§ 160.9 Delivering privacy and opt out notices.

(a) How to provide notices. You must provide any privacy notices and opt out notices, including short-form initial notices that this part requires so that each consumer can reasonably be expected to receive actual notice in writing either in hard copy or, if the consumer agrees, electronically.

(b)(1) Examples of reasonable expectation of actual notice. You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial service or product.

(2) Examples of unreasonable expectation of actual notice. You may not, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(i) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices; or

(ii) Send the notice via electronic mail to a consumer who does not obtain a financial product or service from you electronically.

(c) Annual notices only. You may reasonably expect that a consumer will receive actual notice of your annual privacy notice if:

(1) The customer uses your web site to access financial products and services electronically and agrees to receive notices at the web site and you post your current privacy notice continuously in a clear and conspicuous manner on the web site; or

(2) The customer has requested that you refrain from sending any information regarding the customer relationship, and your current privacy notice remains available to the customer upon request.

(d) Oral description of notice insufficient. You may not provide any notice required by this part solely by orally explaining the notice, either in person or over the telephone.

(e) Retention or accessibility of notices for customers. (1) For customers only, you must provide the initial notice required by §160.4(a)(1), the annual notice required by §160.5(a), and the revised notice required by §160.8, so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(2) Examples of retention or accessibility. You provide a privacy notice to the customer so that the customer can retain it or obtain it later if you:

(i) Hand-deliver a printed copy of the notice to the customer;

(ii) Mail a printed copy of the notice to the last known address of the customer; or

(iii) Make your current privacy notice available on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and agrees to receive the notice at the web site.

(f) Joint notice with other financial institutions. You may provide a joint notice from you and one or more of your affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to you and the other institutions.

(g) Joint relationships. If two or more customers jointly obtain a financial
§ 160.10

Subpart B—Limits on Disclosures

§ 160.10 Limits on disclosure of nonpublic personal information to nonaffiliated third parties.

(a)(1) Conditions for disclosure. Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

(i) You have provided to the consumer an initial notice as required under §160.4;

(ii) You have provided to the consumer an opt out notice as required in §160.7;

(iii) You have given the consumer a reasonable opportunity, before you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) Opt out definition. Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated third party.

(3) Examples of reasonable opportunity to opt out.

(i) By mail. You may disclose the information required in paragraph (a)(1) of this section to the consumer and allow the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means within 30 days after the date you mailed the notices.

(ii) By electronic means. A customer opens an on-line account with you and agrees to receive the notices required in paragraph (a)(1) of this section electronically, and you allow the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(iii) Isolated transaction with consumer. For an isolated transaction with a consumer, you provide the consumer with a reasonable opportunity to opt out if you provide the notices required in paragraph (a)(1) of this section at the time of the transaction and request that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) Application of opt out to all consumers and all nonpublic personal information. (1) You must comply with this section, regardless of whether you and the consumer have established a customer relationship.

(2) Unless you comply with this section, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that you have collected, regardless of whether you have collected it before or after receiving the direction to opt out from the consumer.

(c) Partial opt out. You may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 160.11 Limits on redisclosure and reuse of information.

(a) (1) Information you receive under an exception. If you receive nonpublic personal information from a nonaffiliated financial institution under an exception in §§160.14 or 160.15, your disclosure and use of that information is limited as follows:

(i) You may disclose the information to the affiliate of the financial institution from which you received the information;

(ii) You may disclose the information to your affiliates, but your affiliates may, in turn, disclose and use the information only to the extent that you may disclose and use the information; and

(iii) You may disclose and use the information pursuant to an exception in §§160.14 or 160.15 in the ordinary course of business to carry out the activity covered by the exception under which you received the information.

(2) Example. If you receive a customer list from a nonaffiliated financial institution in order to provide account-