

191—90.4(505) Annual privacy notice to customers required.

90.4(1) 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.

A licensee provides a notice annually if it defines the 12-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

90.4(2) A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

a. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

b. A licensee no longer has a continuing relationship with an individual if the individual’s policy lapsed, expired or is 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 notices, material required by law or regulation, or promotional materials.

c. For purposes of this rule, a licensee no longer has a continuing relationship with an individual if the individual’s last-known address according to the licensee’s records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

d. A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

90.4(3) When a licensee is required by this rule to deliver an annual privacy notice, the licensee shall deliver it according to rule 191—90.8(505).

90.4(4) A licensee is not required to provide an annual privacy notice if both of the following are true: the licensee has not changed the privacy policies and practices that the licensee disclosed to the consumer in the privacy notice that the licensee most recently delivered to the consumer in accordance with rule 191—90.3(505) or this rule; and the licensee does not disclose any nonpublic personal information about the consumer to any nonaffiliated third party except as authorized by rules 191—90.12(505), 191—90.13(505) and 191—90.14(505). If a licensee at any time fails to comply with the criteria of this subrule, the licensee shall immediately provide to the consumer the annual privacy notice required under this chapter.

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