

VIII. Privacy – TCPA

- The institution or its third-party vendor maintains records to support the three-month process. [47 CFR 64.1200(c)(2)(i)(D)]
- The telephone call was made between the hours of 8 a.m. and 9 p.m. local time for the called party's location. [47 CFR 64.1200(c)(1)]

Automated Dialing and Abandoned Calls

- Any calls that were made using artificial or prerecorded voice messages to a residential telephone number met the requirements in 47 CFR 64.1200(a)(6)(i).
 - The name, telephone number, and purpose of the call were provided to the subscriber if the call was abandoned. [47 CFR 64.1200(a)(6)]
 - The institution or its third-party vendor maintains appropriate documentation of abandoned calls, sufficient to determine whether they exceed the 3 percent limit in the 30-day period reviewed. [47 CFR 64.1200(a)(6)]
 - The institution or its third-party vendor transmits caller identification information. [47 CFR 64.1601(e)]
3. Ensure that the financial institution does not participate in any purchase-sharing arrangement for access to the national “Do-Not Call” registry. [47 CFR 64.1200(c)(2)(i)(E)]
 4. Observe call center operations, if appropriate, to verify abandoned call practices regarding ring duration and two-second transfer rule. [47 CFR 64.1200(a)(6)]

Conclusions

1. Summarize all findings, supervisory concerns, and regulatory violations.
2. For the violation(s), determine the root cause by identifying weaknesses in internal controls, audit and compliance reviews, training, management oversight, or other factors; also, determine whether the violation(s) are repetitive or systemic.
3. Identify action needed to correct violations and weaknesses in the institution's compliance program.
4. Discuss findings with the institution's management, and obtain a commitment for corrective action.
5. Record violations according to agency policy to facilitate analysis and reporting.

References

Federal Trade Commission Resources

Do Not Call Website

<http://www.ftc.gov/bcp/online/edcams/donotcall/index.html>

Telephone Disclosure and Dispute Resolution Act of 1992

http://www.law.cornell.edu/uscode/html/uscode15/uscode15_01_15_10_83.html

Telemarketing and Consumer Fraud and Abuse Prevention Act

http://www.law.cornell.edu/uscode/html/uscode15/uscode15_01_15_10_87.html

Telecommunication Act of 1996

http://www.law.cornell.edu/uscode/html/uscode15/uscode15_15_00005714----000-.html

Do-Not-Call Implementation Act

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ010.108.pdf

Do-Not-Call Registry Act of 2003

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ082.108.pdf

Federal Communications Commission Resources

Do Not Call Registry

<http://www.fcc.gov/cgb/donotcall/>

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-132A1.pdf

FCC Delays Effective Date for Rules Concerning Unsolicited Fax Advertisements

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-259689A1.pdf

Job Aids

Telephone Consumer Protection Act Worksheet

This worksheet can be used to review audit work papers, to evaluate bank policies, to perform transaction testing, and to train as appropriate. Complete only those aspects of the worksheet that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

Examination Worksheet—Telephone Consumer Protection Act	Yes	No
1. Does the financial institution or any third party vendor engage in telemarketing activities on the financial institutions behalf? If No, stop here. If Yes, continue to question #2.		
<i>For the questions below, every “No” answer indicates a potential violation of the regulation and/or an internal control deficiency that must be explained fully in the work papers.</i>		
Delivery Restrictions (47 CFR 64.1200)		
2. The financial institution engaged in telemarketing is registered on the FTC’s Web site as a seller.		
3. Each financial institution affiliate engaged in telemarketing also is registered on the FTC’s Web site and does not rely on the financial institution’s registration.		
4. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from initiating any telephone call using an automatic telephone dialing system or an artificial or prerecorded voice to:		
<ul style="list-style-type: none"> • A paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged. [47 CFR 64.1200(a)(1)] 		
<ul style="list-style-type: none"> • A residential line without the express prior consent of the called party. [47 CFR 64.1200(a)(2)] 		
5. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from using a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine without an established business relationship or express written permission from the recipient. [47 USC 227 as amended by the Junk Fax Prevention Act of 2005]		
6. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from using an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously. [47 CFR 64.1200(a)(4)]		
7. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from disconnecting an unanswered telemarketing call prior to at least 15 seconds or four rings. [47 CFR 64.1200(a)(5)]		
8. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from abandoning more than 3 percent of all telemarketing calls that are answered live by a person, measured over a 30-day period. [47 CFR 64.1200(a)(6)]		
9. For an abandoned call, the information provided is limited to the name and telephone number of the business, entity, or individual on whose behalf the call was placed and that the call was made for “telemarketing purposes.” [47 CFR 64.1200(a)(6)]		
10. The financial institution (or third-party engaged in making telemarketing calls on the financial institution’s behalf) refrains from using any technology to dial any telephone number for determining whether the line is a facsimile or voice line. [47 CFR 64.1200(a)(7)]		

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Examination Worksheet—Telephone Consumer Protection Act (continued)	Yes	No
Delivery Restrictions (47 CFR 64.1200) (continued)		
11. If the financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) uses an automatic or prerecorded telephone message, determine whether: [47 CFR 64.1200(b)]		
<ul style="list-style-type: none"> At the beginning of the message, the business, individual, or other entity initiating the call is clearly identified. 		
<ul style="list-style-type: none"> The name of the business responsible for initiating the call is stated. 		
<ul style="list-style-type: none"> The name of the business responsible for initiating the call is registered with the appropriate regulatory authority. 		
<ul style="list-style-type: none"> During the message, the telephone number for the business responsible for initiating the call is provided. 		
<ul style="list-style-type: none"> The number provided is available during regular business hours. 		
12. The financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) initiates all calls to residential subscribers between the hours of 8 a.m. and 9 p.m. (local time of the called party's location). [47 CFR 64.1200(c)(1)]		
13. Prior to initiating any call, the financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) checks the national "Do-Not Call" registry to verify that the residential telephone subscriber's number is not listed. [47 CFR 64.1200(c)(2)]		
14. If the financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) calls a subscriber whose number appears on the "Do-Not Call" registry, does it meet one of the following criteria:		
<ul style="list-style-type: none"> It can demonstrate that the violation is the result of an error and that its routine business practices meet the minimum standards set forth in the regulation [47 CFR 64.1200(c)(2)(i)] 		
<ul style="list-style-type: none"> It has the subscriber's prior express invitation or permission evidenced by a signed, written agreement that includes a telephone number to which the calls may be placed. [47 CFR 64.1200(c)(2)(ii)] 		
<ul style="list-style-type: none"> It has a personal relationship with the recipient of the call. [47 CFR 64.1200(c)(2)(iii)] 		
15. The financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) has a process to provide the called party with the following information:		
<ul style="list-style-type: none"> The name of the individual caller. 		
<ul style="list-style-type: none"> The name of the person or entity on whose behalf the call is being made. 		
<ul style="list-style-type: none"> A telephone number or address at which the entity may be contacted. [47 CFR 64.1200(d)(4)] 		
16. The financial institution has a process in place that considers whether an established business relationship should extend to an affiliate. [47 CFR 64.1200(f)(ii)]		

Examination Worksheet—Telephone Consumer Protection Act (continued)	Yes	No
Delivery Restrictions (47 CFR 64.1200) (continued)		
17. The financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) maintains a do-not-call record listing callers' requests not to receive further telemarketing calls. [47 CFR 64.1200(d)(6)]		
18. The financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) honors a caller's request not to receive telemarketing calls for five years from the time the request is made. [47 CFR 64.1200(d)(6)]		
19. The financial institution (or third-party engaged in making telemarketing calls on the financial institution's behalf) transmits caller identification information. [47 CFR 64.1601(e)]		