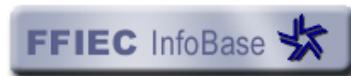


Privacy Rule §§ 11, 13, 14, AND 15

RESOURCES PROVIDED THROUGH



JUNE 1, 2000

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Analysis: § __.11 Limits on RedisDisclosure and Reuse of Information

Section 502(c) of the GLB Act provides that a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not, directly or indirectly through an affiliate, disclose the information to any person that is not affiliated with both the financial institution and the third party, unless the disclosure would be lawful if made directly by the financial institution. A financial institution may generally disclose nonpublic personal information to a nonaffiliated third party for any purpose subject to notice and opt out, for certain service and joint marketing arrangements under section 502(b), and in accordance with specific enumerated exceptions under section 502(e).

The limits on redisclosure and reuse that were set out in the proposal reflected the Agencies' belief that implicit in the joint marketing and the enumerated exceptions is the idea that information may only be used for the purposes for which the third party received it.¹¹ The proposed rule implemented section 502(c) by imposing limits on redisclosure that apply both to a financial institution that receives information from a nonaffiliated financial institution and to any nonaffiliated third party that receives nonpublic personal information from a financial institution. The proposed rule implemented the implicit limitations on use by imposing limits on the ability of financial institutions and nonaffiliated third parties to reuse nonpublic personal information they receive. The Agencies sought comment on whether the final rule should limit the ability of an entity that receives nonpublic personal information pursuant to an exception to use that information only for the purpose of that exception. The Agencies also sought comment on what the term "lawful" means in the context of section 502(c), and whether a recipient of nonpublic personal information could "lawfully" disclose information if the disclosure complied with a notice provided by the institution that made the disclosure initially. Finally, the Agencies invited comment on whether the rules should require a financial institution that discloses nonpublic personal information to a nonaffiliated third party to develop policies and procedures to ensure that the third party complies with the limits on redisclosure of that information.

The Agencies received a large number of comments in response to this proposed section. A few maintained that the Agencies would exceed their rulemaking authority if the final rule were to retain the limits on reuse of information, given that section 502(c) expressly addresses only redisclosures and not reuse. Most comments concerning proposed § 1.12 stated that financial institutions should not have to monitor compliance with the redisclosure and reuse provisions of the rule, although these



commenters said that financial institutions typically will contractually limit the recipient's ability to reuse information for purposes other than those for which the information was disclosed. These issues are addressed below.

Limits on Reuse and Rediscovery

The position advanced by those critical of imposing limits on reuse is premised on the conclusion that Congress, by addressing limits on redisclosures in section 502(c), provided the only limits that may be imposed on what a recipient of nonpublic personal information can do with that information. The Agencies disagree with this premise. Although section 502(c) does not expressly address reuse, reuse limitations are, as indicated, implicit in the provisions authorizing or permitting disclosures. For example, it would be inconsistent with the purposes of the Act to permit information disclosed in accordance with section 502(e)(1) (which permits disclosures as necessary to effect, administer, or enforce a transaction with a consumer or in connection with certain routine activities related to such a transaction) to be used for the third party recipient's marketing purposes. Moreover, permitting reuse without limits would undermine the protections afforded to a consumer who does not establish a customer relationship. Such a person is not put on notice that the disclosures under section 502(e) are even made because these disclosures do not entitle the consumer to any privacy or opt out notice. Thus, the limits on reuse are the only protection the individual has arising under the statute. Accordingly, the Agencies have concluded that it is appropriate to exercise their rulemaking authority under section 504(a)(1) (which authorizes the Agencies to write regulations necessary to carry out the purposes of Subtitle A of Title V) to impose limits on reuse when information is received under an exception in section 502(e) of the GLB Act.

By contrast, when a consumer decides not to opt out after being given adequate notices and the opportunity to do so, that consumer has made a decision to permit the sharing of his or her nonpublic personal information with the categories of entities identified in the financial institution's notices. The consumer's primary protection in the case of a disclosure falling outside the section 502(e) exceptions comes from receiving the mandatory disclosures and the right to opt out. The statute provides only the additional protection in section 502(c), restricting a recipient's ability to redisclose information to entities that are not affiliated with either the recipient or the financial institution making the disclosure initially. Thus, if a consumer permits a financial institution to disclose nonpublic personal information to the categories of nonaffiliated third parties that are described in the institution's notices, recipients of that nonpublic personal



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information appear authorized under the statute to make disclosures that comply with those notices.

To implement this statutory scheme, the Agencies have imposed the following limits on redisclosure and reuse, which will vary depending on whether the information was provided pursuant to one of the 502(e) exceptions or otherwise.

Limits on redisclosure and reuse when information is received pursuant to section 502(e). For nonpublic personal information provided pursuant to section 502(e), a financial institution receiving the information may disclose the information to its affiliates or to affiliates of the financial institution from which the information was received. It may also disclose and use the information pursuant to an exception in §§ 1.14 or 1.15 in the ordinary course of business to carry out the activity covered by the exception under which the institution received the information. The financial institution's affiliates may disclose and use the information, but only to the extent permissible for the financial institution.

These same general rules apply to a non-financial institution third party that receives nonpublic personal information from a financial institution under section 502(e). Thus, the third party receiving the information pursuant to one of the section 502(e) exceptions may disclose the information to its affiliates or to the affiliates of the financial institution that made the disclosure. The third party also may disclose and use the information pursuant to one of the section 502(e) exceptions as noted in the rule. The affiliates of the third party may disclose and use the information only to the extent permissible for the third party.

Limits on redisclosure when information is not received pursuant to section 502(e). For nonpublic personal information provided *outside* one of the section 502(e) exceptions, the financial institution receiving the information may disclose the information to its affiliates or to the affiliates of the financial institution that made the initial disclosure. It may also disclose the information to any other person, if the disclosure would be lawful if made directly by the financial institution from which the information was received. This would enable the receiving institution to disclose pursuant to one of the section 502(e) exceptions. It also would permit the receiving institution to redisclose information in accordance with the opt out and privacy notices given by the institution making the initial disclosures, as limited by any opt out elections received by that institution. The affiliates of a financial institution that receives nonpublic personal information may disclose only to the extent that the financial institution may disclose the information.



If a third party receives information from a financial institution outside one of the section 502(e) exceptions, the third party may disclose to its affiliates or to the affiliates of the financial institution. It may also disclose to any other person if the disclosure would be lawful if made by the financial institution. The third party's affiliates may disclose and use the information to the same extent permissible for the third party.

In cases where an entity receives information outside of one of the section 502(e) exceptions, that entity will in essence “step into the shoes” of the financial institution that made the initial disclosures. Thus, if the financial institution made the initial disclosures after representing to its consumers that it had carefully screened the entities to whom it intended to disclose the information, the receiving entity must comply with those representations. Otherwise, the subsequent disclosure by the receiving entity would not be in accordance with the notices given to consumers and would not, therefore, be lawful. Even if such representations do not prevent the recipient from redisclosing the information, the recipient's ability to redisclose will be limited by whatever opt out instructions were given to the institution making the initial disclosures and by whatever new opt out instructions that are given after the initial disclosure. The receiving entity, therefore, must have procedures in place to continually monitor the status of who opts out and to what extent. Given these practical limitations on the ability of a recipient to disclose pursuant to another institution's privacy and opt out notices, redisclosure of information is most likely to arise under one of the section 502(e) exceptions (as implemented by §§ 1.14 and 1.15 of the final rule).

Monitoring Third Parties

The Agencies have decided not to amend their respective rules to impose a specific duty on financial institutions to monitor third parties' use of nonpublic personal information provided by the institutions. This does not address whether obligations to do so may arise in other contexts. The Agencies note, for instance, that most of the commenters who requested that the Agencies not impose such a duty stated that they have contracts in place that limit what the recipient may do with the information. The Agencies also note that the limits on reuse as stated in the final rule provide a basis for an action to be brought against an entity that violates those limits.



§ .11 *Limits on redisclosure and reuse of information.*

(a)(1) *Information the bank receives under an exception.* If a bank receives nonpublic personal information from a nonaffiliated financial institution under an exception in §§ .14 or .15 of this part, the bank's disclosure and use of that information is limited as follows:

(i) The bank may disclose the information to the affiliates of the financial institution from which the bank received the information;

(ii) The bank may disclose the information to its affiliates, but the bank's affiliates may, in turn, disclose and use the information only to the extent that the bank may disclose and use the information; and

(iii) The bank may disclose and use the information pursuant to an exception in §§ .14 or .15 in the ordinary course of business to carry out the activity covered by the exception under which the bank received the information.

(2) *Example.* If a bank receives a customer list from a nonaffiliated financial institution in order to provide account processing services under the exception in § .14(a), the bank may disclose that information under any exception in §§ .14 or .15 in the ordinary course of business in order to provide those services. For example, the bank could disclose the information in response to a properly authorized subpoena or to its attorneys, accountants, and auditors. The bank could not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(b)(1) *Information a bank receives outside of an exception.* If a bank receives nonpublic personal information from a nonaffiliated financial institution other than under an exception in §§ .14 or .15 of this part, the bank may disclose the information only:

(i) To the affiliates of the financial institution from which the bank received the information;

(ii) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the bank can disclose the information; and (iii) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the bank received the information.

(2) *Example.* If a bank obtains a customer list from a nonaffiliated financial institution outside of the exceptions in §§ .14 and .15:



(i) The bank may use that list for its own purposes; and

(ii) The bank may disclose that list to another nonaffiliated third party only if the financial institution from which the bank purchased the list could have lawfully disclosed the list to that third party. That is, the bank may disclose the list in accordance with the privacy policy of the financial institution from which the bank received the list, as limited by the opt out direction of each consumer whose nonpublic personal information the bank intends to disclose and the bank may disclose the list in accordance with an exception in §§ __.14 or __.15, such as to the bank's attorneys or accountants.

(c) *Information a bank discloses under an exception.* If a bank discloses nonpublic personal information to a nonaffiliated third party under an exception in §§ __.14 or __.15 of this part, the third party may disclose and use that information only as follows:

(1) The third party may disclose the information to the bank's affiliates;

(2) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(3) The third party may disclose and use the information pursuant to an exception in §§ __.14 or __.15 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(d) *Information a bank discloses outside of an exception.* If a bank discloses nonpublic personal information to a nonaffiliated third party other than under an exception in §§ __.14 or __.15 of this part, the third party may disclose the information only:

(1) To the bank's affiliates;

(2) 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

(3) To any other person, if the disclosure would be lawful if the bank made it directly to that person.



Analysis: § __.13 Exception to Opt Out Requirements for Service Providers and Joint Marketing

Section 502(b) of the GLB Act creates an exception to the opt out rules for the disclosure of information to a nonaffiliated third party for use by the third party to perform services for, or functions on behalf of, the financial institution, including the marketing of the financial institution's own products or services or financial products or services offered pursuant to a joint agreement between two or more financial institutions. A consumer will not have the right to opt out of disclosing nonpublic personal information about the consumer to nonaffiliated third parties under these circumstances, if the financial institution "fully discloses" to the consumer that it will provide this information to the nonaffiliated third party before the information is shared and enters into a contract with the third party that requires the third party to maintain the confidentiality of the information. As noted in the proposed rule, this contract should be designed to ensure that the third party (a) will maintain the confidentiality of the information at least to the same extent as is required for the financial institution that discloses it, and (b) will use the information solely for the purposes for which the information is disclosed or as otherwise permitted by §§ 1.10 and 1.11 of the proposed rules.

The majority of the comments on this exception expressed concern that routine servicing agreements between a financial institution and, for instance, a loan servicer would be subject to the requirements of proposed § 1.9 (§ 1.13 in the final rule). These commenters consistently pointed out that section 502(e) of the GLB Act contains several exceptions for the sharing of information by a financial institution that is necessary to permit a third party to perform services for a financial institution. The commenters requested clarification that disclosures made pursuant to one of the section 502(e) exceptions are not subject to the requirements imposed on disclosures made pursuant to section 502(b)(2) of the GLB Act. The Agencies agree that when a disclosure may be made under section 502(e), the statute permits that disclosure without the financial institution first complying with the requirements imposed by section 502(b)(2).

A related issue is whether a financial institution must satisfy the disclosure obligations of section 502(b)(2) and have a confidentiality agreement in the case of a service provider that is performing an activity governed by section 502(b)(2) (*i.e.*, those that are not covered by one of the section 502(e) exceptions). Several commenters maintained that it is illogical to impose a set of requirements on disclosures to the section 502(b)(2) service providers when no such requirements are imposed on the section 502(e) service



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providers. The Agencies believe, however, that a plain reading of section 502(b)(2) leads to that result.¹² The Agencies read the “if the financial institution fully discloses * * *” as used in section 502(b)(2) as modifying the phrase “This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services for or functions on behalf of the financial institution, * * *” The Agencies thus have concluded that any disclosure to a service provider not covered by section 502(e) must satisfy the disclosure and written contract requirements of section 502(b)(2).

Several other commenters addressed the question of whether the rule should include safeguards beyond those provided by the statute to protect a financial institution from the risks that can arise from agreements with third parties. Most suggested that safety and soundness concerns were more appropriately addressed in a forum other than a rule designed to protect consumers’ financial privacy. Others opined that financial institutions did not need the rule to mandate certain protections on their behalf. The Agencies have concluded that the protections set out in the statute, as implemented by § 1.13(a)(1), are adequate for purposes of the privacy rule. Those protections require a financial institution to provide the initial notice required by § 1.4 of the final rule as well as enter into a contractual agreement with a third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the bank disclosed the information, including use under an exception in §§ 1.14 or 1.15 in the ordinary course of business to carry out those purposes. These limitations will preclude recipients from sharing a consumer’s nonpublic personal information pursuant to a chain of third party joint marketing agreements. Several commenters asked whether a financial institution would have to modify existing contracts with third parties to comply with the rule. The Agencies believe that a balance must be struck that minimizes interference with existing contracts while preventing evasions of the regulation. To achieve these goals, the final rule states, in § 1.18(c), that contracts entered into on or before July 1, 2000 must be brought into compliance with the provisions of § 1.13 by July 1, 2002.

For the reasons expressed above, the Agencies have adopted, in § 1.13 of the final rule, the provisions that were set out in § 1.9 of the proposal with the changes noted above. The Agencies note that financial institutions should remain vigilant in their efforts to ensure that agreements they enter into with third parties do not expose the institutions to undue risks. These risks are particularly prevalent in arrangements whereby a financial institution endorses or sponsors a financial product or service offered by the third party.



§ __.13 *Exception to opt out requirements for service providers and joint marketing.*

(a) *General rule.* (1) The opt out requirements in §§ __.7 and __.10 do not apply when a bank provides nonpublic personal information to a nonaffiliated third party to perform services for the bank or functions on the bank's behalf, if the bank:

(i) Provides the initial notice in accordance with § __.4; and

(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 bank disclosed the information, including use under an exception in § __.14 or __.15 in the ordinary course of business to carry out those purposes.

(2) *Example.* If a bank discloses nonpublic personal information under this section to a financial institution with which the bank performs joint marketing, the bank's contractual agreement with that institution meets the requirements of paragraph (a)(1)(ii) of this section if it prohibits the institution from disclosing or using the nonpublic personal information except as necessary to carry out the joint marketing or under an exception in §§ __.14 or __.15 in the ordinary course of business to carry out that joint marketing.

(b) *Service may include joint marketing.* The services a nonaffiliated third party performs for a bank under paragraph (a) of this section may include marketing of the bank's own products or services or marketing of financial products or services offered pursuant to joint agreements between the bank and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement* means a written contract pursuant to which a bank and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.



Analysis: § __. 14 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions

As previously discussed, section 502(e) of the GLB Act creates exceptions to the requirements that apply to the disclosure of nonpublic personal information to nonaffiliated third parties. Paragraph (1) of that section sets out certain exceptions for disclosures made, generally speaking, in connection with the administration, processing, servicing, and sale of a consumer's account. Proposed § 1 .10 implemented those exceptions by restating them with only stylistic changes that were intended to make the exceptions easier to read. The preamble to that proposed section noted that the exceptions set out in proposed § 1 .10 (as well as the exceptions set out in § 1 .11 of the proposal) do not affect a financial institution's obligation to provide initial notices of its privacy policies and practices prior to the time it establishes a customer relationship and annual notices thereafter.

The Agencies received several comments from institutions pointing out that, by deleting the statutory phrase "in connection with" from the exceptions for information shared (a) to service or process a financial product or service requested by the consumer or (b) to maintain or service a customer account, the Agencies narrowed the application of the exception. The Agencies did not intend this result, and have changed the final rule accordingly. See § 1 .14(a).

Several other commenters requested that the final rule specifically state that certain services, such as those provided by attorneys, appraisers, and debt collectors (as appropriate), are "necessary" to effect, administer, or enforce a transaction, as that term is used in paragraph (a) and defined in paragraph (b) of proposed § 1 .10. Others cited examples of entities seeking to verify funds availability or obtain loan payoff information as instances where a disclosure would fall within the exceptions described in proposed § 1 .10. The Agencies believe that disclosures to these types of professionals and under the circumstances posited by the commenters may be necessary to effect, administer, or enforce a transaction in a given situation. However, the Agencies have not listed specific types of disclosures in the regulation as necessarily falling within the scope of the exception because they are concerned that a general statement could be applied inappropriately to shelter disclosures that, in fact, are not necessary to effect, administer, or enforce a transaction.

Other commenters suggested that the final rule clarify, in situations where a financial institution uses an agent to provide services to a consumer, that the consumer need not have directly requested or authorized the service



provider to provide the financial product or service but may request it from the principal instead. The Agencies agree that the communication may be between the consumer and the service provider, and note that the rule governing agents as set out in the definition of “consumer,” above, provides the flexibility sought by the commenters. Briefly stated, an individual will not be a consumer of an entity that is acting as agent for another financial institution in connection with that financial institution’s providing a financial product or service to the consumer.



§ __.14 *Exceptions to notice and opt out requirements for processing and servicing transactions.*

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in § __.4(a)(2), the opt out in §§ __.7 and __.10 and service providers and joint marketing in § __.13 do not apply if the bank discloses nonpublic personal information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing a financial product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer's account with a bank, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(3) A proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer. (b) *Necessary to effect, administer, or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce the bank's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a bank or any other party;

(v) To underwrite insurance at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium



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payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check, or account number, or by other payment means;

(B) The transfer of receivables, accounts, or interests therein; or

(C) The audit of debit, credit, or other payment information.



Analysis: § __.15 Other Exceptions to Notice and Opt Out Requirements

As noted above, section 502(e) contains several exceptions to the requirements that otherwise would apply to the disclosures of nonpublic personal information to nonaffiliated third parties. Proposed § 1.11 set out those exceptions for disclosures that are not made in connection with the administration, processing, servicing, and sale of a consumer's account, and made stylistic changes to the statutory language intended to clarify the exceptions. The proposal also provided an example of the consent exception in the context of a financial institution that has received an application from a consumer for a mortgage loan informing a nonaffiliated insurance company that the consumer has applied for a loan. The Agencies invited comment on whether safeguards should be added to the exception for consent in order to minimize the potential for consumer confusion.

Several commenters responded to the request for comment on whether the consent exception should include safeguards, such as a requirement that the consent be written, be indicated by a signature on a separate line, or automatically terminate after a certain period of time. Of these, some favored the additional safeguards discussed in the proposal, while others maintained that safeguards are unnecessary. Several suggested that the consent exception include a provision noting that participation in a program where a consumer receives "bundled" products and services (such as would be the case, for instance, in an affinity program) necessarily implies consent to the disclosure of information between the entities that provide the bundled products or services. Others suggested that certain terms and conditions be imposed on any consent agreement, such as a time by which the financial institution must stop disclosing nonpublic personal information once a consent is revoked.

The Agencies have declined to elaborate on the requirements for obtaining consent or the consumer safeguards that should be in place when a consumer consents. The Agencies believe that the resolution of this issue is appropriately left to the particular circumstances of a given transaction. The Agencies note that any financial institution that obtains the consent of a consumer to disclose nonpublic personal information should take steps to ensure that the limits of the consent are well understood by both the financial institution and the consumer. If misunderstandings arise, consumers may have means of redress, such as in situations when a financial institution obtains consent through a deceptive or fraudulent practice. Moreover, a consumer may always revoke his or her consent. In light of the safeguards already in place, the Agencies have decided not to add safeguards to the consent exception.



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Many commenters offered specific suggestions for additional exceptions or amendments to the proposed exceptions. In many cases, the suggestions are accommodated elsewhere in the regulation (such as is the case, for instance, for exceptions to permit (a) verification of available funds or (b) disclosures to or by appraisers, flood insurers, attorneys, insurance agents, or mortgage brokers to effect a transaction). In other cases, the suggestions are inconsistent with the statute (as is the case, for instance, with one commenter's suggestion that the Agencies completely exempt a financial institution from all of the statute's requirements if the institution makes no disclosures other than what is permitted by section 502(e)). While the Agencies recognize the merits of many of the remaining suggestions, they believe that the volume and complexity of these suggestions exceed what is appropriate in a regulation. Accordingly, the Agencies have retained, in § 1.15, the statement of the exceptions as proposed and invite interested parties to pursue with the Agencies clarifications as necessary in their particular circumstance.



§ .15 *Other exceptions to notice and opt out requirements.*

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § .4(a)(2), the opt out in §§ .7 and .10, and service providers and joint marketing in § .13 do not apply when a bank discloses nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (i) To protect the confidentiality or security of a bank's records pertaining to the consumer, service, product, or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

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

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including a federal functional regulator, the Secretary of the Treasury, 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, with respect to any person domiciled in that insurance authority's State that is engaged in providing insurance, and the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5)(i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); or

(ii) From a consumer report reported by a consumer reporting agency;



(6) 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 information concerns solely consumers of such business or unit; or

(7)(i) To comply with Federal, State, or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or (iii) To respond to judicial process or government regulatory authorities having jurisdiction over a bank for examination, compliance, or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to a bank's disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to the bank for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § __.7(f).