

2. It 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.
 - (b) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.
- (14) "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.
- (15) "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 any of the following:
- (a) The past, present or future physical, mental or behavioral health or condition of an individual.
 - (b) The provision of health care to an individual.
 - (c) Payment for the provision of health care to an individual.
- (16) (a) "Insurance product or service" means any product or service that is offered by a licensee pursuant to the insurance laws of this state.
- (b) 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.
- (17) (a) "Licensee" means all insurers, intermediaries, third party administrators and other persons licensed or required to be

licensed, or authorized or required to be authorized, or registered or required to be registered under chs. 600 to 655, Stats.

(b) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in subchs. I to IV if the licensee is an employee, agent or other representative of another licensee ("the principal") and all of the following conditions exist:

1. The principal otherwise complies with, and provides the notices required by, the provisions of this chapter.
2. The licensee does not disclose any nonpublic personal financial information to any person other than the principal or its affiliates in a manner permitted by this chapter.

(c) 1. Subject to subd. 2, "licensee" also includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker or agent in this state, but only in regard to placements placed pursuant to s. 618.41, Stats..

2. A surplus lines broker or agent 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 subchs. I to IV provided all of the following occur:

a. The broker, agent or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under s. Ins 25.50, except as permitted by s. Ins 25.55 or 25.60.

b. The broker, agent 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 THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

(18) (a) "Nonaffiliated third party" means any person except any of the following:

1. A licensee's affiliate.
2. A person employed jointly by a licensee and any company that is not the licensee's affiliate. Under these circumstances "nonaffiliated third party" does include the other company that jointly employs the person.

(b) "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)).

(19) "Nonpublic personal information" means nonpublic personal financial information and nonpublic personal health information.

(20) (a) "Nonpublic personal financial information" means all of the

following:

1. Personally identifiable financial information.
2. 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.

(b) Nonpublic personal financial information does not include any of the following:

1. Health information.
2. Publicly available information, except as included on a list described in par. (a) 2.
3. 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.

(c)

1. 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.
2. Nonpublic personal financial information does not include 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 that any of the individuals on the list is a consumer of a financial institution.

(21) "Nonpublic personal health information" means any of the following health information:

- (a) Health information that identifies an individual who is the subject of the information.
- (b) Health information with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(22) (a) "Personally identifiable financial information" means any of the following information:

1. Information a consumer provides to a licensee to obtain an insurance product or service from the licensee.
2. Information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer.
3. Information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

(b) The following are examples of personally identifiable financial information:

1. Personally identifiable financial information includes any of the following:
 - a. Information a consumer provides to a licensee on an application to obtain an insurance product or service.
 - b. Account balance information and payment history.

- c. The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee.
 - d. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer.
 - e. 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.
 - f. Any information the licensee collects through an internet information-collecting device from a web server.
 - g. Information from a consumer report.
2. Personally identifiable financial information does not include any of the following:
- a. Health information.
 - b. A list of names and addresses of customers of an entity that is not a financial institution.
 - c. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(23) (a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from any of the following:

1. Federal, state or local government records.
 2. Widely distributed media.
 3. Disclosures to the general public that are required to be made by federal, state or local law.
- (b) 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 all of the following:
1. That the information is of the type that is available to the general public.
 2. 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.
- (c) The following are examples of publicly available information.
1. Publicly available information in government records includes information in government real estate records and security interest filings.
 2. Publicly available information from widely distributed media includes information from 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 available to the general public.
 3. a. A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the

public record in the jurisdiction where the mortgage would be recorded.

- b. A licensee has a reasonable basis to believe that 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 the licensee that the telephone number is not unlisted.

SUBCHAPTER II-PRIVACY AND OPT-OUT NOTICES FOR FINANCIAL INFORMATION

Ins 25.10 Initial privacy notice to consumers required. (1) INITIAL NOTICE REQUIREMENT. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices regarding nonpublic personal financial information to all of the following:

- (a) *Customer.* An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in sub. (5).
 - (b) *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 ss. Ins 25.55 and 25.60.
- (2) WHEN INITIAL NOTICE TO A CONSUMER IS NOT REQUIRED. A licensee is not required to provide an initial notice to a consumer under sub (1) (b) if any of the following conditions apply:
- (a) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by ss. Ins 25.55 and 25.60, and the licensee does not have a customer relationship with the consumer.

- (b) An affiliated licensee has provided a notice, 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.

(3) WHEN THE LICENSEE ESTABLISHES A CUSTOMER RELATIONSHIP.

- (a) *General rule.* A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

- (b) *Examples of establishing customer relationship.* A licensee establishes a customer relationship when the consumer does any of the following:

1. Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an intermediary who is not acting as agent for an insurer licensee, obtains insurance through that licensee. A licensee does not establish a customer relationship due to issuance of a binder of coverage until the policy is issued, if the licensee allows the consumer to request delivery of the initial notice required under sub. (1) (a) and the licensee delivers the initial notice within a reasonable time after the licensee receives such a request.
2. Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

- (4) 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 sub. (1) if any of the following conditions are met:

- (a) The licensee may provide a revised policy notice, under s. Ins 25.20, that covers the customer's new insurance product or service.
- (b) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under sub. (1).

(5) EXCEPTIONS TO ALLOW SUBSEQUENT DELIVERY OF NOTICE.

- (a) A licensee may provide the initial notice required by sub. (1) (a) within a reasonable time after the licensee establishes a customer relationship if any of the following conditions exist:

1. Establishing the customer relationship is not at the customer's election.
2. 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.

- (b) The following are examples of when exceptions may or may not apply:

1. 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.
2. 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.

3. 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.
- (6) DELIVERY. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to s. Ins 25.25. If the licensee uses a short-form initial notice for non-customers according to s. Ins 25.15 (4), the licensee may deliver its privacy notice according to s. Ins 25.15 (4) (c).

Ins 25.13. Annual privacy notice to customers required. (1)(a) *General rule.* A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices with regard to nonpublic personal financial information not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve 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.

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

- (2) (a) *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.

(a) *Examples.* The following are examples of the termination of a customer relationship:

1. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.
2. 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 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.
3. For the purposes of this chapter, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.
4. 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.

- (4) DELIVERY. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to s. Ins 25.25.

Ins 25.15 Information to be included in privacy notices. (1) GENERAL RULE. The initial, annual and revised privacy notices that a licensee provides under s. Ins 25.10, 25.13 and 25.20 shall include all 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:

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

Note: See sample clause A-1 in Appendix A

- (b) The categories of nonpublic personal financial information that the licensee discloses.

Note: See sample clauses A-2 and A-3 in Appendix A

- (c) The categories of affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under s. Ins 25.55 and 25.60.

Note: See sample clauses A-2, A-3 and A-4 in Appendix A

- (d) 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 s. Ins 25.55 and 25.60.

Note: See sample clauses A-2 and A-3 in Appendix A

- (e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under s. Ins 25.50 (and no other exception in s. Ins 25.55 and 25.60 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.

Note: See sample clauses A-5 in Appendix A

- (f) An explanation of the consumer's right under s. Ins 25.30 (1) 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.

Note: See sample clauses A-6 in Appendix A

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

Note: See sample clauses A-7 in Appendix A

- (i) Any disclosure that the licensee makes under sub. (2).
- (2) DESCRIPTION OF PARTIES SUBJECT TO EXCEPTIONS. If a licensee discloses nonpublic personal financial information as authorized under s. Ins 25.55 and 25.60, the licensee is not required to list those exceptions in the initial or annual privacy notices required by s. Ins

25.10 and 25.13. 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.

(3) EXAMPLES.

(a) *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 all of the following sources of the information:

1. Information from the consumer.
2. Information about the consumer's transactions with the licensee or its affiliates.
3. Information about the consumer's transactions with nonaffiliated third parties.
4. Information from a consumer reporting agency.

(b) *Categories of nonpublic personal financial information a licensee discloses.*

1. 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 par. (a), as applicable, and provides at least one example, and additional examples as are reasonably appropriate, to illustrate the types of information in each category. Examples may include any of the following:

- a. Information from the consumer, including application information, such as assets and income

and identifying information, such as name, address and social security number.

- b. Transaction information, such as information about balances, payment history and parties to the transaction.
- c. Information from consumer reports, such as a consumer's creditworthiness and credit history.

- 2. 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.
- 3. 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 financial information that the licensee discloses.

(c) *Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.*

- 1. 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.
- 2. Types of businesses may be described by general terms only if the licensee uses at least one example, and additional examples as are reasonably appropriate, to illustrate the 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.

3. 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 than those described in this paragraph.
- (d) *Disclosures under exception for service providers and joint marketers.* If a licensee discloses nonpublic personal financial information under the exception in s. Ins 25.50 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 sub (1) (e) if it does all of the following:
1. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of sub (1) (b) , as applicable.
 2. States whether the third party is any of the following:
 - a. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution.
 - b. A financial institution with whom the licensee has a joint marketing agreement.
- (e) *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 s. Ins 25.55 and 25.60, the licensee may simply state that fact, in addition to the information it shall provide under sub. (1) (a), (h), and (i) and (2).