IV of the
***Privacy of Consumer Financial and Health Informa t on Regula t on* (#672)**
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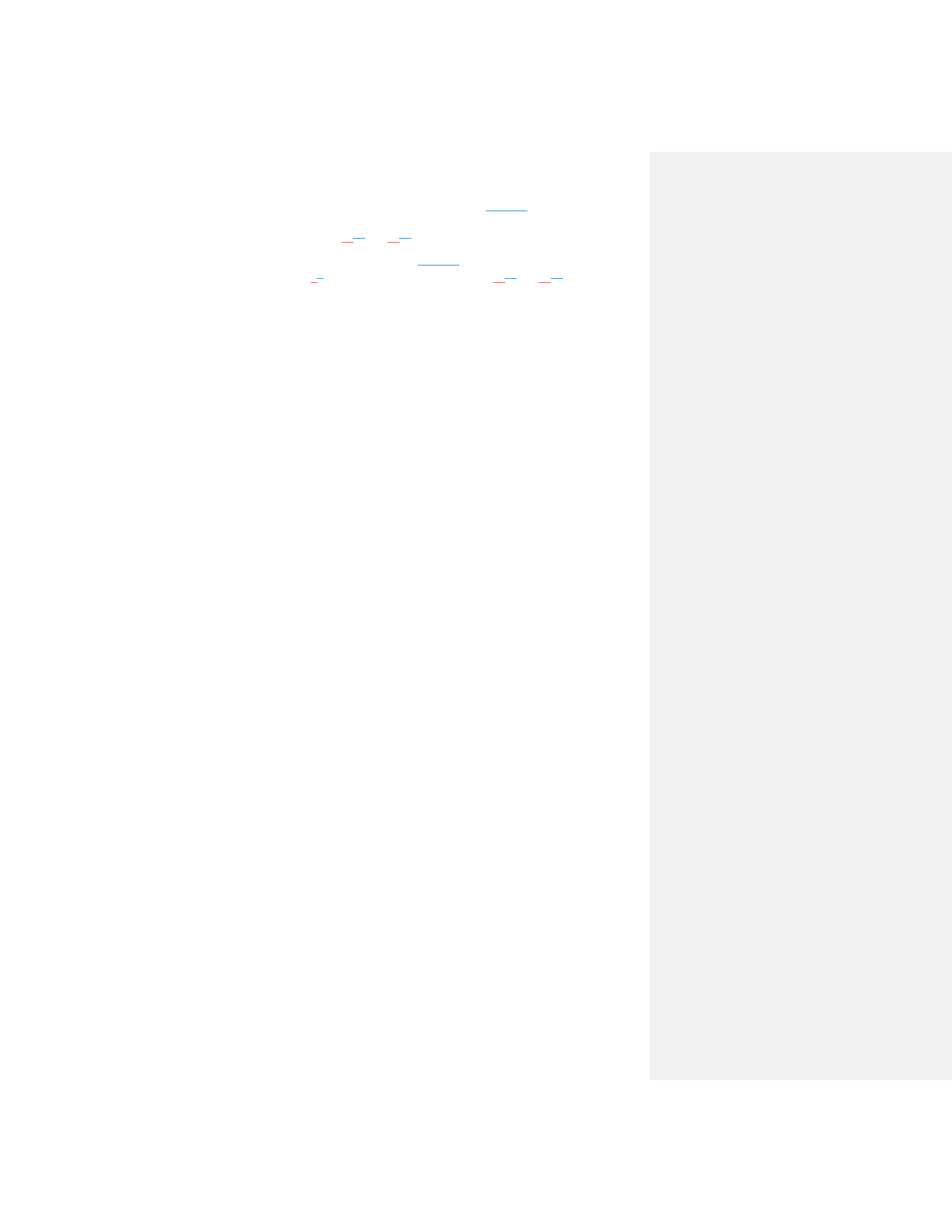
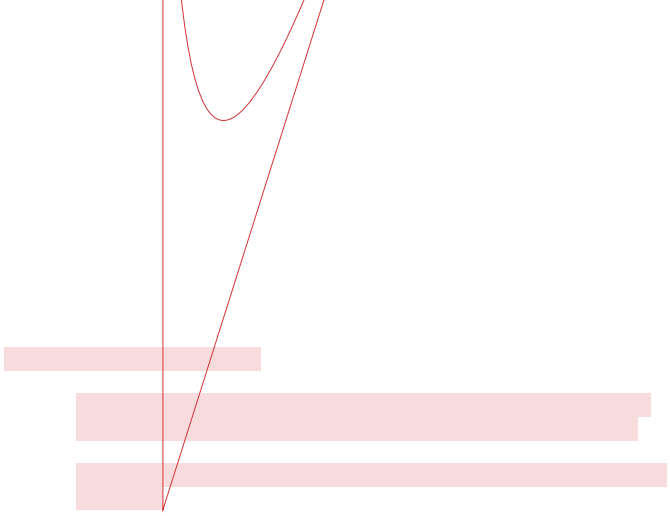
Pennsylvania Insurance Department

ARTICLE IVI. PRIVACY AND OPT OUT NOTICES FOR NONPUBLIC PERSONAL ~~FINANCIAL~~ INFORMATION

Section 95. Initial Privacy Notice to Consumers Required





Section 128. Form of Opt Out Notice to Consumers and Opt Out Methods

Virginia Bureau of Insurance

The Bureau generally supports the notice structure found in Article IV to require initial, annual, and revised privacy notices to customers and consumers. These notices are vital for customers and consumers to know about how licensees collect, process, and disclose their Nonpublic Personal Information and what options they have to limit these practices. The Bureau has offered several edits throughout Article IV seeking to modernize the Act's language to more closely track consumer behavior and technology in use in 2025. In particular, the Bureau's edits allow for increased electronic dissemination of privacy notices to customers and consumers where they have agreed to conduct business with the licensee electronically.

The Bureau also revised Article IV to remove the differing treatment of current and former customers. The Bureau believes that if a licensee is processing Nonpublic Personal Information obtained from or about a then-current customer (now a former customer), the licensee's obligations with respect to notifying that customer about the licensee's processing and disclosure of that information, and any other Nonpublic Personal Information, should remain the same.

The Bureau offers these comments for the Working Group's consideration along with the attached redline showing the Bureau's proposed revisions to incorporate its comments, among other edits.

ARTICLE IVI. PRIVACY AND OPT OUT NOTICES FOR NONPUBLIC PERSONAL~~FINANCIAL~~ INFORMATION

Section 9~~5~~. Initial Privacy Notice to Consumers Required

Section 128. Form of Opt Out Notice to Consumers and Opt Out Methods

Industry Comments:

American Council of Life Insurers (ACLI)

General Comments

- Uniformity and consistency should remain at the forefront of discussions and changes to the model.

regarding group insurer notice provisions. The below edits clarify that the licensee's legal obligation is distribution to the group policyholder and recognizes the unique position of group insurers in the context of Article IV, namely that Section 14 is an exception to the requirements of Sections 9, 10, and 15 for group insurers.

Suggested Language

following:

1. The licensee provides the consumer with the Internet address where the notice is posted and the opportunity to request a paper copy of the notice at no charge;
2. The notice is posted in a manner that enables the consumer to print or save it using programs or applications widely available on the Internet and free of charge to use; and
3. The notice is available on the website or mobile application so long as it is in force;

~~(d)~~ Delivers the notice by any electronic means permitted by law; or

(e) Provides the notice by any otTw 3.100<8.344 (a)2.9 hTc 0 Tw 2.721 0 29( )Tj-0.001 Tc 0.001 Tw 0.579 0 Td[(n)-1.9 (an)-2 (s)]TJ0 Tc 0 Tw

ACLI Appendix to Article IV Comments
Suggested Redlines

ARTICLE IV. PRIVACY AND OPT OUT NOTICES FOR NONPUBLIC PERSONAL INFORMATION

Section 9. Initial Privacy Notice to Consumers Required

Section 12. Form of Opt Out Notice to Consumers and Opt Out Methods

Section 14. Privacy Notices to Group Policyholders

American Property Casualty Insurance Association (APCIA)

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We look forward to continuing robust dialogue on the individual sections and revisiting the draft in totality at the end of this process. At that time, we urge the Working Group to provide a longer review period, preferably at least 60 days, to understand the intricacies and connections as we get closer to modernizing this complex framework in a meaningful and workable way.

Article IV- Privacy and Opt-Out Notices for Nonpublic Personal Information

APCIA is comfortable with many of the proposed changes outlined in Article IV of the Chair Draft. However, the amendments expand the scope of this section to include Nonpublic Personal Information, rather than focusing solely on Nonpublic Personal Financial Information as before. APCIA members are still evaluating the potential implications of this shift, as its impact depends †□Ř□Ű□Ř□ğH□ċ□Ű□q□ü□!□ Ÿ□Ű□ ő□Ÿ□ś□ Ÿ□Ű□G□ż□Ĥ□ü□Ř□H□ Â□IJI†□Ÿ□Ű□ċ□ü□ fŰ□hŸI□ů□ċq□Ř□Ÿ□Ű□ Ř†□ ż□ü□q□Ř□ů□ċq□IJ□ü□!□ Ť□IJğŰ□IJ□Ť□0□ Ñő□Ř†□ q□IJI□ů□□ H□Ÿ□ż□ü□Ť□□ encompass a broad range of data, such as IP addresses, device information, and social media browsing habits—essentially any information that, alone or in combination, can directly or indirectly □Ť□IJ□Ű□q□ü□h□!□□ċ□□H□Ÿ□Ű□†□ż□ů□IJ□I□□fŰ□□H□Ÿ□Ű□q□I□ċ□†□q□Ř□ Ÿ□Ű□G□ż□Ĥ□ü□Ř□H□Â□IJI†□Ÿ□Ű□ċ□ü□ [□Ř□Ű□ċ□Ű□H□Ř□ċ□ü□fŰ□hŸI□ů□ċq□Ÿ□Ű□ś□ċ†□Ű□ċ□I□Ÿ□ś□!□□H□Ÿ□Ű□ğŰ□IJ□Ť□□q□Ÿ□□ GIJI†□Ÿ□Ű□ċ□ü□Ř□Ű□hŸI□ů□ċq□Ÿ□Ű□□ż†□IJ□Ť□□Ř□Ű□□Ř□Ű†□ż□I□ċ□Ű□H□IJ□□q□I□ċ□Ű†□ċ□H□qŕ□Ÿ□Ű†□□ ì □q□őŸ□ż□q□□ċ□□H□ü□J□ċ□I□□ċ□Ű□Ť□□ğŰ□ċ□ü□ŘÄ□IJ□Ť□□ Ť□IJğŰ□Ř□qŕ□Ÿ□Ű□□Ř□q□□ remains challenging to fully assess or provide detailed recommendations, as even minor ċ□Ť□ż†□q□ů□IJŰq†□□q□Ÿ□□q□őIJ□□ Ť□IJğŰ□Ř□qŕ□Ÿ□Ű□□H□Ÿ□ż□ü□Ť□□ †□ż□Ĥ†□q□ċ□Ű□q□Ř□ċ□ü□!□□Ř□Ű□ż□IJŰ□H□IJ□□q□őIJ□□Ř□Ű□q□IJIG□IIJq□ċ□q□Ř□Ÿ□Ű□□ċ□Ű□Ť□□ċ□GG□ü□Ř□H□ċ□q□Ř□Ÿ□Ű□□Ÿ□h□□ these changes.

Section 9. Initial Privacy Notice to Consumers Required

APCIA acknowledges that the Working Group will further examine potential concerns with Sections 20 and 21 (formerly Sections 16 and 17 of Model #672) as the drafting process progresses. We look forward to providing comprehensive comments at that stage. In the meantime, given that these sections address various exceptions and are referenced in Section 9A(2), we wish to preview the need for additional exemptions due to the broader application of this section to Nonpublic Personal Information compared to its prior focus on Nonpublic Personal Financial Information. For example, changing these sections to Nonpublic Personal Information without simultaneously modifying the opt-out exceptions would set up a framework where individuals could opt-out of disclosure of information to a non-ċ□Ř□ü□Ř□ċ□q□IJ□Ť□□q□őŘ□I□Ť□□G□ċ□I□q□!□□q□ő□ċ□q□ŕ□ü□Ű□IJ□H□IJ□†□ċ□I□!□□q□Ÿ□□I□ż□Ű□□Ĥ□ċ†□□H□□Ĥ□ż†□Ř□Ű□IJ†□□Ÿ□G□IJ□I□ċ□q□Ř□Ÿ□Ű†□□ż□H□ő□□ċ†□□ Ĥ□ċ□H□t'□□Ÿ□Q□ŕ□H□IJ□†□IJ□I2□ŕ□H□IJ□□G□IŸ2□ŕ□Ť□IJ†□□H□ü□Ÿ□ż□Ť□□†□IJ□I2□ŕ□H□IJ□□G□IŸ2□ŕ□Ť□IJ†□□□IJ□q□H□0

Section 10. Annual Privacy Notice to Customers Required

Section 10(B) states that a licensee is exempt from providing an annual disclosure if it shares Ÿ□Ű□G□ż□Ĥ□ü□Ř□H□ Â□IJI†□Ÿ□Ű□ċ□ü□ fŰ□hŸI□ů□ċq□Ř□Ÿ□Ű□ Ÿ□Ű□!□□ ċ†□□ G□IJI□ů□ŕ□qq□IJ□Ť□□ Ĥ!□□ †□G□IJH□ŕ□ğ□IJ□Ť□□ †□IJH□qŕ□Ÿ□Ű†□□ őċ†□□ Ű□Ÿ□q□ H□őċ□Ű□IJ□Ť□□ŕ□q†□□ disclosure policies since the most recent notice, and continues to meet these criteria. The proposed removal of "*or Section 5*" seems to impose a requirement for insurers to send at least one annual

notice ("most recent disclosure sent to consumers in accordance with this section"), in addition to the Initial Privacy Notice, before qualifying for this exemption. Under the prior language, it was clear ąőċąłąőlJ⫿fŰŕąŕċüÂĺŕ2ċĦ!⫿ ŸąŕĦlJ⫿ċüŸŰlJ⫿ѕċł⫿łǝǫŕĦŕlJŰt if the exemption criteria were met. This approach aligns with the Fixing America's Surface Transportation (FAST) Act, which amended the GLBA to lJtŕůŕŰċąlJ⫿ąőlJ⫿ŰlJlJŤ⫿ђŸl⫿ʒŰċŰĦŕċüŕŰłąŕąǝąŕŸŰł⫿ąŸ⫿GlŸ2ŕŤlJ⫿ċŰŰǝċüŰŸąŕĦlJł⫿ЯGlŸ2ŕŤlJŤ⫿ĦlJląċŕŰ⫿ĦŸŰŤŕąŕŸŰł⫿ are satisʒlJŤ⫿ÑőlJł⫿lJ⫿[ÉÑ⫿ Ħą⫿ċ ůlJŰŤ ůlJŰą⫿⫿lJŤǝĦlJ⫿Ťǝ⫿ĦlJ⫿ċŰŤ⫿ĦŸł⫿ą!⫿ŰŸąʒĦċąŕŸŰ⫿lIJhʊŕlJ ůlJŰą⫿⫿ while maintaining the obligation to issue Initial Privacy Notices under the GLBA. To preserve clarity and consistency, APCIA recommends retaining the original language.

Section 106. Annual Privacy Notice to

that could become even more burdensome under the proposed revisions to Model #672. Furthermore, the default delivery method of these opt-out notices should be to include the URL for the privacy notice on the website versus sending a paper copy.

Section 13. Revised Privacy Notices

APCIA members have no comments on this section at this time but may provide recommendations

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Insured Retirement Institute (IRI)

Per the Working Group's request, we are only providing comments at this time on **Article IV, Section 9–Initial Privacy Notice to Consumers Required; Section 10–Annual Privacy Notice to Customers Required; Section 11–Information to be Included in Privacy Notices; Section 12–Form of Opt Out Notice to Consumers and Opt Out Methods; Section 13– Revised Privacy Notices; Section 14–Privacy Notices to Group Policyholders; and Section 15– Delivery**.

Overall, our members support the Revised Article IV, as the current notice, opt-out, and delivery processes are effective and aligned with other regulatory regimes. The current process is appropriate to provide sufficient notice to consumers about how their information is being used and to allow them an opportunity to opt out in certain circumstances.

While we generally support the Revised Article IV, we would like to offer the following comments for the Working Group's consideration:

1) **Section 10.B (Annual Privacy Notice to Customers Required)** – We request that the Working Groups consider adding language to make it clear that this section also applies to licensees who do not provide Nonpublic Personal Infort I740 Tc 292 (s)-1. (N)3.13 (d)]TJ0 Tc 0 Twr-2 (s)-1.3 (i)n4.4 (o)2421

National Association of Mutual Insurance Companies (NAMIC)

On behalf of the National Association of Mutual Insurance Companies (NAMIC) members, thank you for the opportunity to provide these comments on the exposure draft dated January 9, 2025. Consistent with the direction of the Working Group, this bullet-form input focuses on the aspects of the draft relating to Article IV.

NAMIC members very much appreciate the efforts of the Privacy Protections (H) Working Group (PPWG or Working Group) and the ability to provide input. This is part of broader feedback, and we look forward to continuing to share members' concerns and suggestions as the process continues. Further, NAMIC underscores the relevance and importance of the definitions for understanding the substantive provisions. To some extent, these comments assume that the definitions are going to be addressed to find reasonable solutions.

NONPUBLIC PERSONAL FINANCIAL INFORMATION VS. NONPUBLIC PERSONAL INFORMATION: The most recent version refers to "nonpublic personal information" in place of "nonpublic personal financial information." Definitions, substantive provisions, and exceptions (such as in Article IV, which the drafting group may consider in the future) all will help inform whether the change is ultimately workable. To reiterate a point made in previous comments, getting the definitions right is critically important. And, as it now stands, it appears that the draft currently includes public information despite being characterized as "nonpublic." Members will need time to continue to review the potential impacts of these changes – and how they may interconnect in these and other sections – as the process continues to move forward.

MODERNIZATION: A major theme of the comments offered here is to aid in streamlining processes, considering how to align with the aspects of recent waves of the **comprehensive state privacy laws** that make sense in the context of the business of insurance. Further, please also consider the **expectations of many of today's consumers**

NOTICE CONTENT - Chair Draft: Sec. 11

[Existing Model: Section 7]

LISTED ITEMS – GENERAL RULE & ITEMS INCLUDED: §11A

EXPANDING NOTICE TO INFORM OF ADDITIONAL OPT OUT CHOICES: If considering expanding the menu of possible opt out selections, they could be incorporated into **Sec. 11A(6).** Today it focuses on the disclosure of NPFI to nonaffiliated third parties (as consistent with the framework of GLBA and MDL#672). If expanding the options (and in an opt out form (kindly see NAMIC comments from November 2024 regarding Article III)), it seems that the requirement – as it relates to sensitive personal information and/or targeted advertising – for licensees to include this in notices to policyholders could be incorporated into the same provision. This seems like an important and foundational matter for the drafting group to consider (and it may have potential implications for other parts of Article IV that could be considered as well (though not necessarily all integrated into these comments at this time)).

NEW ARTICLE ACCESS/CORRECT/DELETE REQUESTS & SEPARATE #: As a technical matter, it seems better for the new wording now in (9) – "A description of the consumer's ability to request to access, correct, or delete Nonpublic Personal Information about the consumer as established under this Act and the instructions for exercising such options" – to have its own number as opposed to it being added to the exemption-related disclosure from Subsection B. Also consider the **PLACEMENT** of this provision and whether organizing it to follow (6) (which relates to other choices) may make sense (as opposed to putting it at the end of the list).

Please consider modifying these provisions accordingly.

General rule. The initial, annual and revised privacy notices that a licensee provides under Sections ~~5~~ 9, ~~6~~ 10 and ~~9~~ 11 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: ...

(6) An explanation of the consumer's ~~right under Section 162A~~ ability 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~~ under this Act, along with the methods by which the consumer may exercise that option, from the following, as applicable: *[INSERT MODEL OPT OUT TYPES]*

(a) the disclosure of nonpublic personal financial information to nonaffiliated third parties;

(b) targeted advertising; and

(c) sensitive personal information....

(9) Any disclosure that the licensee makes under Subsection B of this section.

(#) A description of the consumer's ability to request to access, correct, or delete Nonpublic Personal Information about the consumer as established under this Act and the instructions for exercising such options. *[CONSIDER MOVING AFTER (6) and before (7)].*

NOTICE CONTENT – Chair Draft Sec. 11

[Existing Model: Section 7]

SAFE HARBOR WORDING: §11F

TIMING: Including this wording does not necessarily mean that this drafting group needs to complete the sample clauses before finalizing and adopting the model revip-1.1 (6 (s)(ds)2.9(6 (s16 (r)6.99o919O086 0 Td( )TjEMC /P <</MCID 39 >>BD-9

FEDERAL MODEL PRIVACY FORM - OUTLIER: Removing the Federal Model Privacy Form reference may make insurance an outlier as compared to other financial institutions regulated under GLBA.

FEDERAL MODEL PRIVACY FORM – FORMAT: Please look at the structure of this form. Some insurers (and consumers) may like the consistent format offered by the Federal Form.

FEDERAL MODEL PRIVACY FORM – DISRUPTION: Insurers should not have this option taken away, especially where they have already taken the steps to follow it.

OPT OUT NOTICE FORM & METHODS – Chair's Draft Sec. 12

[Existing Model: Section 8]

FORM OF OPT OUT NOTICE: §12A(1) – NOTICE OF OPT OUT ABILITY

NO TRIGGERING EVENT: If the licensee does not intend to disclose (or reserve the right to disclose) NPI/NPFI under Sec. 12A(1)(a) (which the consumer would then have an ability to opt out of), in practice it m (s)0.6iNG EVENT

OPT OUT NOTICE FORM & METHODS

How to provide notices. A licensee shall provide ~~any~~ notices that this Act ~~regulation~~ requires so that each consumer can reasonably be expected to receive ~~actual~~ or have access to such notice ~~in writing or, if the consumer agrees, electronically~~.

DELIVER/PROVIDE/MAKE AVAILABLE – Chair Draft Sec. 15

[Existing Model: Section 11]

REASONABLE ACCESS/AVAILABILITY – EXAMPLES: §15(B)(1)

CONTINUATION

~~(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.~~

Reasonable Expectation of Availability of Privacy Notice.

(1) A licensee may reasonably expect that the notice is available to the consumer and has satisfied the requirements of *[insert sections]* if the manner in which the notice is provided or made available contextually aligns with how a licensee does business.

(2) A consumer is deemed to have a reasonable expectation of access to or availability of privacy notice if the licensee does any of the following:

(a) If a licensee collects personal information offline, if it includes the privacy statement on printed forms that collect personal information, provided to the consumer by either:

(i) A printed or paper version of the privacy notice by

(aa) Hand-delivery; or

(bb) Mailing a printed copy to the address of record of the consumer separately, or in a policy, billing, or other written communication; or

(ii) Making available the privacy notice by informing the consumer of how it may be accessed

(aa) Online (such as by referring to a URL or the location where the information may be found on the licensee's website); and/or

(bb) By at least one alternate method for requesting the information (such as by 800 telephone number, a mailing address, or an additional option the Commissioner designates).

(b) When a licensee collects personal information over the telephone or in person, if it includes the privacy statement either:

(i) Orally; or *[there should be an option for short form and follow-up]*

(ii) By a method acceptable for offline under [refer to that subsection immediately above] *[If needed, clarify that the consumer can receive the notice later]*

(c) For a consumer who conducts transactions electronically, when the licensee collects personal information electronically, if it:

(i) Posts the notice on the website in accordance with *[insert section]*;

(ii) Emails the notice to the consumer; or

(iii) If the licensee collects personal information through a webform, it may post a conspicuous link to the notice in close proximity to the fields in which the consumer inputs personal information, or in close proximity to the button by which the consumer submits personal information to the pe7 (m)5 (,)0.6 (it)6.3 (7 (e)1.efEM2(c)5.2he)2 (bTw 1cbTw 1cb28.48a)0.7

DELIVER/PROVIDE/MAKE AVAILABLE –

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Please understand that the input shared here is based on previous and quick input and that review and thought on these matters will continue and therefore feedback may evolve over time.

	Geolocation Data:
	Audio, Electronic, Visual, Thermal, Olfactory, or Similar Information:
	Professional or Employment-Related Information
	Education Information:
	Inferences Drawn from Other Personal Information:

Important: **no**

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Section 15~~1~~. Delivery