the licensee.

(ii) (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.~~

(iii) (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 or record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as or undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

~~(iv) (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.

~~(ee) Delivery.~~ When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 10.

Section 67. Information to be Included in Privacy Notices.

~~(a) General rule.~~ The initial, annual, and revised privacy notices that a licensee provides under Sections ~~5, 6 and 94~~, 5, and 8 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:

(i) The categories of nonpublic personal financial information ~~that~~ the licensee collects;

(ii) The categories of nonpublic personal financial information ~~that~~ the licensee discloses;

(iii) 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 15 and 16;

(iv) 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 15 and 16;

(v) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section ~~1415~~ (and no other exception in Sections 15 and 16 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;

(vi) An explanation of the consumer's right under Section 11(a) to opt-out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(vii) 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);

(viii) The licensee's policies and practices with respect to protecting the

confidentiality and security of nonpublic personal information; and

(ix) Any disclosure ~~that~~ the licensee makes 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 15 and 16, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections ~~54~~ and ~~65~~. 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.

~~(e) Examples:~~

~~(i) 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, if applicable:~~

~~(A) Information from the consumer;~~

~~(B) Information about the consumer's transactions with the licensee or its affiliates;~~

~~(C) Information about the consumers transactions with nonaffiliated third parties; and~~

~~(D) Information from a consumer reporting agency.~~

~~(ii) 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 (i), 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 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.~~

~~(iii) 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 in 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.~~

~~(iv) Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception to Section 14 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)(iv) 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)(ii) 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.~~

~~(v) 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 Section 15 and 16, the licensee may simply state that fact, in addition to the information it shall provide under Subsections (a)(i), (a)(viii), (a)(x) and Subsection (b) of this section.~~

~~(vi) 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.~~

~~(c)~~ Short-form initial notice with opt-out notice for non-customers.

(i) A licensee may satisfy the initial notice requirements in Sections ~~54~~(a)(ii) and ~~8(e)~~7 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~~7.

(ii) 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.

(iii) The licensee shall deliver its short-form initial notice according to Section ~~910~~. The licensee is not required to deliver its privacy notice with its short-form initial notice. ~~The licensee instead, but~~ may simply provide to 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 10.

~~(iv) Examples of obtaining privacy notice.~~ The licensee provides a reasonable means by which ~~for~~ a consumer may to 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, m~~Maintains copies of the notice on hand that the licensee provides to ~~the~~ consumers immediately upon request.

~~(d)~~ ~~Future disclosures.~~The licensee's notice for future disclosures may include:

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

(ii) Categories of affiliates~~d~~ or nonaffiliated third parties to whom the licensee reserves the future right ~~in the future~~ to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

~~(ef) Sample clauses.~~ Sample clauses illustrating some of the notice content required by this section are included in Appendix A ~~of this regulation~~, located on the Department of Insurance website at: DOI.wyo.gov.

Section 78. Form of Opt-Out Notice to Consumers and Opt-Out Methods.

(a) ~~(i) Form of opt-out notice.~~ If a licensee is required to provide an opt-out notice under Section 11(a), it shall provide a clear and conspicuous notice to each of its consumers ~~that~~ accurately explaining~~s~~ the right to opt-out under that section. ~~The notice shall and state~~ing:

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

(ii) ~~(B)~~ That the consumer has the right to opt-out of that disclosure; and

(iii) ~~(C)~~ A reasonable means by which the consumer may exercise the opt-out right.

~~(ii) Examples.~~

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

(i) ~~(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 76(a)(ii) and (iii), and states that the consumer can opt-out of the disclosure of that information; and

(ii) ~~(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.

(iii) ~~(B) Reasonable opt-out means.~~ A licensee provides a reasonable means to exercise an opt-out right if it:

(A) ~~(i)~~ Designates check-off boxes in a prominent position on the relevant forms with the opt-out notice;

(B) ~~(ii)~~ Includes a reply form together with the opt-out notice;

~~(C)~~ ~~(H)~~ 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

~~(D)~~ ~~(V)~~ Provides a toll-free telephone number that consumers may call to opt-out.

~~(c)~~ ~~(C)~~ ~~Unreasonable opt-out means.~~ A licensee does **not** provide a reasonable means of opting-out if:

~~(i)~~ ~~(I)~~ The only means of opting-out is for the consumer to write his or her own letter to exercise that exercising the opt-out right; or

~~(ii)~~ ~~(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)~~ ~~(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.

~~(e)~~ ~~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 45.

~~(f)~~ ~~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 45, 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.~~

~~(g)~~ ~~(i)~~ 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 that explains how the licensee will treat an opt-out direction by a joint consumer (as explained in Paragraph (iv) of this subsection).~~

~~(ii)~~ 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.

~~(iii)~~ 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.

(iii~~v~~) A licensee may not require all joint consumers to opt_out before it implements any opt_out direction.

~~(v) 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.~~

~~(h) 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.

~~(i) Continuing right to opt out.~~ A consumer may exercise the right to opt_out at any time.

~~(j) Duration of consumer's opt_out direction.~~

(i) 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.

(ii) 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.

~~(kh) Delivery.~~ When a licensee is required to deliver an opt-out notice ~~by this section~~, the licensee shall deliver it according to Section 10.

Section 89. Revised Privacy Notices.

(a) ~~General rule.~~ Except as otherwise authorized in 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 as described in the initial notice that the licensee provided to that consumer under Section 45, unless:

- (i) The licensee has provided to the consumer a clear and conspicuous revised notice ~~that~~ accurately describing its policies and practices;
- (ii) The licensee has provided to the consumer a new opt-out notice;
- (iii) 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
- (iv) The consumer does not opt-out.

~~(b) Examples.~~

(b) ~~(i)~~ Except as otherwise permitted by Sections 14, 15, and 16, a licensee shall provide a revised notice before it:

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

(ii) ~~(B)~~ Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

(iii) ~~(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.

(c) ~~(ii)~~ A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party ~~that~~ the licensee adequately described in its prior notice.

~~(de) Delivery.~~ When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to Section 10.

Section 9. Privacy Notices to Group Policyholders. Unless a licensee is providing privacy notices directly to covered individuals described in Section 3(e)(v)(A), (B), or (C), 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 4, 5, and 8 of this regulation, describing the licensee's privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts, or plans.

Section 10. Delivery.

(a) ~~How to provide notices.~~ A licensee shall provide any notices ~~that~~ this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) ~~(i) Examples of reasonable expectation of actual notice.~~ A licensee may reasonably expect ~~that~~ a consumer will receive actual notice if the licensee:

~~(i) (A)~~ Hand-delivers a printed copy of the notice to the consumer;

~~(ii) (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;

~~(iii) (C) For a consumer who conducts transactions electronically, p~~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; or

~~(iv) (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.

(c) ~~(ii) 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:

~~(i) (A)~~ Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

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

~~(de) Annual notices only.~~ A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(i) The customer uses the licensee's website 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 website~~; or

(ii) 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.

~~(ed) 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.

~~(fe)~~ Retention or accessibility of notices for customers.

(i) For customers only, a licensee shall provide the initial notice required by Section ~~54(a)(i)~~, the annual notice required by Section ~~65(a)~~, and the revised notice required by Section ~~89~~ so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(ii) ~~Examples of retention or accessibility.~~ A licensee may 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.

~~(gf) 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 accurate notice on behalf of another financial institution.

~~(hg) 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 ~~54(a)~~, ~~65(a)~~ and ~~98(a)~~, respectively, by providing one notice to those consumers jointly.

ARTICLE ~~3~~III. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 11. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties.

(a) ~~(i) Conditions for disclosure. Except as otherwise authorized in this regulation,~~ a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

(i) ~~(A)~~ The licensee has provided to the consumer an initial notice as required under Section ~~45~~;

(ii) ~~(B)~~ The licensee has provided to the consumer an opt-out notice as required in Section 78;

(iii) ~~(C)~~ The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt-out of the disclosure; and

(iv) ~~(D)~~ The consumer does not opt-out.

(b) (ii) ~~Opt-out definition.~~ Opt-out means a direction by the consumer that the licensee **not** disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 14, 15, and 16.

(c) (iii) ~~Examples of reasonable opportunity to opt-out.~~ A licensee provides a consumer with a reasonable opportunity to opt-out if:

(i) ~~(A) By mail.~~ The licensee mails the required notices ~~required in Paragraph (i) of this subsection~~ to the consumer and allows the consumer to opt-out by mailing a form, calling a toll-free telephone number, or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(ii) ~~(B) By electronic means.~~ A customer opens an on-line account with a licensee and agrees to receive the required notices ~~required in Paragraph (i) of this subsection~~ electronically, and the licensee allows the customer to opt-out by any reasonable means within thirty (30) days after the date ~~that~~ the customer acknowledges receipt of the notices in conjunction with opening the account.

(iii) ~~(C) Isolated transaction with consumer.~~ For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt-out if the licensee provides the required notices ~~required in Paragraph (i) of this subsection~~ at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt-out before completing the transaction.

(b) ~~Application of opt-out to all consumers and all nonpublic personal financial information.~~

(d) (i) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(ii) Unless a licensee complies with this section, the licensee may **not**, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer ~~that~~ the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt-out from the consumer.

(e) ~~Partial opt-out.~~ A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties ~~with respect~~ to which the

consumer wishes to opt-out.

Section 12. Limits on Re-Disclosure and Reuse of Nonpublic Personal Financial Information.

(a) ~~(i)~~ ~~Information the licensee receives under an exception.~~ If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in ~~Sections 15 or 16~~ of this regulation, the licensee's disclosure and use of that information is limited as follows. The licensee may disclose:

~~(i)~~ ~~(A)~~ ~~The licensee may disclose the i~~Information to ~~the~~ affiliates of the financial institution from which the licensee received the information;

~~(ii)~~ ~~(B)~~ ~~The licensee may disclose the i~~Information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

~~(iii)~~ ~~(C)~~ ~~The licensee may disclose and use the i~~Information pursuant to an exception in ~~Sections 15 and 16~~ of this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

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

~~(c)~~ ~~(i)~~ ~~Information a licensee receives outside of an exception.~~ If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in ~~Sections 15 or 16~~ of this regulation, the licensee may disclose the information only:

~~(i)~~ ~~(A)~~ To ~~the~~ affiliates of the financial institution from which the licensee received the information;

~~(ii)~~ ~~(B)~~ To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

~~(iii)~~ ~~(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.

~~(d)~~ ~~(ii)~~ ~~Example.~~ If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in this regulation~~Sections 15 or 16~~:

~~(i)~~ ~~(A)~~ The licensee may use that list for its own purposes; and

(ii) ~~(B)~~ The licensee may disclose that 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 that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt_out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in ~~Sections 15 and 16~~this regulation, such as to the licensee's attorneys or accountants.

(e) ~~(iii) Information a licensee discloses under an exception.~~ If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception ~~in Sections 15 or 16 of this regulation~~, the third party may disclose and use that information only as follows. The third party may disclose the information:

(i) ~~(A) The third party may disclose the information to~~ (A) To the licensee's affiliates;

(ii) ~~(B) The third party may disclose the information to~~ (B) To its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(iii) ~~(C) The third party may disclose and use the information pursuant to an exception in Sections 15 or 16 in~~ (C) In the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(d) ~~(iv) Information a licensee discloses outside of an exception.~~ If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in ~~Sections 15 or 16 of this regulation~~, the third party may disclose the information only:

(i) ~~(A)~~ (A) To the licensee's affiliates;

(ii) ~~(B)~~ (B) To the third party's affiliates, but the third party's affiliates, ~~in turn,~~ may disclose the information only to the extent the third party can disclose the information; and

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

Section 13. Limits on Sharing Account Number Information for Marketing Purposes.

(a) ~~General prohibition on disclosure of account numbers.~~ A licensee shall **not**, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) ~~Exception.~~ Subsection 13(a) ~~of this section~~ does not apply if a licensee discloses a policy number or similar form of access number or access code:

(i) To the licensee's service provider solely ~~in order~~ to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(ii) To a licensee who is a producer solely ~~in order~~ to perform marketing for the licensee's own products or services; or

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

(c) ~~Examples.~~ Policy number or transaction account.

(i) ~~Policy number.~~ A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(ii) ~~Policy or transaction account.~~ For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

ARTICLE 4IV. EXCEPTIONS TO LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

Section 14. Exception to Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing.

~~(a) General rule.~~

~~(a) (†)~~ The opt-out requirements in Sections 78 and 11 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

~~(i) (A)~~ Provides the initial notice in accordance with Section 45; and

~~(ii) (B)~~ Enters into a contractual agreement with the third party ~~that~~ prohibitings the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception ~~in~~ Sections 15 or 16 in the ordinary course of business to carry out those purposes.

~~(b) (ii) Example.~~ If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Section 14(a)(ii) ~~Paragraph (i)(B) of this subsection~~ if it prohibits the institution from disclosing or using

the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Sections 15 or 16 in the ordinary course of business to carry out that joint marketing.

~~(c)~~ ~~Services may include joint marketing.~~ The services a nonaffiliated third party performs for a licensee under Section 14(a) ~~Subsection (a) of this section~~ may include marketing of the licensee's own products or services or marketing financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

~~(d)~~ ~~Definition of "joint agreement."~~ For purposes of this section, "Joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

Section 15. Exceptions to Notice and Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions.

(a) ~~Exceptions for processing transactions at consumer's request.~~ The requirements for initial notice in Section 4(a) ~~5(a)(ii)~~, the opt-out in Sections 7 and 11, and service providers and joint marketing in Section 14 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with:

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

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

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

(iv) Reinsurance, or stop loss, or excess loss insurance.

(b) "Necessary to effect, administer, or enforce a transaction" means that the disclosure is:

(i) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

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

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

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

(C) To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

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

(E) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by federal or state law; or

(iii) ~~(F)~~ In connection with:

(A) ~~(F)~~ 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;

(B) ~~(H)~~ The transfer of receivables, accounts, or interests therein; or

(C) ~~(H)~~ The audit of debit, credit, or other payment information.

Section 16. Other Exceptions to Notice and Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information.

(a) ~~Exceptions to opt-out requirements.~~ The requirements for initial notice to consumers in Section ~~4(a)5(a)(ii)~~, the opt-out in Sections ~~7~~8 and 11, and service providers and joint marketing in Section 14 do not apply when a licensee discloses nonpublic personal financial information:

(i) With the consent or at the direction of the consumer, provided ~~that~~ the consumer has not revoked the consent or direction:

~~(ii)~~ (A) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product, or transaction;

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

(C) For required institutional risk control or for resolving consumer disputes or inquiries;

(D) To persons holding a legal or beneficial interest relating to the consumer; or

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

(iii) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies ~~that are~~ rating a licensee, persons ~~that are~~ assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants, and auditors;

~~(iii)~~ (iv) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, ~~Office of Thrift Supervision~~, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(iv) ~~(A)~~ To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); ~~or~~

~~(v)~~ (v) ~~(B)~~ From a consumer report reported by a consumer reporting agency;

(vi) 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;

~~(vii)~~ (A) To comply with federal, state, or local laws, rules, and other applicable legal requirements;

(B) To comply with a properly authorized civil, criminal, or regulatory investigation, ~~or~~ subpoena, or summons by federal, state, or local authorities; or

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

(viii) For purposes related to ~~the replacement of~~ replacing a group benefit plan, a group health plan, a group welfare plan, or a workers' compensation plan.

(b) ~~Example of revocation of consent.~~ A consumer may revoke consent by subsequently exercising the right to opt-out of future disclosures of nonpublic personal information as permitted under Section 78(f).

ARTICLE 5V. RULES FOR HEALTH INFORMATION

Section 17. When Authorization Required for Disclosure of Nonpublic Personal Health Information.

(a) A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

(b) Nothing in this section shall prohibit, restrict, or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: and in accordance with federal privacy laws. ~~claims administration; claims adjustment and management; detection, investigation or reporting of actual and potential fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; ratemaking and guaranty fund functions; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service functions; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers compensation policy or program; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority or to comply with legal process. Health information may be shared by affiliates for the specific purpose of processing claims. Additional insurance functions may be added with the approval of the eCommissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.~~

Section 18. Authorizations.

(a) A valid authorization to disclose nonpublic personal health information pursuant to this Article V shall be in written or electronic form and shall contain all of the following:

(i) The identity of the consumer or customer who is the subject of the nonpublic personal health information; and

(ii) A general description of the types of nonpublic personal health information to be disclosed;

(iii) ~~General descriptions of the parties to whom the licensee discloses nonpublic~~

~~personal health information, the purpose of the disclosure and how the information will be used;~~

(b) Requirements.

~~(iiv)~~ The signature of the consumer or customer who is the subject of the nonpublic personal health information, or the individual who is legally empowered to grant authority, and the date signed; and

~~(iiv)~~ Notice of the length of time for which the authorization is valid, and that the consumer or customer may revoke the authorization at any time, and the procedure for making a revocation.

~~(cb)~~ An authorization for the purposes of this Article V shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than twenty-four (24) months.

~~(de)~~ A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this Article V at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

~~(ed)~~ A licensee shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information.

Section 19. Authorization Request Delivery. A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to Section 10, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to Section 17(a).

Section 20. Relationship to Federal Rules

~~Irrespective of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services 45 C.F.R. pts. 160-164 (the “federal rule”), if a licensee complies with all requirements of the federal rule except for its effective date provision, the licensee shall not be subject to the provisions of this Article V.~~

Section 21. Relationship to State Laws

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

ARTICLE VI. SAFEGUARDING CUSTOMER INFORMATION

Section 20. Information Security Program. Each licensee shall implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for protecting customer information. The information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Section 21. Objectives of Information Security Program.

- (a) A licensee's information security program shall be designed to:
- (i) Ensure the security and confidentiality of customer information;
 - (ii) Protect against any anticipated threats or hazards to the security or integrity of the information; and
 - (iii) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Section 22. Methods of Development and Implementation.

- (a) In assessing the risk, the licensee:
- (i) Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;
 - (ii) Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - (iii) Assesses the sufficiency of policies, procedures, customer information systems, and other safeguards in place to control risks.
- (b) In managing and controlling the risk, the licensee:
- (i) Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;
 - (ii) Trains staff, as appropriate, to implement the licensee's information security program; and
 - (iii) Regularly tests or otherwise regularly monitors the key controls, systems, and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

(c) In overseeing the service provider arrangements, the licensee:

(i) Exercises appropriate due diligence in selecting its service providers; and

(ii) Requires its service providers to implement appropriate measures designed to meet the objectives of this regulation, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm its service providers have satisfied these obligations.

(d) In adjusting the program, the licensee:

(i) Monitors, evaluates, and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems.

Section 23. Determined Violation. Any violation of this regulation constitutes an unfair or deceptive trade practice as determined by W.S. § 26-13-101 *et seq.*

ARTICLE ~~6~~VII. ADDITIONAL PROVISIONS

Section 242. Protection of Fair Credit Reporting Act. Nothing in this regulation shall be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), ~~and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under Section 603 of this Act.~~

Section 253. Nondiscrimination.

(a) A licensee shall **not** unfairly discriminate against any consumer or customer ~~who because that consumer or customer~~ has opted out from the disclosure of his ~~or her~~ nonpublic personal financial information pursuant to ~~the provisions of this regulation.~~

(b) A licensee shall **not** unfairly discriminate against a consumer or customer ~~who because that consumer or customer~~ has **not** granted authorization for the disclosure of his ~~or her~~ nonpublic personal health information pursuant to ~~the provisions of this regulation.~~

Section 24. Violation

~~Any violation of this Regulation constitutes a undefined unfair or deceptive trade practice as set forth in W.S. § 26-13-116 and shall be subject to penalties set forth at W.S. § 26-1-107.~~

Section 25. Severability

~~If any section or portion of a section of this regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the~~

provision to other persons or circumstances shall not be affected.

Section 26. Effective Date.

(a) ~~Effective date.~~ This regulation ~~shall be~~ becomes effective immediately upon filing with the Secretary of State. ~~In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this regulation, the commissioner has extended the time for compliance with this regulation with respect to financial information to January 1, 2002 and with respect to health information to January 1, 2003.~~

(b) (i) ~~Notice requirement for consumers who are the licensee's customers on the compliance date. By January 1, 2002, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee's customers on January 1, 2002.~~

(ii) ~~Example. A licensee provides an initial notice to consumers who are its customers on January 1, 2002, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.~~

(c) ~~Two-year grandfathering of service agreements. Until January 1, 2004, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of Section 14(a)(i)(B) of this regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before January 1, 2002.~~

SAMPLE CLAUSES

~~Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)~~

~~A-1 Categories of information a licensee collects (all institutions)~~

~~A licensee may use this clause, as applicable, to meet the requirement of Section 7(a)(i) to describe the categories of nonpublic personal financial information the licensee collects.~~

~~Sample Clause A-1:~~

~~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.

~~A-2 Categories of information a licensee discloses (institutions that disclose outside of the exceptions)~~

~~A licensee may use one of these clauses, as applicable, to meet the requirement of Section 7(a)(ii) to describe the categories of nonpublic personal financial information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal financial information other than as permitted by the exceptions in Sections 14, 15 and 16.~~

~~Sample Clause A-2, Alternative 1:~~

~~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"].~~

~~Sample Clause A-2, Alternative 2:~~

~~We may disclose all of the information that we collect, as described [describe location in the notice, such as "above" or "below"].~~

~~A-3 Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)~~

~~A licensee may use this clause, as applicable, to meet the requirements of Sections 7(a)(ii), (iii), and (iv) 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 this clause if the licensee does not disclose nonpublic personal financial information to any party, other than as permitted by the exceptions in Sections 15 and 16.~~

~~Sample Clause A-3:~~

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

~~A-4 Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)~~

~~A licensee may use this clause, as applicable, to meet the requirement of Section 7(a)(iii) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information. This clause may be used if the licensee discloses nonpublic personal financial information other than as permitted by the exceptions in Sections 14, 15 and 16, as well as when permitted by the exceptions in Sections 15 and 16.~~

~~Sample Clause A-4:~~

~~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 agents"];~~
- ~~• Non-financial companies, such as [provide illustrative examples, such as "retailers, direct marketers, airlines, and publishers"]; and~~
- ~~• Others, such as [provide illustrative examples, such as "non-profit organizations"].~~

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

~~A-5 Service provider/joint marketing exception~~

~~A licensee may use one of these clauses, as applicable, to meet the requirements of Section 7(a)(v) related to the exception for service providers and joint marketers in Section 14. If a licensee discloses nonpublic personal financial information under this exception, the licensee shall describe the categories of nonpublic personal financial information the licensee discloses and the categories of third parties with which the licensee has contracted.~~

~~Sample Clause A-5, Alternative 1:~~

~~We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:~~

- ~~• Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, income, and beneficiaries"];~~
- ~~• Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as "your policy coverage, premium, and payment history"]; and~~
- ~~• Information we receive from a consumer reporting agency, such as [provide illustrative~~

examples, such as "your creditworthiness and credit history"].

~~Sample Clause A-5, Alternative 2:~~

~~We may disclose all of the information we collect, as described [describe location in the notice, such as "above" or "below"] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.~~

~~**A-6 Explanation of opt out right (institutions that disclose outside of the exceptions)**~~

~~A licensee may use this clause, as applicable, to meet the requirement of Section 7(a)(vi) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal financial information other than as permitted by the exceptions in Sections 14, 15 and 16.~~

~~Sample Clause A-6:~~

~~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)].~~

~~**A-7 Confidentiality and security (all institutions)**~~

~~A licensee may use this clause, as applicable, to meet the requirement of Section 7(a)(viii) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information.~~

~~Sample Clause A-7:~~

~~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.~~

Chapter 55 Standards for Safeguarding Customer Information

Section 1. Purpose and Scope

~~(a) This regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm Leach-Bliley Act, codified at 15 U.S.C. §§ 6801, 6805(b) and 6807 and authorized by W.S. § 26-2-133.~~

~~(b) Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards: (1) to ensure the security and confidentiality of customer records and information; (2) to protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.~~

~~(c) Section 505(b)(2) calls on state insurance regulatory authorities to implement the standards prescribed under Section 501(b) by regulation with respect to persons engaged in providing insurance.~~

~~(d) Section 507 provides, among other things, that a state regulation may afford persons greater privacy protections than those provided by subtitle A of Title V of the Gramm Leach-Bliley Act. This regulation requires that the safeguards established pursuant to this regulation shall apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information.~~

Section 2. Definitions

For purposes of this regulation, the following definitions apply:

~~(a) "Customer" means a customer of the licensee as the term customer is defined in Wyoming Insurance Department Regulations, Chapter 54 § 4(i).~~

~~(b) "Customer information" means nonpublic personal information as defined in Wyoming Insurance Department Regulations, Chapter 54 § 4(s) about a customer, whether in paper, electronic or other form, that is maintained by or on behalf of the licensee.~~

~~(c) "Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.~~

~~(d) "Licensee" means a licensee as that term is defined in Wyoming Insurance~~

~~Department Regulations, Chapter 54 § 4(q)(i), except that “licensee” shall not include: a purchasing group; or an unauthorized insurer in regard to the surplus line business conducted pursuant to W.S. § 26-11-101 et seq.~~

~~(e) “Service provider” means a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.~~

Section 3. Information Security Program

~~Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.~~

Section 4. Objectives of Information Security Program

~~A licensee’s information security program shall be designed to:~~

- ~~(a) Ensure the security and confidentiality of customer information;~~
- ~~(b) Protect against any anticipated threats or hazards to the security or integrity of the information; and~~
- ~~(c) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.~~

Section 5. Examples of Methods of Development and Implementation

~~The actions and procedures described in Sections 6 through 9 of this regulation are examples of methods of implementation of the requirements of Sections 3 and 4 of this regulation. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement Sections 3 and 4 of this regulation.~~

Section 6. Assess Risk

~~The licensee:~~

- ~~(a) Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems;~~
- ~~(b) Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and~~

~~(e) Assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.~~

~~Section 7. Manage and Control Risk~~

~~The licensee:~~

~~(a) Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;~~

~~(b) Trains staff, as appropriate, to implement the licensee's information security program; and~~

~~(c) Regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.~~

~~Section 8. Oversee Service Provider Arrangements~~

~~The licensee:~~

~~(a) Exercises appropriate due diligence in selecting its service providers; and~~

~~(b) Requires its service providers to implement appropriate measures designed to meet the objectives of this regulation, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.~~

~~Section 9. Adjust the Program~~

~~The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.~~

~~Section 10. Determined Violation~~

~~Any violation of this Regulation constitutes an undefined unfair or deceptive trade practice as set forth in and subject to W.S. § 26-13-116 and shall be subject to penalties set forth at W.S. § 26-1-107.~~

~~Section 11. Severability~~

~~If any section or portion of a section of this regulation or its applicability to any person or~~

~~circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.~~

~~**Section 12. Effective Date**~~

~~Each licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this regulation by July 1, 2003.~~

REPEALED