

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER tt: INSURANCE INFORMATION AND PRIVACY PROTECTION

PART 4002  
PERSONAL INFORMATION PRIVACY PROTECTION

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**AUTHORITY:** Implementing Article XXVI and Article XL of the Illinois Insurance Code [215 ILCS 5/Arts. XXVI and XL], and Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through

6827) and authorized by Section 401 and Article XL of the Illinois Insurance Code [215 ILCS 5/401 and Art. XL].

SOURCE: Adopted at 25 Ill. Reg. 7176, effective July 1, 2001.

FINAL ADOPTION

Section 4002.10 Purpose

This Part will implement Article XL and Article XXVI of the Illinois Insurance Code [215 ILCS 5/Arts. XL and XXVI] and provides guidance for compliance with Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) which govern the treatment of personal information by all licensees of the Illinois Department of Insurance.

FINAL ADOPTION

## Section 4002.20 Applicability

- a) This Part applies to all licensees, companies, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code or any other Act of Chapter 215 of the Illinois Compiled Statutes. This Part also applies to unauthorized insurers or companies who accept business placed through a licensed surplus line producer in this State, but only in regard to the surplus line transactions placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445]. However, this Part does not apply to “service contract providers” as defined by the Service Contract Act [215 ILCS 152].
- b) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in this Part if the licensee is an employee, agent or other representative of another licensee (“the principal”) and:
- 1) The principal otherwise complies with, and provides the notices required by, the provisions of this Part; and
  - 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 Part.
- c) Any person or company conducting transactions pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445] shall be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in this Part provided:
- 1) The person or company conducting transactions pursuant to Section 445 of the Illinois Insurance Code does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 4002.130 of this Part, except as permitted by Section 4002.140 or 4002.150 of this Part; and
  - 2) The person or company conducting transactions pursuant to Section 445 of the Illinois Insurance Code delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type and is clear and conspicuous:

PRIVACY NOTICE

NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

FINAL ADOPTION

## Section 4002.30 Definitions

Unless otherwise defined by this Part the terms used in this Part shall have the same meaning as given by the Illinois Insurance Code [215 ILCS 5].

Affiliate means any company that controls, is controlled by, or is under common control with another company.

Clear and Conspicuous means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

A licensee makes its notice reasonably understandable if it:

Presents the information in a written notice in clear, concise sentences, paragraphs, and sections;

Uses short explanatory sentences or bullet lists whenever possible;

Uses definite, concrete, everyday words and active voice whenever possible;

Avoids multiple negatives;

Avoids legal and highly technical business terminology whenever possible; and

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

A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

Uses a plain-language heading to call attention to the notice; uses a typeface and type size that are easy to read;

Provides wide margins and ample line spacing; uses boldface or italics for key words; and

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

If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it, if the licensee:

Uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice;

Ensures that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice; and

Either:

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

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

Code means the Illinois Insurance Code [215 ILCS 5].

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

Company means a person, corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

Consumer means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative. An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee or solely because he or she has designated the licensee as trustee for a trust. Consumer includes, but is not limited to, the following:

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

An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer;

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

If the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections 4002.130, 4002.140 and 4002.150 of this Part; and

An individual who is a beneficiary of a life insurance policy underwritten by the licensee;

An individual who is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; and

An individual who is a mortgagor of a mortgage covered under a mortgage insurance policy.

Consumer Reporting Agency means the same as in Section 603(f) of the federal Fair Credit Reporting Act (15 USC 1681a(f)).

Control means:

Ownership, control or power to vote 25% or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

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

Control by contract or agreement of any person that is designated as an attorney-in-fact for a Lloyd's Plan insurer as set forth in Article V of the Code

[215 ILCS 5/Art. V] or for a reciprocal or interinsurance exchange as set forth in Article V1/2 [215 ILCS 5/Art. V1/2]; or

The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the Director determines.

Customer means a consumer who has a customer relationship with a licensee.

Customer Relationship means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes, which includes, but is not limited to, the following:

The consumer is a current policyholder of an insurance product issued by or through the licensee; or

The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

A consumer does not have a continuing relationship with a licensee if:

The consumer applies for insurance but does not purchase the insurance;

The licensee sells the consumer airline travel insurance in an isolated transaction;

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

The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee and is not a current policyholder;

The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option and is not a current policyholder;

The customer'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 12 consecutive months, other than

annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

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

For the purposes of this Part, 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.

Director means the Director of the Illinois Department of Insurance.

Financial Institution means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 USC 1843(k)), but does not include:

Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 USC 1);

The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 USC 2001); or

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

Financial Product or Service means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 USC 1843(k)), which includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

Insurance Product or Service means any product or service that is offered by a licensee pursuant to the insurance laws of this State, including 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.

Licensee means all insurers, insurance producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code or any other Act of Chapter 215 of the Illinois Compiled Statutes. Licensee shall also include unauthorized insurers who accept business placed through a licensed surplus line producer in this State, but only in regard to the surplus line placements placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445].

Nonaffiliated Third Party means any company or person, except a licensee's affiliate or a person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person), which includes, but is not limited to, 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 USC 1843(k)(4)(H) and (I)).

Nonpublic Personal Financial Information means personally identifiable financial information and any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available; but does not include: health information; publicly available information, except as 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; or 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. 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 is not nonpublic personal financial information.

Opt Out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 4002.130, 4002.140 and 4002.150 of this Part.

Person means any natural person, corporation, association, partnership or other legal entity.

Personally Identifiable Financial Information means, including but not limited to: any information that a consumer provides to a licensee to obtain an insurance product or service from the licensee; account balance information and payment history; that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee; 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; 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; any information the licensee collects through an Internet cookie (an information-collecting device from a web server); information from a consumer report; information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer, except health information; names and addresses of customers of an entity that is not a financial institution; and 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.

Publicly Available Information means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

Federal, state or local government records, including information in government real estate records and security interest filings;

Widely distributed media, including 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; or

Disclosures to the general public that are required to be made by federal, state or local law.

Reasonable Basis means that a licensee believes that information is lawfully made available to the general public and that the licensee has taken steps to determine:

That the information is of the type that is available to the general public, such as a telephone number found in a telephone book or if the consumer states that the number is listed, or is the type of information that is included on a public record; and

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.

FINAL ADOPTION

## Section 4002.35 Treatment of Individual's Information Under Group Policies

- a) Provided that the licensee provides the initial, annual and revised notices under Sections 4002.40, 4002.50 and 4002.80 of this Part to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Sections 4002.130, 4002.140 and 4002.150 of this Part, an individual is not the consumer of the licensee solely because he or she is:
- 1) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary; or
  - 2) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee.
- b) The individuals described in subsection (a) of this Section are consumers of a licensee if the licensee does not meet all the conditions of subsection (a) of this Section.
- c) In no event shall the individuals, solely by virtue of the status described in subsection (a) of this Section, be deemed to be customers for purposes of this Part.

## Section 4002.40 Initial Privacy Notice to Consumers

- a) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:
- 1) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (e) of this Section; and
  - 2) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 4002.140 and 4002.150 of this Part.
- b) When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under subsection (a)(2) of this Section if:
- 1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 4002.140 and 4002.150 of this Part, and the licensee does not have a customer relationship with the consumer as set forth in subsection (c) of this Section; or
  - 2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.
- c) A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship, such as when the consumer:
- 1) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, is covered under Health Maintenance Organization or broker, or in the case of a licensee that is an insurance producer, obtains insurance through that licensee; or
  - 2) Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.
- d) Existing customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or

household purposes, the licensee satisfies the initial notice requirements of subsection (a) of this Section as follows:

- 1) The licensee may provide a revised policy notice, under Section 4002.80 of this Part, that covers the customer's new insurance product or service; or
  - 2) 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 subsection (a) of this Section.
- e) Exceptions to allow subsequent delivery of notice. A licensee may provide the initial notice required by subsection (a)(1) of this Section within a reasonable time after the licensee establishes a customer relationship if:
- 1) Establishing the customer relationship is not at the customer's election (i.e., 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); or
  - 2) Providing notice not later than when the licensee establishes a customer relationship would substantially delay, as set forth in subsection (f) of this Section, the customer's transaction and the customer agrees to receive the notice at a later time.
- f) Substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service. However, 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.
- g) Delivery. When a licensee is required to deliver an initial privacy notice by this Section, the licensee shall deliver it according to Section 4002.90 of this Part. If the licensee uses a short-form initial notice for non-customers according to

Section 4002.60(h) of this Part, the licensee may deliver its privacy notice according to Section 4002.60(h)(3) of this Part.

FINAL ADOPTION

## Section 4002.50 Annual Privacy Notice to Customers

- a) A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis. If a licensee defines the 12-consecutive-month period as a calendar year and a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.
- b) Termination of customer relationship. A licensee is not required to provide an annual notice to a former customer. For the purposes of this Part a former customer is an individual with whom a licensee no longer has a continuing relationship, which includes, but is not limited to, when:
- 1) The individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
  - 2) 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 12 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials;
  - 3) 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; or
  - 4) 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.
- c) Delivery. When a licensee is required by this Section to deliver an annual privacy notice, the licensee shall deliver it according to Section 4002.90 of this Part.

- d) Affiliated Licensee. Such annual notice may be provided by an affiliated licensee, as long as the notice clearly identifies all licensees to which the notice applies or states that it applies to all affiliates of the named licensee, and is accurate with respect to the licensee and other institutions and would otherwise meet the requirements of this Part.

FINAL ADOPTION

## Section 4002.60 Information to be Included in Privacy Notices

- a) The initial, annual and revised privacy notices that a licensee provides under Sections 4002.40, 4002.50 and 4002.80 of this Part shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:
- 1) The categories of nonpublic personal financial information that the licensee collects, which may include, but are not limited to, the following:
    - A) Information from the consumer;
    - B) Information about the consumer's transactions with the licensee or its affiliates;
    - C) Information about the consumer's transactions from nonaffiliated third parties; and
    - D) Information from a consumer reporting agency.
  - 2) The categories of nonpublic personal financial information that the licensee discloses, which may include, but are not limited to, the following:
    - A) Information from the consumer, including application information, such as assets and income and identifying information, name, address and social security number;
    - B) Transaction information, such as information about balances, payment history and parties to the transaction; and
    - C) Information from consumer reports, such as a consumer's creditworthiness and credit history.
  - 3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 4002.140 and 4002.150 of this Part. A licensee may satisfy this subsection by categorizing by the types of businesses in which they engage, if the

licensee uses a few illustrative examples of significant lines of business such as the term financial products or services and if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

- 4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 4002.140 and 4002.150 of this Part;
  - 5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 4002.130 of this Part (and no other exception in Sections 4002.140 and 4002.150 of this Part 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;
  - 6) An explanation of the consumer's right under Section 4002.100(a) of this Part 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;
  - 7) Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 USC 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);
  - 8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and
  - 9) Any disclosure that the licensee makes under subsection (b) of this Section.
- b) Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Sections 4002.140 and 4002.150 of this Part, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 4002.40 and 4002.50 of this Part. When describing the categories of parties to whom disclosure is made, the

licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

- c) A licensee does not adequately categorize the information that it discloses pursuant to subsection (a)(2) of this Section if the licensee uses only general terms, such as transaction information about the consumer.
- d) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.
- e) Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 4002.130 of this Part to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (a)(5) of this Section if it:
  - 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 subsection (a)(2) of this Section, as applicable; and
  - 2) States whether the third party is:
    - A) A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or
    - B) A financial institution with whom the licensee has a joint marketing agreement.
- f) 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 Sections 4002.140 and 4002.150 of this Part, the licensee may simply state that fact, in addition to the information it shall provide under subsections (a)(1), (a)(8), (a)(9), and (b) of this Section.

- g) Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:
- 1) Describes in general terms who is authorized to have access to the information; and
  - 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 it uses.
- h) Short-form initial notice with opt out notice for non-customers.
- 1) A licensee may satisfy the initial notice requirements in Sections 4002.40(a)(2) and 4002.70(e) of this Part for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in Section 4002.70 of this Part.
  - 2) A short-form initial notice shall:
    - A) Be clear and conspicuous;
    - B) State that the licensee's privacy notice is available upon request; and
    - C) Explain a reasonable means by which the consumer may obtain that notice.
  - 3) The licensee shall deliver its short-form initial notice according to Section 4002.90 of this Part. 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, which may include, but is not limited to, a toll-free telephone number that the consumer may call to request the notice or for a consumer who conducts business in person at the licensee's office, maintain copies of the notice on hand that the licensee provides to the consumer immediately upon request. If a consumer who receives the licensee's short-form notice

requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to Section 4002.90 of this Part.

- i) Future disclosures. The licensee's notice may include:
  - 1) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and
  - 2) 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.
- j) Sample clauses. Sample clauses illustrating some of the notice content required by this Section are included in Illustration A of this Part.
- k) Affiliated licensee. Such annual notice may be provided by an affiliated licensee, as long as the notice clearly identifies all licensees to which the notice applies or states that it applies to all affiliates of the named licensee, and is accurate with respect to the licensee and other institutions and would otherwise meet the requirements of this Part.

## Section 4002.70 Form of Opt Out Notice to Consumers and Opt Out Methods

- a) Form of opt out notice. If a licensee is required to provide an opt out notice under Section 4002.100(a) of this Part, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 4002.100 of this Part. The notice shall state:
- 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 and identifies:
    - A) All of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 4002.60(a)(2) and (3) of this Part, and states that the consumer can opt out of the disclosure of that information; and
    - B) The insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply; and
  - 3) A reasonable means by which the consumer may exercise the opt out right by providing one 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; or
    - D) Provides a toll-free telephone number that consumers may call to opt out.

- b) A licensee does not provide a reasonable means of opting out pursuant to subsection (a) of this Section if:
- 1) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or
  - 2) 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.
- c) A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for the consumer.
- d) Same form as initial notice permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 4002.40 of this Part.
- e) Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with Section 4002.40 of this Part, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.
- f) Joint relationships.
- 1) If 2 or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer as explained in subsection (f)(5) of this Section.
  - 2) Any of the joint consumers may exercise the right to opt out. The licensee may either:
    - A) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or
    - B) Permit each joint consumer to opt out separately.

- 3) 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.
- 4) A licensee may not require all joint consumers to opt out before it implements any opt out direction.
- 5) Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:
  - A) Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.
  - B) Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction.
  - C) Permit John and Mary to make different opt out directions. If the licensee does so:
    - i) It shall permit John and Mary to opt out for each other;
    - ii) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and
    - iii) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.
- g) 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.
- h) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

- i) Duration of consumer's opt out direction.
  - 1) 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.
  - 2) 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.
- j) Delivery. When a licensee is required to deliver an opt out notice by this Section, the licensee shall deliver it according to Section 4002.90 of this Part.

FINAL ADOPTION

## Section 4002.80 Revised Privacy Notices

- a) General rule. Except as otherwise authorized in this Part, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 4002.40 of this Part, unless:
- 1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;
  - 2) The licensee has provided to the consumer a new opt out notice;
  - 3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
  - 4) The consumer does not opt out.
- b) Pursuant to subsection (a) of this Section, except as otherwise permitted by Sections 4002.130, 4002.140 and 4002.150 of this Part, a licensee is required to provide a revised notice before any amendments or changes are made to its privacy policies or practices concerning disclosure as set forth in the initial notice, or the most recently issued notice, such as:
- 1) Disclosing a new category of nonpublic personal financial information to any nonaffiliated third party;
  - 2) Disclosing nonpublic personal financial information to a new category of nonaffiliated third party; or
  - 3) Disclosing nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.
- c) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

- d) Delivery. When a licensee is required to deliver a revised privacy notice by this Section, the licensee shall deliver it according to Section 4002.90 of this Part.

FINAL ADOPTION

## Section 4002.90 Delivery of Notices

- a) How to provide notices. A licensee shall provide any notices that this Part requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.
- 1) A licensee may reasonably expect that a consumer will receive actual notice if the licensee provides notice by one of, but not limited to, the following methods;
    - A) Hand-delivers a printed copy of the notice to the consumer;
    - B) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;
    - C) 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;
    - D) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service; or
    - E) By electronic mail or posting, if the consumer agrees to receive notice by electronic means and the consumer acknowledges receipt of the notice.
  - 2) A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it, among other methods, provides notice by:
    - A) Only posting a sign in its office or generally publishes advertisements of its privacy policies and practices; or
    - B) Sending the notice via electronic mail to a consumer who does not agree to accept such notices via electronic mail.

- b) Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:
- 1) 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; or
  - 2) 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.
- c) Oral description of notice insufficient. A licensee may not provide any notice required by this Part solely by orally explaining the notice, either in person or over the telephone.
- d) Retention or accessibility of notices for customers.
- 1) For customers only, a licensee shall provide the initial notice required by Section 4002.40(a) of this Part, the annual notice required by Section 4002.50(a) of this Part, and the revised notice required by Section 4002.80 of this Part, so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.
  - 2) A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:
    - A) Hand-delivers a printed copy of the notice to the customer;
    - B) Mails a printed copy of the notice to the last known address of the customer; or
    - C) Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.
- e) 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.

- f) Joint relationships. If 2 or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of Sections 4002.40(a), 4002.50(a) and 4002.80(a) of this Part, respectively, by providing one notice to those consumers jointly.
- g) Illinois Supreme Court Rule 236 would be applicable in cases of dispute concerning the delivery of notices required pursuant to this Part.

FINAL ADOPTION

Section 4002.100 Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties

- a) Conditions for disclosure. Except as otherwise authorized in this Part, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:
- 1) The licensee has provided to the consumer an initial notice as required under Section 4002.40 of this Part;
  - 2) The licensee has provided to the consumer an opt out notice as set forth in Section 4002.70 of this Part;
  - 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; and
  - 4) The consumer does not opt out.
- b) A licensee provides a consumer with a reasonable opportunity to opt out by one of, but not limited to, the following:
- 1) Mail. The licensee mails the notices required in subsection (a) of this Section 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 30 days from the date the licensee mailed the notices.
  - 2) Electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in subsection (a) of this Section 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.
  - 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 subsection (a) of this Section 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.

- c) Application of opt out to all consumers and all nonpublic personal financial information.
- 1) A licensee shall comply with this Section, regardless of whether the licensee and the consumer have established a customer relationship.
  - 2) 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.
- d) 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.

FINAL ADOPTED

Section 4002.110 Limits on Redisclosure and Reuse of Nonpublic Personal Financial Information

- 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 Section 4002.140 or 4002.150 of this Part, the licensee's disclosure and use of that information is limited as follows:
- 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 Section 4002.140 or 4002.150 of this Part in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information; and
  - 4) 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; however, the licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.
- b) 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 Section 4002.140 or 4002.150 of this Part, the licensee may disclose the information only:
- 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; and

- 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.
- c) Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Section 4002.140 or 4002.150 of this Part, the third party may disclose and use that information only as follows:
- 1) The third party may disclose the information to the licensee's affiliates;
  - 2) 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; and
  - 3) The third party may disclose and use the information pursuant to an exception in Section 4002.140 or 4002.150 of this Part in the ordinary course of business to carry out the activity covered by the exception under which it received the information.
- d) 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 Section 4002.140 or 4002.150 of this Part, the third party may disclose the information only:
- 1) To the licensee's affiliates;
  - 2) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
  - 3) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 4002.120 Limits on Sharing Account Number Information for Marketing Purposes

- a) General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer except as provided in subsection (b) of this Section. For the purposes of this Section, a policy or transaction account is an account other than a deposit account or a credit card account and does not include an account to which third parties cannot initiate charges.
- b) Subsection (a) of this Section does not apply if a licensee discloses a policy number or similar form of access number or access code:
  - 1) 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;
  - 2) To a licensee who is an insurance producer solely in order to perform marketing for the licensee's own products or services; or
  - 3) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.
- c) For the purposes of this Section a policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

Section 4002.130 Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing

- a) The opt out requirements in Sections 4002.70 and 4002.100 of this Part do not apply when a licensee provides nonpublic personal financial information about a consumer to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:
- 1) Provides the initial notice in accordance with Section 4002.40 of this Part; and
  - 2) 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 Section 4002.140 or 4002.150 of this Part in the ordinary course of business to carry out those purposes.
- b) Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under subsection (a) of this Section 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.
- c) Definition of "joint agreement". For purposes of this Section, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

Section 4002.140 Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions

- a) Exceptions for processing transactions at consumer's request. The requirements for initial notice in Section 4002.40(a)(2) of this Part, the opt out in Sections 4002.70 and 4002.100 of this Part, and service providers and joint marketing in Section 4002.130 of this Part 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:
- 1) Servicing or processing an insurance product or service that a consumer requests or authorizes;
  - 2) 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;
  - 3) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or
  - 4) Reinsurance or stop loss or excess loss insurance.
- b) For the purposes of this Section the phrase "necessary to effect, administer or enforce a transaction" means that the disclosure is:
- 1) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or
  - 2) Required, or is a usual, appropriate or acceptable method:
    - A) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;
    - B) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

- C) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;
- D) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;
- E) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance:
  - i) Account administration;
  - ii) Reporting;
  - iii) Investigating or preventing fraud or material misrepresentation;
  - iv) Processing premium payments;
  - v) Processing insurance claims;
  - vi) Administering insurance benefits (including utilization review activities);
  - vii) Participating in research projects; or
  - viii) As otherwise required or specifically permitted by federal or State law; or
- F) In connection with:
  - i) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;
  - ii) The transfer of receivables, accounts or interests therein; or

- iii) The audit of debit, credit or other payment information.

FINAL ADOPTION

Section 4002.150 Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information

- a) Exceptions to opt out requirements. The requirements for initial notice to consumers in Section 4002.40(a)(2) of this Part, the opt out in Sections 4002.70 and 4002.100 of this Part, and service providers and joint marketing in Section 4002.130 of this Part do not apply when a licensee discloses nonpublic personal financial information:
- 1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction pursuant to Section 4002.70(i) of this Part;
  - 2) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;
  - 3) To protect against or prevent actual or potential fraud or unauthorized transactions;
  - 4) For required institutional risk control or for resolving consumer disputes or inquiries;
  - 5) To persons holding a legal or beneficial interest relating to the consumer;
  - 6) To persons acting in a fiduciary or representative capacity on behalf of the consumer;
  - 7) 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;
  - 8) 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 USC 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 Records and Reports on Monetary Instruments and Transactions (31 USC Chapter 53, Subchapter

- II) and Financial Recordkeeping (12 USC Chapter 21), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;
- 9) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 USC 1681 et seq.); or from a consumer report reported by a consumer reporting agency;
  - 10) 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;
  - 11) To comply with federal, State or local laws, rules and other applicable legal requirements;
  - 12) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, State or local authorities;
  - 13) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or
  - 14) For purposes related to the replacement of a group benefit plan, a group health plan, or a group welfare plan.
- b) The notice requirements of this Part may be waived by the Director when a company is in liquidation or receivership pursuant to Article XIII of the Code [215 ILCS 5/Art. XIII].

Section 4002.200 Nondiscrimination

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 Part.

FINAL ADOPTION

Section 4002.210 Enforcement

This Part, Article XL of the Code [215 ILCS 5/1001], and Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) shall be enforced by the Director with respect to all licensees.

FINAL ADOPTION

Section 4002.220 Penalty

Failure of a company or person to comply with this Part shall subject the company to the applicable provisions of Section 403A of the Code [215 ILCS 5/403A].

FINAL ADOPTION

Section 4002.230 Severability

If any Section or portion of a Section of this Part or its applicability to any person or circumstance is held invalid by a court, the remainder of this Part or the applicability of the provision to other persons or circumstances shall not be affected.

FINAL ADOPTION

Section 4002.235 Protection of Fair Credit Reporting Act

Nothing in this Part shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 USC 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this Part regarding whether information is transaction or experience information under Section 603 of that Act.

FINAL ADOPTION

## Section 4002.240 Effective Date

This Part will be effective July 1, 2001 in order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827), which became effective November 13, 1999. By July 1, 2001, a licensee shall provide an initial notice, as required by Section 4002.40 of this Part, to consumers who are the licensee's customers on July 1, 2001. However, Sections 4002.40 and 4002.50 will become effective upon the first renewal for a customer who was a customer prior to July 1, 2001. However, the provisions of Section 4002.130 are satisfied until July 1, 2002 as applied to 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, 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 contract on or before July 1, 2000.

FINAL ADOPTED

## Section 4002.Illustration 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 Section 4002.60(a)(1) of this Part 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 Section 4002.60(a)(2) of this Part 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 in Sections 4002.130, 4002.140 and 4002.150 of this Part.

## 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 Sections 4002.60(a)(2), (a)(3), and (a)(4) 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 in Sections 4002.140 and 4002.150 of this Part.

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.

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

A licensee may use this clause, as applicable, to meet the requirement of Section 4002.60(a)(3) of this Part 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 Sections 4002.130, 4002.140 and 4002.150 of this Part, as well as when permitted by the exceptions in Sections 4002.140 and 4002.150 of this Part.

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 Section 4002.60(a)(5) of this Part related to the exception for service providers and joint marketers in Section 4002.130 of this Part. 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 Section 4002.60(a)(6) of this Part 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 methods 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 Sections 4002.130, 4002.140 and 4002.150 of this Part.

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 Section 4002.60(a)(8) of this Part 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.