# MANAGEMENT CERTIFICATION

**California Financial Information Privacy Act**
**Financial Code, Division 1.4**
**(Commencing with Section 4050)**

**To: Financial Institution Management**

**Please provide responses to the following items and sign and date where indicated to attest to the accuracy of the statements provided as part of the examination of**

_____.
**(Name of Financial Institution)**

## Introduction

The California Financial Information Privacy Act (Division 1.4 (commencing with section 4050) of the Financial Code) ("Division 1.4") became effective on July 1, 2004 (originally numbered Division 1.2). Division 1.4 broadly regulates the sharing of nonpublic personal information of consumers, and the Department's licensees are expected to comply with all aspects of this legislation. Among other things, Division 1.4:

> Prohibits a financial institution from disclosing any non-public personal information of a consumer to a non-affiliated third party without first having obtained the consent of the consumer to that information sharing. The need to obtain the consent of the consumer is generally referred to as an "opt-in" to such information sharing.

The Financial Institution is reminded that it must comply with all aspects of Division 1.4, not only the "opt-in" and "opt-out" provisions. **We encourage the Financial Institution to obtain independent legal advice regarding compliance with Division 1.4.**

## Certification

Please provide your responses to the following questions. All terms used herein have the meaning as defined in Division 1.4 of the Financial Code, unless otherwise indicated. You may respond on this Certification or on a separate sheet of paper as needed, however, the certification must be signed under all circumstances. **Please include documentation to support each applicable response.**

1. Does the Financial Institution share, or intend to share, nonpublic personal information with nonaffiliated third parties [FC 4052.5]? *[Examples of nonaffiliated third parties include* ***but are not limited to*** *check printing companies, outsourced collection companies, outsourced accounting systems, and independent paying agents.]* If the answer is "yes", please continue. Please submit any applicable responses to "1.a." and "1.b." in the attached Schedule of Nonaffiliates. If the answer is "no" please skip to question #2 below.

a. Using the attached Schedule of Nonaffiliates (also located at http://www.dbo.ca.gov/forms/dfiforms.asp), please provide a list of all nonaffiliated third parties and detail the intended purpose for the sharing of such information.

b. Did the Financial Institution obtain the explicit prior consent of the consumer to whom the nonpublic personal information relates prior to sharing such information?

   If the answer is "no", please cite and explain in the attached Schedule of Nonaffiliates, the statutory exemption, or any other statutory authority, for not obtaining the consumer's "opt-in" prior consent. Refer to FAQ Part III – Statutory Exemptions for a list of common circumstances in which a financial institution may share nonpublic personal information. *The FAQs are posted to the DBO website at* http://www.dbo.ca.gov/forms/dfiforms.asp

c. How does the Financial Institution obtain the explicit prior consent of the consumer?

d. Please provide a copy of the consent form(s), and indicate the date(s) when the consent form(s) was approved and who approved the form(s).

2. Please identify the person who is responsible for ensuring the Financial Institution is in compliance with Division 1.4, and state where records are maintained documenting such compliance, including notices, consent forms, and information sharing agreements. Please include the title and direct phone number of the person assigned responsibility for Division 1.4 compliance at your institution.

3. Please state how the Financial Institution manages and controls the risk of unauthorized disclosure of nonpublic personal information of consumers.

4. Describe the controls within the Information Systems to prevent unauthorized disclosure of nonpublic personal information of consumers.

5. Is an independent review of the Financial Institution's compliance with Division 1.4 performed? If the answer is "yes", please provide a copy of the review.

6. How does the board assess sufficiency of policy, procedures, information systems, and other arrangements in place to control financial privacy risk? Please indicate the date when the board or a designated committee approved the policy and procedures for the Financial Institution's compliance with Division 1.4.

7. Does the Financial Institution have a training program for its employees with regard to consumers' financial privacy? If the answer is "yes", please describe the training program and indicate the most recent training that was conducted.

**Certification**

The undersigned hereby acknowledges that the failure of his or her institution to comply with Division 1.4 may subject the institution to civil money penalties pursuant to Financial Code Section 4057.

| Name | Title |
|---|---|
| Signature | Date |