

(f) *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 all of the following:

1. Describes in general terms who is authorized to have access to the information.
2. 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 that it uses.

(4) SHORT-FORM INITIAL NOTICE WITH OPT-OUT NOTICE FOR NON-CUSTOMERS.

(a) A licensee may satisfy the initial notice requirements in ss. Ins 25.10 (1) (b) and 25.17 (3) 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 s. Ins 25.17.

(b) A short-form initial notice shall comply with all of the following:

1. It shall be clear and conspicuous.
2. It shall state that the licensee's privacy notice is available upon request.
3. It shall explain a reasonable means by which the consumer may obtain that notice.

(c) The licensee shall deliver its short-form initial notice according to s. Ins 25.25. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may

simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to s. Ins 25.25.

(d) *Examples of obtaining privacy notice.* The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee does any of the following:

1. Provides a toll-free telephone number that the consumer may call to request the notice.
2. For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(5) FUTURE DISCLOSURES. The licensee's notice may include any of the following:

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

(6) SAMPLE CLAUSES. Sample clauses illustrating some of the notice content required by this section are included in Appendix A of this chapter.

**Ins 25.17 Form of opt out notice to consumers and opt out methods.** (1)(a)

*Form of opt out notice.* If a licensee is required to provide an opt out notice under s. Ins 25.30 (1), it shall provide a clear and conspicuous notice to each of its consumers

that accurately explains the right to opt out under that section. The notice shall include all of the following:

1. That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party.
2. That the consumer has the right to opt out of that disclosure.
3. A reasonable means by which the consumer may exercise the opt out right.

(b) *Examples.*

1. A licensee provides notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party in compliance with this section if the licensee does all of the following:
  - a. 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 s. Ins 25.15 (3) (b) and (c), and states that the consumer can opt out of the disclosure of that information.
  - b. 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.
2. A licensee provides a reasonable means to exercise an opt out right if it does any of the following:

- 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 web site, if the consumer agrees to the electronic delivery of information.
  - d. Provides a toll-free telephone number that consumers may call to opt out.
3. A licensee does not provide a reasonable means of opting out if any of the following exist:
- a. The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right.
  - b. The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.
4. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(2) 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 s. Ins 25.10.

- (3) 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 s. Ins 25.10, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.
- (4) JOINT RELATIONSHIPS.
- (a) If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer, as explained in par. (e).
- (b) Any of the joint consumers may exercise the right to opt out. The licensee may do either of the following:
1. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers.
  2. Permit each joint consumer to opt out separately, subject to par. (c).
- (c) 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.
- (d) A licensee may not require all joint consumers to opt out before it implements any opt out direction.
- (e) *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:

1. Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.
  2. 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.
  3. If the licensee permits John and Mary to make different opt out directions, the licensee shall do all of the following:
    - a. It shall permit John and Mary to opt out for each other.
    - b. 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.
    - c. 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.
- (5) 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.
- (6) CONTINUING RIGHT TO OPT OUT. A consumer may exercise the right to opt out at any time.
- (7) DURATION OF THE CONSUMER'S OPT OUT DIRECTION.
- (a) 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.

(b) 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.

(8) DELIVERY. When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to s. Ins 25.25.

**Ins 25.20 Revised privacy notices.** (1) GENERAL RULE. Except as otherwise authorized in this chapter, 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 s. Ins 25.10, unless all of the following have occurred:

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

(2) EXAMPLES.

- (a) Except as otherwise permitted by ss. Ins 25.50, 25.55 and 25.60, a licensee shall provide a revised notice before it does any of the following:

1. Discloses a new category of nonpublic personal financial information to any nonaffiliated third party.
  2. Discloses nonpublic personal financial information to a new category of nonaffiliated third party.
  3. 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 any opt out right regarding that disclosure.
- (b) 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.
- (3) DELIVERY. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to s. Ins 25.25.

**Ins 25.25 Delivery.** (1) HOW TO PROVIDE NOTICES. A licensee shall provide any notices that this chapter requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

- (2) (a) *Examples of reasonable expectation of actual notice.* A licensee may reasonably expect that a consumer will receive actual notice of its privacy policies and practices if the licensee does any of the following:
1. Hand-delivers a printed copy of the notice to the consumer.
  2. 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.
  3. For a consumer who conducts transactions electronically, 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.

4. 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.

(b) *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 does any of the following:

1. Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices.
2. Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(3) ANNUAL NOTICES ONLY. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if it does any of the following:

- (a) The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site.
- (b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, the licensee maintains a record of the request and the licensee's current privacy notice remains available to the customer upon request.

- (4) ORAL DESCRIPTION OF NOTICE INSUFFICIENT. A licensee may not provide any notice required by this chapter solely by orally explaining the notice, either in person or over the telephone.
- (5) RETENTION OR ACCESSIBILITY OF NOTICES FOR CUSTOMERS.
- (a) For customers only, a licensee shall provide the initial notice required by s. Ins 25.10 (1) (a), the annual notice required by s. Ins 25.13 (1), and the revised notice required by s. Ins 25.20 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.
- (b) *Examples of retention or accessibility.* A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee does any of the following:
1. Hand-delivers a printed copy of the notice to the customer.
  2. Mails a printed copy of the notice to the last known address of the customer.
  3. 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.
- (6) JOINT NOTICE WITH OTHER FINANCIAL INSTITUTIONS. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.
- (7) JOINT RELATIONSHIPS. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the

initial, annual and revised notice requirements of s Ins 25.10 (1), 25.13 (1) and 25.20 (1), respectively, by providing one notice to those consumers jointly.

- (8) **MULTIPLE INSURANCE PRODUCTS OR SERVICES.** If a consumer or two or more consumers jointly seek to obtain or obtain multiple insurance products or services from a licensee or its affiliates, the licensee may satisfy the initial, annual and revised notice requirements of s Ins 25.10 (1), 25.13 (1) and 25.20 (1), respectively, for the licensee and its affiliates by providing one notice to those consumers.

### SUBCHAPTER III-LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

**Ins 25.30 Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.** (1) (a) *Conditions for disclosure.* Except as otherwise authorized in this chapter, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless all of the following have occurred:

1. The licensee has provided to the consumer an initial notice as required under s. Ins 25.10.
  2. The licensee has provided to the consumer an opt out notice as required in s. Ins 25.17.
  3. 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.
  4. The consumer does not opt out.
- (b) *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 ss. Ins 25.50, 25.55 and 25.60.

(c) *Examples of reasonable opportunity to opt out.* A licensee provides a consumer with a reasonable opportunity to opt out if it does any of the following:

1. 'By mail.' The licensee mails the notices required in par. (a) 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 days from the date the licensee mailed the notices.
2. 'By electronic means.' A customer purchases an insurance service or product from a licensee and agrees to receive the notices required in par. (a) electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction the transaction.
3. 'Isolated transaction with consumer.' For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in par. (a) 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.

(2) APPLICATION OF OPT OUT TO ALL CONSUMERS AND ALL NONPUBLIC PERSONAL FINANCIAL INFORMATION.

- (a) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.
- (b) Unless a licensee complies with this section, the licensee may not, except as permitted in ss. Ins 25.50, 25.55 and 25.60, 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.

- (3) **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.

**Ins 25.35 Limits on re-disclosure and reuse of nonpublic personal financial information.** (1) (a) *Information the licensee receives under an exception.* If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in s. Ins 25.55 or 25.60, the licensee may use or disclose that information only under the following conditions:

1. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information.
  2. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information.
  3. The licensee may disclose and use the information pursuant to an exception in s. Ins 25.55 or 25.60, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.
- (b) *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.

(2) (a) *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 s. Ins 25.55 or 25.60, the licensee may not disclose the information except to any of the following:

1. To the affiliates of the financial institution from which the licensee received the information.
2. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information.
3. 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.

(b) *Example.* If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in s. Ins 25.55 or 25.60 it may do any of the following:

1. The licensee may use that list for its own purposes.
2. 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 s. Ins 25.55 or 25.60, such as to the licensee's attorneys or accountants.

(3) INFORMATION A LICENSEE DISCLOSES UNDER AN EXCEPTION. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in s. Ins 25.55 or 25.60, the third party may not disclose or use that information except under any of the following circumstances:

- (a) The third party may disclose the information to the licensee's affiliates.
- (b) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information.
- (c) The third party may disclose and use the information pursuant to an exception in s. Ins 25.55 or 25.60 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(4) 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 s. Ins 25.55 or 25.60, the third party may not disclose the information except under any of the following circumstances:

- (a) To the licensee's affiliates.
- (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.
- (c) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

**Ins 25.40 Limits on sharing account number information for marketing purposes.** (1) 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.

(2) EXCEPTIONS. Sub. (1) does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

- (a) 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.
- (b) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services.
- (c) 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.

(3) EXAMPLES.

- (a) *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.
- (b) *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.

#### SUBCHAPTER IV-EXCEPTIONS TO LIMITS ON DISCLOSURE OF FINANCIAL INFORMATION

**Ins 25.50 Exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.** (1) (a)

GENERAL RULE. The opt out requirements in ss. Ins 25.17 and 25.30 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 complies with all of the following:

1. It provides the initial notice in accordance with s. Ins 25.10.
2. It enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in s. Ins 25.55 or 25.60 in the ordinary course of business to carry out those purposes.

(b) *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 par. (b) 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 s. Ins 25.55 or 25.60 in the ordinary course of business to carry out that joint marketing.

(2) SERVICE MAY INCLUDE JOINT MARKETING. The services a nonaffiliated third party performs for a licensee under sub. (1) may include marketing of the licensee's own products or services or marketing

of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

- (3) 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.

**Ins 25.55 Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.** (1) EXCEPTIONS FOR PROCESSING TRANSACTIONS AT A CONSUMER'S REQUEST. The requirements for initial notice in s. Ins 25.10 (1) (b), the opt out in s. Ins 25.17 and 25.30, and service providers and joint marketing in s. Ins 25.50 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 any of the following:

- (a) Servicing or processing an insurance product or service that a consumer requests or authorizes.
  - (b) 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.
  - (c) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.
  - (d) Reinsurance or stop loss or excess loss insurance, including, but not limited to, for the purpose of placing, replacing or making a claim under reinsurance or stop-loss or excess loss insurance.
- (2) "Necessary to effect, administer or enforce a transaction" means that the disclosure is any of the following: