

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

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(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.

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(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) *title* 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.

*inclusive?
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25.03*

(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) (5) 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. Adequate opt out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of

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nonpublic personal financial information to a nonaffiliated third party if the licensee does all of the following:

*None of
the categories
to which the
consumer
can opt out*

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 (1) (b) and (c), and states that the consumer can opt out of the disclosure of that information. ✓

these don't describe anything

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. Reasonable opt out means. A licensee provides a reasonable means to exercise an opt out right if it does any of the following:

cf. subd. 4

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. Unreasonable opt out means. 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. 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.
- (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:

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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.

what's the difference?
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(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.

as it relates to a joint consumer who has opted out ✓

(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:

Place in note

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. Permit John and Mary to make different opt out directions. If the licensee does so the licensee shall do all of the following:

a. It shall permit John and Mary to opt out for each other.

why?
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- 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 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 ^{check} any of the following: ✓
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why need and in right of (1) (intro) ?

- 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 an opt out right regarding that disclosure.

How does this place fit in? ✓

(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.

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, 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 ^{simultaneously?} 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 s. 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 opens an on-line account with 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 with opening the account.

define isolated 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.

do not control

✓ (b) 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.

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✓ (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:

25.55 25.60

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:

What good are the privacy provisions if the Holder is alive

25.55 or 25.60

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.

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

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even in
spite of
opt out?

(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.

any limit
on service
provider
resale?

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

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- (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.

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- An arrow points from the word "Examples" to the word "context" in the first example.
- A bracket on the left side groups the two examples under the heading "Handwritten: You refer to submit".
- (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 disclosures 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 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.

see (2)

- (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:

- (a) 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.
- (b) Required, or is a usual, appropriate or acceptable method to accomplish any of the following:
 - 1. 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.
 - 2. To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part.
 - 3. To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker.

4. To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party.
5. To underwrite insurance at the 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.
6. In connection with any of the following:
 - 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.
 - c. The audit of debit, credit or other payment information.

Ins 25.60 Other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information. (1) Exceptions to opt out requirements.

The requirements for initial notice to consumers in s. Ins 24.10 (1) (b), the opt out in s. 25.17 and 25.30, and service providers and joint marketing in s. 25.50 do not apply when a licensee discloses nonpublic personal financial information under any of the following circumstances:

- (a) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction.
- (b)
1. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction.
 2. To protect against or prevent actual or potential fraud or unauthorized transactions.
 3. For required institutional risk control or for resolving consumer disputes or inquiries.
 4. To persons holding a legal or beneficial interest relating to the consumer.
 5. To persons acting in a fiduciary or representative capacity on behalf of the consumer.
- (c) 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.
- (d) 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

Part 15

Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety.

(e) 1. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

2. From a consumer report reported by a consumer reporting agency. X

cf. *Control* 2

(f) 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.

(g) 1. To comply with federal, state or local laws, rules and other applicable legal requirements.

2. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities.

3. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law.

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

(2) *cf. sub. (1)(a)* 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 s. Ins 25.17(6). *too narrow*

(3) By a receiver for an insurer subject to a delinquency proceeding under ch. 645, Stats. *titles*

Placement
-No Control

Subchapter V- Rules for health information

Ins 25.70 When authorization required for disclosure of nonpublic personal health information. (1) 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 or unless the health information is a patient health care record and disclosure is permitted under ss. 146.81 to 146.84, Stats.

- (2) Nothing in this section shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; rate-making 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; worker's compensation premium audits; worker's compensation first reports of injury; worker's compensation loss runs; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or

authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process. Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

part in rule

Ins 25.73 Authorizations. (1) A valid authorization to disclose nonpublic personal health information pursuant to this subchapter shall be in written or electronic form and shall contain all of the following:

- (a) The identity of the consumer or customer who is the subject of the nonpublic personal health information.
- (b) A general description of the types of nonpublic personal health information to be disclosed.
- (c) 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.
- (d) 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.
- (e) 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.

(2) An authorization for the purposes of this subchapter shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than twenty-four months or the period permitted for a disclosure authorization under s. 610.70, Stats., as specified under s. 610.70 (2).(b), Stats.

X ref

↳ 30 mos.

is this only for purposes of 610.70(2)(b) under 610.70(2)(b)

- (3) A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this subchapter at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.
- (4) 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.

Ins 25.75 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 s. Ins 25.25, 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 s. Ins 25.70 (1).

Place at beginning of subch.

Ins 25.77 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, if a licensee complies with all requirements of that rule except for its effective date provision, the licensee shall not be subject to the provisions of this subchapter. *cf. analysis p. 3 ✓*

Ins 25.80 Insurers and agents compliance with s. 610.70, Stats. An insurer that is subject to s. 610.70, Stats., or an intermediary acting solely as an agent of an insurer subject to s. 610.70, Stats., is not required to comply with this subchapter.

Subchapter VI- Additional provisions

Ins 25.90 Nondiscrimination. (1) A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this chapter.

- (2) A licensee shall not unfairly discriminate against a consumer or customer because that consumer or customer has not granted authorization for

the disclosure of his or her nonpublic personal health information pursuant to the provisions of this chapter.

(3) Failure to provide an insurance product or service based on usual and customary insurance underwriting is not unfair discrimination under this section, even if such failure is the result of a consumer or customer's refusal to authorize the disclosure of his or her nonpublic personal health information.

Does this comply with law?

Ins 25.95 Effective date. (1) This chapter, and enforcement under section 505 of the Gramm-Leach-Bliley Act (PL 102-106) is effective only on and after July 1, 2001 except licensees shall comply with sub. (2) on and after the first day of the first month commencing after the publication of this rule.

(2) (a) Phased in notice requirement for consumers who are the licensee's customers on the compliance date. Beginning on July 1, 2001, and by not later than June 30, 2002 a licensee shall provide an initial notice, as required by s. Ins 25.10, to consumers who are the licensee's customers on July 1, 2001.

(b) Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by July 1, 2001, the licensee has established a system for providing an initial notice to all new customers and if by June 30, 2002 the licensee has mailed the initial notice to all the licensee's existing customers.

(3) Two-year grand-fathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of s. Ins 25.50 (1) (a) 2, 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 July 1, 2000.

APPENDIX A - SAMPLE CLAUSES

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

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

A licensee may use this clause, as applicable, to meet the requirement of s. Ins 25.15 (1) (a) to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

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 s. Ins .25.15 (1) (b) to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions ins. Ins 25.50, 25.55 and 25.60.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

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

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 s. Ins 25.15 (1) (b), (c) and (d) to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions ins. Ins 25.55 and 25.60.

Sample Clause A-3:

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

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 s. Ins 25.15 (1) (c) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in s. Ins 25.50, 25.55 and 25.60, as well as when permitted by the exceptions ins. Ins 25.55 and 25.60.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as "life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents"];
- Non-financial companies, such as [provide illustrative examples, such as "retailers, direct marketers, airlines, and publishers"]; and
- Others, such as [provide illustrative examples, such as "non-profit organizations"].

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

A-5–Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of s. Ins 25.15 (1) (e) related to the exception for service providers and joint marketers ins. Ins 25.50. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

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

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

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 s. Ins 25.15 (1) (f) to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in ss. Ins 25.50, 25.55 and 25.60.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may

direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)].

A-7-Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of s. Ins 25.15 (1) (g) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

SECTION 2. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2000.

Connie L. O'Connell

Commissioner of Insurance