

This is an amendment to 13.1.3 NMAC, Section 9, effective 3/1/2022.

**13.1.3.9 ANNUAL PRIVACY NOTICE TO CUSTOMERS REQUIRED FOR NONPUBLIC PERSONAL FINANCIAL INFORMATION:**

**A. General rule.** A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of [~~twelve (12)~~] 12 consecutive months during which that relationship exists. A licensee may define the [~~twelve~~] 12 consecutive-month period, but the licensee shall apply it to the customer on a consistent basis. **Example:** A licensee provides a notice annually if it defines the [~~twelve~~] 12 consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year [~~4~~] one the licensee shall provide an annual notice to that customer by December 31 of year [~~2~~] two.

**B. Exception to the general rule.** A licensee that provides nonpublic personal information in accordance with Sections 13.1.3.17 NMAC, 13.1.3.18 NMAC, and 13.1.3.19 NMAC and has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent notice sent to consumers in accordance with 13.1.3.8 NMAC shall not be required to provide a subsequent annual notice under this section until such time as the licensee fails to comply with any criteria described in this subsection. Notice of a change in a licensee's privacy policy shall be sent 90 days after the effective date of the change.

**[B-] C. Termination of customer relationship.** A licensee is not required to provide [~~an annual~~] a privacy notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship. **Examples:**

(1) A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(2) A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of [~~twelve (12)~~] 12 consecutive months, other than to provide [~~annual~~] privacy notices, material required by law or rule, or promotional materials.

(3) For the purposes of this rule, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(4) A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

**[C-] D. Delivery.** When a licensee is required by this section to deliver [~~an annual~~] a privacy notice, the licensee shall deliver it according to 13.1.3.13 NMAC.

[13.1.3.9 NMAC - N, 2/25/2002; A, 3/1/2022]