**Section 4002.40 Initial Privacy Notice to Consumers**

a) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

1) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (e) of this Section; and

2) Consumer. 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 Sections 4002.140 and 4002.150 of this Part.

b) When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under subsection (a)(2) of this Section if:

1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 4002.140 and 4002.150 of this Part, and the licensee does not have a customer relationship with the consumer as set forth in subsection (c) of this Section; or

2) 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.

c) A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship, such as when the consumer:

1) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, is covered under Health Maintenance Organization or broker, or in the case of a licensee that is an insurance producer, obtains insurance through that licensee; or

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

d) Existing customers. 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 subsection (a) of this Section as follows:

1) The licensee may provide a revised policy notice, under Section 4002.80 of this Part, that covers the customer's new insurance product or service; or

2) 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 subsection (a) of this Section.

e) Exceptions to allow subsequent delivery of notice.

 A licensee may provide the initial notice required by subsection (a)(1) of this Section within a reasonable time after the licensee establishes a customer relationship if:

1) Establishing the customer relationship is not at the customer's election (i.e., 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); or

2) Providing notice not later than when the licensee establishes a customer relationship would substantially delay, as set forth in subsection (f) of this Section, the customer's transaction and the customer agrees to receive the notice at a later time.

f) Substantial delay of 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. However, 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 web site.

g) Delivery. When a licensee is required to deliver an initial privacy notice by this Section, the licensee shall deliver it according to Section 4002.90 of this Part. If the licensee uses a short-form initial notice for non-customers according to Section 4002.60(h) of this Part, the licensee may deliver its privacy notice according to Section 4002.60(h)(3) of this Part.