

## § 573.17

no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

### § 573.17 Relation to State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such State statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with the OTS, on the Federal Trade Commission's own motion, or upon the petition of any interested party.

### § 573.18 Effective date; transition rule.

(a) *Effective date.* This part is effective November 13, 2000. In order to provide sufficient time for you to establish policies and systems to comply with the requirements of this part, the OTS has extended the time for compliance with this part until July 1, 2001.

(b)(1) *Notice requirement for consumers who are your customers on the compliance date.* By July 1, 2001, you must have provided an initial notice, as required by § 573.4, to consumers who are your customers on July 1, 2001.

(2) *Example.* You provide an initial notice to consumers who are your customers on July 1, 2001, if, by that date, you have established a system for providing an initial notice to all new customers and have mailed the initial notice to all your existing customers.

(c) *Two-year grandfathering of service agreements.* Until July 1, 2002, a contract that you have entered into with a nonaffiliated third party to perform services for you or functions on your behalf satisfies the provisions of § 573.13(a)(1)(ii) of this part, even if the

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contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as you entered into the contract on or before July 1, 2000.

### APPENDIX A TO PART 573—SAMPLE CLAUSES

Financial institutions, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

#### A-1—CATEGORIES OF INFORMATION YOU COLLECT (ALL INSTITUTIONS)

You may use this clause, as applicable, to meet the requirement of § 573.6(a)(1) to describe the categories of nonpublic personal information you collect.

*Sample Clause A-1:* We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates, or others; and
- Information we receive from a consumer reporting agency.

#### A-2—CATEGORIES OF INFORMATION YOU DISCLOSE (INSTITUTIONS THAT DISCLOSE OUTSIDE OF THE EXCEPTIONS)

You may use one of these clauses, as applicable, to meet the requirement of § 573.6(a)(2) to describe the categories of nonpublic personal information you disclose. You may use these clauses if you disclose nonpublic personal information other than as permitted by the exceptions in §§ 573.13, 573.14, and 573.15.

*Sample Clause A-2, Alternative 1:* We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, and income"]; and
- Information about your transactions with us, our affiliates, or others, such as [provide illustrative examples, such as "your account balance, payment history, parties to transactions, and credit card usage"]; and

• Information we receive from a consumer reporting agency, such as [*provide illustrative examples, such as “your creditworthiness and credit history”*].

*Sample Clause A-2, Alternative 2:* We may disclose all of the information that we collect, as described [*describe location in the notice, such as “above” or “below”*].

**A-3—CATEGORIES OF INFORMATION YOU DISCLOSE AND PARTIES TO WHOM YOU DISCLOSE (INSTITUTIONS THAT DO NOT DISCLOSE OUTSIDE OF THE EXCEPTIONS)**

You may use this clause, as applicable, to meet the requirements of §§573.6(a)(2), (3), and (4) to describe the categories of nonpublic personal information about customers and former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose. You may use this clause if you do not disclose nonpublic personal information to any party, other than as permitted by the exceptions in §§573.14, and 573.15.

*Sample Clause A-3:* We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

**A-4—CATEGORIES OF PARTIES TO WHOM YOU DISCLOSE (INSTITUTIONS THAT DISCLOSE OUTSIDE OF THE EXCEPTIONS)**

You may use this clause, as applicable, to meet the requirement of §573.6(a)(3) to describe the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§573.13, 573.14, and 573.15, as well as when permitted by the exceptions in §§573.14, and 573.15.

*Sample Clause A-4:* We may disclose nonpublic personal information about you to the following types of third parties:

• Financial service providers, such as [*provide illustrative examples, such as “mortgage bankers, securities broker-dealers, and insurance agents”*];

• Non-financial companies, such as [*provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”*]; and

• Others, such as [*provide illustrative examples, such as “non-profit organizations”*].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

**A-5—SERVICE PROVIDER/JOINT MARKETING EXCEPTION**

You may use one of these clauses, as applicable, to meet the requirements of §573.6(a)(5) related to the exception for service providers and joint marketers in §573.13. If you disclose nonpublic personal information under this exception, you must describe

the categories of nonpublic personal information you disclose and the categories of third parties with whom you have contracted.

*Sample Clause A-5, Alternative 1:* We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

• Information we receive from you on applications or other forms, such as [*provide illustrative examples, such as “your name, address, social security number, assets, and income”*];

• Information about your transactions with us, our affiliates, or others, such as [*provide illustrative examples, such as “your account balance, payment history, parties to transactions, and credit card usage”*]; and

• Information we receive from a consumer reporting agency, such as [*provide illustrative examples, such as “your creditworthiness and credit history”*].

*Sample Clause A-5, Alternative 2:* We may disclose all of the information we collect, as described [*describe location in the notice, such as “above” or “below”*] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

**A-6—EXPLANATION OF OPT OUT RIGHT (INSTITUTIONS THAT DISCLOSE OUTSIDE OF THE EXCEPTIONS)**

You may use this clause, as applicable, to meet the requirement of §573.6(a)(6) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§573.13, 573.14, and 573.15.

*Sample Clause A-6:* If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [*describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”*].

**A-7—CONFIDENTIALITY AND SECURITY (ALL INSTITUTIONS)**

You may use this clause, as applicable, to meet the requirement of §573.6(a)(8) to describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

*Sample Clause A-7:* We restrict access to nonpublic personal information about you to

[provide an appropriate description, such as "those employees who need to know that information to provide products or services to you"]. We maintain physical, electronic, and procedural safeguards that comply with federal standards to guard your nonpublic personal information.

## PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

Sec.

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AUTHORITY: 12 U.S.C. 1467a, 1817, 1831i.

SOURCE: 54 FR 49690, Nov. 30, 1989, unless otherwise noted.

### § 574.1 Scope of part.

The purpose of this part is to implement the provisions of the Change in Bank Control Act, 12 U.S.C.1817(j) ("Control Act"), and the Savings and Loan Holding Company Act, 12 U.S.C. 1467a ("Holding Company Act"), relating to acquisitions and changes in control of savings associations that are organized in stock form and savings and loan holding companies thereof.

[61 FR 60184, Nov. 27, 1996]

### § 574.2 Definitions.

As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(a) *Acquire* when used in connection with the acquisition of stock of a savings association means obtaining ownership, control, power to vote, or sole power of disposition of stock, directly or indirectly or through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession, or other means, including:

(1) An increase in percentage ownership resulting from a redemption, repurchase, reverse stock split or a simi-

lar transaction involving other securities of the same class, and

(2) The acquisition of stock by a group of persons and/or companies acting in concert which shall be deemed to occur upon formation of such group: *Provided*, That an investment advisor shall not be deemed to acquire the voting stock of its advisee if the advisor:

(i) Votes the stock only upon instruction from the beneficial owner, and

(ii) Does not provide the beneficial owner with advice concerning the voting of such stock.

(b) *Acquiror* means a person or company.

(c) *Acting in concert* means: (1) Knowing participation in a joint activity or interdependent conscious parallel action towards a common goal whether or not pursuant to an express agreement, or

(2) A combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise.

(3) A person or company which acts in concert with another person or company ("other party") shall also be deemed to be acting in concert with any person or company who is also acting in concert with that other party, except that any tax-qualified employee stock benefit plan as defined in §563b.2(a)(39) will not be deemed to be acting in concert with its trustee or a person who serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated.

(d) *Affiliate* means any person or company which controls, is controlled by or is under common control with a person, savings association or company.

(e) [Reserved]

(f) *Company* means any corporation, partnership, trust, association, joint venture, pool, syndicate, unincorporated organization, joint-stock company or similar organization, as defined in paragraph (r) of this section; but a company does not include: