

**191—90.3(505) Initial privacy notice to consumers required.**

**90.3(1)** A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to the following persons and at the following times:

*a.* An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subrule 90.3(5); and

*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 rules 191—90.13(505) and 191—90.14(505).

**90.3(2)** A licensee is not required to provide an initial notice to a consumer under subrule 90.3(1) if:

*a.* The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party other than as authorized by rules 191—90.13(505) and 191—90.14(505) and the licensee does not have a customer relationship with the consumer; or

*b.* 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; or

*c.* The licensee has a customer relationship with the consumer and the consumer consents to the licensee's searching for insurance coverage to replace existing coverage or the licensee is selling the agency expiration lists or the agency contract is canceled and the licensee is required to move the existing coverage to a new carrier.

**90.3(3)** A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship. A licensee establishes a customer relationship when the consumer does either of the following:

*a.* Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer or, in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

*b.* Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

**90.3(4)** 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 subrule 90.3(1) as follows:

*a.* The licensee provides a revised policy notice under rule 191—90.7(505) that covers the customer's new insurance product or service; or

*b.* If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subrule 90.3(1).

**90.3(5)** A licensee may provide the initial notice required by paragraph 90.3(1) "a" within a reasonable time after the licensee establishes a customer relationship if:

*a.* Establishing the customer relationship is not at the customer's election; or

*b.* Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

Examples of notice within a reasonable time are as follows:

- The establishment of the customer relationship is not at the customer's election. Establishing the customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

- There is substantial delay in the 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.

- 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 website.

**90.3(6)** When a licensee is required by this rule to deliver an initial privacy notice, the licensee shall deliver it according to rule 191—90.8(505). If the licensee uses a short-form initial notice for noncustomers according to subrule 90.5(6), the licensee may deliver its privacy notice according to subrule 90.5(6).

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