IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

Consumer Services

18.01.01 – Rule to Implement the Privacy of Consumer Financial Information

Who does this rule apply to?
This rule applies to licensees and individuals or beneficiaries of insurance products or services.

What is the purpose of this rule?
The purpose of this rule describes conditions when a licensee may disclose nonpublic personal financial information to affiliates and non affiliated third parties. Also, this rule provides methods for individuals to prevent a licensee from disclosing that information.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statute passed by the Idaho Legislature:

Insurance -
Trade Practices and Frauds:
- Section 41-1334, Idaho Code – Disclosure of Nonpublic Personal Information

Who do I contact for more information on this rule?

Department of Insurance
700 W. State Street, 3rd Floor
Boise, ID 83720-0043

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IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.01 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

000. LEGAL AUTHORITY.
Title 41, Chapter 13, Section 41-1334, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.01.01, "Rule to Implement the Privacy of Consumer Financial Information." (5-3-03)

02. Scope. This rule describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties and provides methods for individuals to prevent a licensee from disclosing that information. (5-3-03)

03. Applicability. This rule applies to nonpublic personal financial information about individuals who obtain or are beneficiaries of products or services primarily for personal, family, or household purposes from licensees. This rule does not apply to information about companies or individuals who obtain products or services for business, commercial, or agricultural purposes. (5-3-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
All terms defined in Title 41, Chapters 1 and 13, Idaho Code, that are used in this rule have the same meaning as used in those chapters. In addition, the following terms are defined as used in this chapter. (3-20-20)

01. Clear and Conspicuous. (5-3-03)

a. A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice if it: (3-20-20)

i. Presents the information in clear, concise sentences, paragraphs, and sections; (5-3-03)

ii. Uses short explanatory sentences or bullet lists whenever possible; (5-3-03)

iii. Uses definite, concrete, everyday words and active voice whenever possible; (5-3-03)

iv. Avoids multiple negatives; (5-3-03)

v. Avoids legal and highly technical business terminology whenever possible; (5-3-03)

vi. Avoids explanations that are imprecise and readily subject to different interpretations. (5-3-03)

vii. Uses an easy-to-read typeface and type size, and uses boldface or italics for key words; and (3-20-20)

viii. When in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices. (3-20-20)

b. If a licensee provides a notice on a web page, the notice needs to call attention to the nature and significance of the information in the notice and place the notice on a screen that consumers frequently access, or place a link on a screen that consumers frequently access that connects directly to the notice. (3-20-20)

02. Collect. To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifiers assigned to the individual. (3-20-20)

03. Company. A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization. (5-3-03)

04. Consumer. An individual who seeks to obtain, obtains, or has obtained an insurance product or

service from a licensee used primarily for personal, family, or household purposes. Examples: (3-20-20)

a. An individual who provides nonpublic personal information to a licensee in connection with an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship. (3-20-20)

b. 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 the financial institution. (3-20-20)

c. If the licensee provides the initial, annual, and revised notices under Sections 100, 150, and 300 of this rule to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under Sections 450, 451, and 452 of this rule, an individual is not the consumer of the licensee solely because he is: (5-3-03)

i. A participant or a beneficiary of an employee benefit plan the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary; or (5-3-03)

ii. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee. (5-3-03)

iii. A beneficiary in a workers' compensation plan. (5-3-03)

d. An individual is not a licensee's consumer solely because he is: (3-20-20)

i. A beneficiary of a trust for which the licensee is a trustee; or (3-20-20)

ii. Designated the licensee as trustee for a trust. (3-20-20)

05. Consumer Reporting Agency. Is the same meaning as found in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)). (5-3-03)

06. Control: (5-3-03)

a. Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one (1) or more other persons; (5-3-03)

b. Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or (5-3-03)

c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the director determines. (5-3-03)

07. Customer. A consumer who has a customer relationship with a licensee. (5-3-03)

08. Customer Relationship. A continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer to be used primarily for personal, family, or household purposes. (3-20-20)

a. A consumer does not have a continuing relationship with a licensee if: (5-3-03)

i. The licensee sells the consumer travel insurance in an isolated transaction; (5-3-03)

ii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee; (5-3-03)

iii. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing either a lump sum settlement option or a settlement option involving an ongoing relationship with the licensee; (3-20-20)

iv. 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 (5-3-03)

09. Financial Institution. Any institution engaging in activities that are financial in nature. Financial institution does not include: (3-20-20)

a. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.); (5-3-03)

b. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or (5-3-03)

c. 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. (5-3-03)

10. Financial Product or Service. A product or service that a financial holding company could offer including 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. (3-20-20)

11. Licensee. (3-20-20)

a. A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in this rule if the licensee is an employee, agent, or other representative of another licensee ("the principal") and: (5-3-03)

i. The principal complies with, and provides the notices prescribed by this rule; and (3-20-20)

ii. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule. (5-3-03)

b. **A** licensee also includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Title 41, Chapter 12, Idaho Code. (3-20-20)

12. Nonpublic Personal Information. (3-20-20)

a. Means personally identifiable financial information; including any list, description or other grouping of consumers (see archived 18.01.48) derived using any personally identifiable financial information not publicly available. (3-20-20)

b. Nonpublic personal financial information does not include: (5-3-03)

i. Health information; (5-3-03)

ii. Publicly available information, except as included on a list described in Subparagraph 010.11.a., of this rule; or (5-3-03)

iii. Any list, description or other grouping of consumers derived without using any personally identifiable financial information that is not publicly available. (3-20-20)

13. Opt Out. A direction by the consumer that the licensee not disclose nonpublic personal financial

information about the consumer to a nonaffiliated third party. (3-20-20)

14. Personally Identifiable Financial Information. (5-3-03)

a. Any information: (5-3-03)

i. A consumer provides to a licensee to obtain an insurance product or service from the licensee; (5-3-03)

ii. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer. (5-3-03)

b. Examples of personally identifiable financial information: (5-3-03)

i. Account balance information and payment history; (5-3-03)

ii. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or service from the licensee; (5-3-03)

iii. Information about the licensee's consumer if it is disclosed in a manner that indicates the individual is or has been the licensee's consumer; (5-3-03)

iv. Information provided by a consumer to a licensee or that the licensee or its agent obtains in connection with collecting on a loan or servicing a loan; (3-20-20)

v. Information the licensee collects through an Internet cookie (an information-collecting device from a web server); and (5-3-03)

vi. Information from a consumer report. (5-3-03)

c. Personally identifiable financial information does not include: (5-3-03)

i. Health information; (5-3-03)

ii. A list of names and addresses of customers of an entity of a non-financial institution; and (3-20-20)

iii. 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. (5-3-03)

15. Publicly Available Information. (5-3-03)

a. Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public. (3-20-20)

011. -- 099. (RESERVED)

100. INITIAL PRIVACY NOTICE TO CONSUMERS.

01. Initial Notice Requirement. A licensee will provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to: (5-3-03)

a. A customer no later than when the licensee establishes a customer relationship, except as provided in Subsection 100.03 of this rule; and (3-20-20)

b. 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 451 and 452. (5-3-03)

02. Existing Customers. When an existing customer obtains a new insurance product or service from a licensee, which is used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Subsection 100.01 of this rule if the 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 100.01 of this rule. (3-20-20)

03. Exceptions Allowing Subsequent Delivery of Notice. A licensee may provide the initial notice prescribed in Paragraph 100.01.a. of this rule in a reasonable time after the licensee establishes a customer relationship if: (3-20-20)

a. Establishing the customer relationship is not at the customer's election; or (5-3-03)

b. It would avoid substantially delaying the customer's transaction and the customer agrees to receive the notice at a later time. (3-20-20)

101. -- 149. (RESERVED)

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS.

01. General Rule. A licensee will 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. (3-20-20)

02. Exceptions: Termination of Customer Relationship and Duplicate Notices. (3-29-17)

a. A licensee is not obligated to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a customer relationship. (3-20-20)

i. 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. (5-3-03)

c. Notwithstanding Subsection 150.01, a licensee is not obligated to provide the annual privacy notice to a current customer if the licensee: (3-20-20)

i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and (3-29-17)

ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150. (3-29-17)

151. -- 199. (RESERVED)

200. INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.
The initial, annual and revised privacy notices a licensee provides, under Sections 100, 150, and 300, needs to include each of the following items of information, in addition to any other information the licensee wishes to provide: (3-20-20)

01. Information Licensee Collects or Discloses. The categories of nonpublic personal financial information the licensee collects or discloses. (3-20-20)

02. Parties to Whom Licensee Discloses. The categories of third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 451 and 452. (3-20-20)

03. Disclosures of Information About Former Customers. The categories of nonpublic personal financial information about the licensee's former customers the licensee discloses, and the categories of 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 451 and 452. (3-20-20)

04. Disclosures Under Section 450. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 450 (and no other exception in Sections 451 and 452 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 is to provided. (5-3-03)

05. Explanation of Right to Opt Out. An explanation of the consumer's right under Subsection 400.01 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise their right at that time. (3-20-20)

06. Disclosures Under Federal Law. Any disclosures the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (notices regarding the ability to opt out of disclosures of information among affiliates); and the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information. (3-20-20)

201. DESCRIPTION OF PARTIES SUBJECT TO EXCEPTIONS.

If a licensee discloses nonpublic personal financial information as authorized under Sections 451 and 452, the licensee is not obligated to list those exceptions in the initial or annual privacy notices prescribed by Sections 100 and 150. When describing the categories of parties to whom disclosure is made, the licensee will state only that it makes disclosures to other third parties. (3-20-20)

202. SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.

01. Categories of Nonpublic Personal Financial Information That the Licensee Collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable: (5-3-03)

a. Information from the consumer; (5-3-03)

b. Information about the consumer's transactions with the licensee, its affiliates, or third parties; (3-20-20)

c. Information from a consumer reporting agency. (5-3-03)

02. Categories of Nonpublic Personal Financial Information a Licensee Discloses. (5-3-03)

a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes it according to the source, as described in Subsection 202.01 of this rule, and provides a few examples to illustrate the types of information in each category. (3-20-20)

b. 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 the licensee discloses. (5-3-03)

03. Categories of Affiliates and Nonaffiliated Third Parties to Whom the Licensee Discloses. A licensee satisfies the requirement to categorize the 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. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. (3-20-20)

04. Disclosures Under Exception for Service Providers and Joint Marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 450 to a nonaffiliated third party to market

products or services it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection 200.04 of this rule if it: (5-3-03)

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection 200.01 of this rule; and (3-20-20)

b. States whether the third party is: (5-3-03)

i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or (5-3-03)

ii. A financial institution with whom the licensee has a joint marketing agreement. (5-3-03)

05. 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 third parties except as authorized under Sections 451 and 452, the licensee may simply state that fact, in addition to the information it provides under Subsections 200.01, 200.07, and Section 201 of this rule. (3-20-20)

06. 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: (5-3-03)

a. Describes in general terms who is authorized to have access to the information; and (5-3-03)

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. (3-20-20)

203. SHORT-FORM INITIAL NOTICE WITH OPT OUT NOTICE FOR NON-CUSTOMERS.

01. Short-Form Initial Notice Allowed. A licensee may satisfy the initial notice requirements for a consumer who is not a customer, by providing a short-form initial notice at the same time the licensee delivers an opt out notice as prescribed in Section 250. (3-20-20)

02. Short-Form Initial Notice Requirements. A short-form initial notice will: (5-3-03)

a. Be clear and conspicuous; (5-3-03)

b. State that the licensee's privacy notice is available upon request; and (5-3-03)

c. Explain a reasonable means by which the consumer may obtain the notice. (5-3-03)

03. Delivery of Short-Form Initial Notice. The licensee is not obligated to deliver its privacy notice with its short-form initial notice but may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee will deliver its privacy notice according to Section 350. (3-20-20)

04. Examples of Obtaining Privacy Notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee: (3-20-20)

a. Provides a toll-free telephone number the consumer may call to request the notice; (3-20-20)

b. Maintains copies of the notice on hand at the licensee’s office and provides it to the consumer immediately upon request; or (3-20-20)

c. Posts it on their website. (3-20-20)

204. -- 249. (RESERVED)

250. FORM OF OPT OUT NOTICE TO CONSUMERS.

01. Opt Out Notice Form. If a licensee is prescribed to provide an opt out notice under Subsection 400.01, it will provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 400. The notice will state: (3-20-20)

a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party; (5-3-03)

b. The consumer has the right to opt out of that disclosure; and (5-3-03)

c. A reasonable means by which the consumer may exercise the opt out right. (5-3-03)

02. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee: (5-3-03)

a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, and states that the consumer can opt out of the disclosure of that information; and (5-3-03)

b. Identifies the insurance products or services that the consumer obtains from the licensee to which the opt out direction would apply. (3-20-20)

03. Reasonable Means to Exercise an Opt Out Right. A licensee provides a reasonable means to exercise an opt out right if it: (5-3-03)

a. Designates check-off boxes in a prominent position on the relevant forms with the opt out notice; (5-3-03)

b. Includes a reply form together with the opt out notice; (5-3-03)

c. Provides an electronic means to opt out, if the consumer agrees to the electronic delivery of information; or (3-20-20)

d. Provides a toll-free telephone number that consumers may call to opt out. (5-3-03)

251. PROVIDING OPT OUT NOTICE TO CONSUMERS AND COMPLYING WITH OPT OUT DIRECTION.

01. Joint Relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice providing any of the joint consumers to exercise the right to opt out. The licensee may either: (3-20-20)

a. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or (5-3-03)

b. Permit each joint consumer to opt out separately. (5-3-03)

c. A licensee cannot require all joint consumers to opt out before it implements any opt out direction. (3-20-20)

02. Time to Comply with Opt Out. A licensee will comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it. (5-3-03)

03. Continuing Right to Opt Out. A consumer may exercise the right to opt out at any time. (5-3-03)

04. Duration of Consumer's Opt Out Direction. (5-3-03)

a. A consumer's direction to opt out under Sections 250 and 251 is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. (5-3-03)

b. 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. (3-20-20)

05. Delivery. When a licensee is prescribed to deliver an opt out notice by Section 250, the licensee will deliver it according to Section 350. (3-20-20)

252. -- 299. (RESERVED)

300. REVISED PRIVACY NOTICES.

01. General Rule. A licensee will not disclose any nonpublic personal financial information other than as described in the initial notice that the licensee provided to that consumer under Section 100, unless: (3-20-20)

a. The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices; (5-3-03)

b. The licensee has provided to the consumer a new opt out notice; (5-3-03)

c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and (5-3-03)

d. The consumer does not opt out. (5-3-03)

301. -- 349. (RESERVED)

350. DELIVERY.

01. How to Provide Notices. A licensee will make available any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically. (3-20-20)

02. Reasonable Expectation of Notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee: (3-20-20)

a. Hand-delivers a printed copy of the notice to the consumer; (5-3-03)

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; or (3-20-20)

c. For a consumer who conducts transactions electronically, or an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, 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. (3-20-20)

03. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if: (5-3-03)

a. The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or (5-3-03)

b. The customer has requested that the licensee refrain from sending any information regarding the

customer relationship, and the licensee's current privacy notice remains available to the customer upon request. (5-3-03)

04. Oral Description of Notice Insufficient. A licensee cannot provide any notice prescribed by this rule solely by orally explaining the notice. (3-20-20)

05. Retention or Accessibility of Notices for Customers. (5-3-03)

a. For customers only, a licensee will provide all notices so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. (3-20-20)

b. Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee: (5-3-03)

i. Hand-delivers a printed copy of the notice to the customer; (5-3-03)

ii. Mails a printed copy of the notice to the last known address of the customer; or (5-3-03)

iii. 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. (5-3-03)

06. Joint Notice with Other Financial Institutions. A licensee may provide a joint notice from the licensee and one (1) 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. (5-3-03)

351. -- 399. (RESERVED)

400. LIMITS ON DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION TO NONAFFILIATED THIRD PARTIES.

01. Conditions for Disclosure. (5-3-03)

a. Except as authorized in this rule, a licensee will not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless: (3-20-20)

i. The licensee has provided to the consumer an initial notice as prescribed under Section 100; (3-20-20)

ii. The licensee has provided to the consumer an opt out notice as prescribed in Sections 250 and 251; (3-20-20)

iii. The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before it discloses the information to the nonaffiliated third party; and (3-20-20)

iv. The consumer does not opt out. (5-3-03)

b. If a consumer opts out, the licensee cannot disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452. (3-20-20)

c. Examples of a reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if the licensee mails the notices prescribed in Subsection 400.01 of this rule 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 in thirty (30) days from the date of mailing. (3-20-20)

02. Application of Opt Out to All Consumers and All Nonpublic Personal Financial Information. (5-3-03)

a. A licensee will comply with Section 400, regardless of whether the licensee and the consumer have established a customer relationship. (5-3-03)

b. Unless a licensee complies with Section 400, the licensee will not disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer. (3-20-20)

03. 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. (5-3-03)

401. LIMITS ON REDISCLOSURE AND REUSE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Information the Licensee Receives Under an Exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution, the licensee may disclose the information only: (3-20-20)

a. To the affiliates of the financial institution from which the licensee received the information; and (3-20-20)

b. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information. (5-3-03)

02. Information a Licensee Discloses Under an Exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party, the third party may disclose that information only: (3-20-20)

a. To the licensee's affiliates; (5-3-03)

b. To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and (5-3-03)

c. To any other person, if the disclosure would be lawful if the licensee made it directly to that person. (5-3-03)

402. LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES. A licensee will 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. (3-20-20)

403. -- 449. (RESERVED)

450. EXCEPTION TO OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR SERVICE PROVIDERS AND JOINT MARKETING.

01. General Rule. (5-3-03)

a. The opt out requirements in Sections 250, 251 and 400 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee: (5-3-03)

i. Provides the initial notice in accordance with Section 100; and (5-3-03)

ii. 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 451 or 452 in the ordinary course of business to carry out

those purposes. (5-3-03)

451. EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR PROCESSING AND SERVICING TRANSACTIONS.

01. Exceptions. The requirements for initial notice in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 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: (3-20-20)

a. Servicing or processing an insurance product or service that a consumer requests or authorizes; (5-3-03)

b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; (5-3-03)

c. A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or (5-3-03)

d. Reinsurance or stop loss or excess loss insurance. (5-3-03)

452. OTHER EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Exceptions to Opt Out Requirements. The requirements for initial notice to consumers in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply when a licensee discloses nonpublic personal financial information: (5-3-03)

a. With the consent or at the direction of the consumer; (3-20-20)

b. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction; (5-3-03)

c. To protect against or prevent actual or potential fraud or unauthorized transactions; (5-3-03)

d. For prescribed institutional risk control or for resolving consumer disputes or inquiries; (3-20-20)

e. To persons holding a legal or beneficial interest relating to the consumer; or (5-3-03)

f. To persons acting in a fiduciary or representative capacity on behalf of the consumer; (5-3-03)

g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies rating a licensee, persons assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors; (3-20-20)

h. To the extent specifically permitted or prescribed under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, and the Federal Trade Commission), with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, self-regulatory organizations or for an investigation on a matter related to public safety; (3-20-20)

i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or from a consumer report reported by a consumer reporting agency; (5-3-03)

j. 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; (5-3-03)

k. To comply with federal, state or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law; (5-3-03)

l. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan; or (5-3-03)

m. With the consent of or at the direction of a liquidator or rehabilitator appointed pursuant to Chapter 33, Title 41, Idaho Code. (5-3-03)

453. -- 499. (RESERVED)

500. NONDISCRIMINATION.
A licensee will not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of this rule. (5-3-03)

501. -- 999. (RESERVED)

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