

191—90.5(505) Information to be included in privacy notices.

90.5(1) The initial annual and revised privacy notices that a licensee provides under rules 191—90.3(505), 191—90.4(505) and 191—90.7(505) shall include each of the following items of information in addition to any other information the licensee wants to provide and that apply to the licensee and to the consumers to whom the licensee sends its privacy notice:

- a. The categories of nonpublic personal financial information that the licensee collects;
- b. The categories of nonpublic personal financial information that the licensee discloses;
- c. The categories of affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information, other than those parties to which the licensee discloses information under rules 191—90.13(505) and 191—90.14(505);
- d. The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to which the licensee discloses information under rules 191—90.13(505) and 191—90.14(505);
- e. A separate description of the categories of information the licensee discloses and the categories of third parties with which the licensee has contracted if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under rule 191—90.12(505) and no other exception in rules 191—90.13(505) and 191—90.14(505) applies to that disclosure;
- f. An explanation of the consumer's right under subrule 90.9(1) to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;
- g. Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act;
- h. The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information; and
- i. Any disclosure that the licensee makes under subrule 90.5(2).

90.5(2) If a licensee discloses nonpublic personal financial information as authorized under rules 191—90.13(505) and 191—90.14(505), the licensee is not required to list those exceptions in the initial or annual privacy notices required by rules 191—90.3(505) and 191—90.4(505). When describing the categories of parties to which disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable and permitted by law.

90.5(3) Examples of nonpublic personal financial information are as follows:

a. *Categories of nonpublic personal financial information that the licensee collects.* A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

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

b. *Categories of nonpublic personal financial information a licensee discloses.* A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in paragraph 90.5(3)"a," as applicable, and provides examples to illustrate the types of information in each category. These might include the following:

- (1) Information from the consumer, including application information, such as assets and income and identifying information such as name, address and social security number;
- (2) Transaction information, such as information about balances, payment history and parties to the transaction; and
- (3) Information from consumer reports, such as a consumer's creditworthiness and credit history.

A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

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.

c. Categories of affiliates and nonaffiliated third parties to which the licensee discloses. A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which the affiliate and nonaffiliated third parties engage.

(1) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term “financial products or services” if it includes appropriate examples of significant lines of business, such as life insurer, automobile insurer, consumer banking or securities brokerage.

(2) A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

90.5(4) If a licensee discloses nonpublic personal financial information under the exception in rule 191—90.12(505) 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 paragraph 90.5(1) “e” if it does the following:

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 paragraph 90.5(1) “b” as applicable; and

b. States whether the third party is a service provider that performs marketing services on the licensee’s behalf or on behalf of the licensee and another financial institution or a financial institution with which the licensee has a joint marketing agreement.

90.5(5) 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 rules 191—90.13(505) and 191—90.14(505), the licensee may simply state that fact, in addition to the information it shall provide under paragraphs 90.5(1) “a,” “h,” and “i” and subrule 90.5(2).

90.5(6) A licensee shall describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

a. Describes in general terms who is authorized to have access to the information; and

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. The licensee is not required to describe technical information about the safeguards it uses.

90.5(7) A licensee may satisfy the initial notice requirements in paragraph 90.3(1) “b” and subrule 90.6(4) 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 rule 191—90.6(505).

a. The short-form initial notice shall be clear and conspicuous, state that the licensee’s privacy notice is available upon request and explain a reasonable means by which the consumer may obtain that notice.

b. The licensee shall deliver its short-form initial notice according to rule 191—90.8(505). 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. 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 rule 191—90.8(505).

c. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee provides 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, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

90.5(8) The licensee’s notice may include categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future but does not currently disclose and categories of affiliates or nonaffiliated third parties to which the licensee reserves the right in the future to disclose,

but to which the licensee does not currently disclose, nonpublic personal financial information. Sample clauses are found in Appendix A.
[ARC 7741C, IAB 3/20/24, effective 4/24/24]