

- Process flow charts to determine how the financial institution’s TCPA compliance is planned for, evaluated, and achieved;
 - Policies and procedures that address:
 - a. Recording a telephone subscriber’s request not to receive calls from a particular financial institution and the maintenance of those recordings for five years.
 - b. Placement of the telephone subscriber’s name, if given, and telephone number on the financial institution’s do-not-call list.
 - c. Maintenance of the list of telephone numbers that the financial institution may not contact.
 - d. Compliance with the national do-not-call rules.
 - e. Use of a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine.
 - Training of the financial institution’s personnel engaged in telemarketing as to the existence and use of the financial institution’s do-not-call list and the national do-not-call rules; [47 CFR 64.1200(d)(2)]
 - Process for recording a telephone subscriber’s request not to receive calls and to place the subscriber’s name, if provided, and telephone number on a do-not-call list; [47 CFR 64.1200(d)(3)]
 - Process used to access the national do-not-call database; [47 CFR 64.1200(c)(2)(i)(D)]
 - Process to ensure that the financial institution (and any third-party engaged in making telemarketing calls on behalf of the financial institution) does not sell, rent, lease, purchase, or use the national do-not-call database for any purpose except for compliance with the TCPA; [47 CFR 64.1200(c)(2)(i)(E)]
 - Process to ensure that telemarketers making telemarketing calls are providing the called party with the name of the individual caller, the name of the financial institution on whose behalf the call is being made, and a telephone number (that is not a 900 number or a long distance number) or address at which the financial institution may be contacted; [47 CFR 64.1200(d)(4)] and
 - Internal checklists, worksheets, and other relevant documents.
4. Review applicable audit and compliance review material, including work papers, checklists, and reports, to determine whether:
 - The procedures address the TCPA provisions applicable to the institution;
 - Effective corrective action occurred in response to previously identified deficiencies;
 - The audits and compliance reviews performed were reasonable and accurate;
 - Deficiencies, their causes, and the effective corrective actions are consistently reported to management or the members of the board of directors; and
 - The frequency of the compliance review is satisfactory.
 5. Review a sample of complaints to determine whether or not any potential violations of TCPA exist.
 6. Based on the review of complaints that pertain to aspects of TCPA, revise the scope of examination focusing on the areas of particular risk. The verification procedures to be employed depend upon the adequacy of the institution’s compliance program and level of risk identified.

Verification Procedures

1. Obtain a list of marketing or promotional programs for products and services that the financial institution promoted with telemarketing either directly or through a third-party vendor.
2. Obtain a sample of data, or through testing or managements demonstration, for at least one program, determine whether:

Do-Not-Call List

- The institution or its third-party vendor verified whether the subscriber’s telephone number was listed on the national “Do-Not Call” registry. [47 CFR 64.1200(c)(2)]
- If the telephone subscriber is on the national “Do-Not Call” registry and a telemarketing call is made, the existence of an established business relationship between the subscriber and the financial institution can be confirmed [47 CFR 64.1200(f)(3)] or the safe harbor conditions have been met. [47 CFR 64.1200(d)]
- Through testing or management’s demonstration, verify that the financial institution has a process to determine whether it has an established business relationship with a telephone subscriber. [47 CFR 64.1200(f)(3)]
- A telephone subscriber’s desire to be placed on a company-specific do-not-call list was honored for five years. [47 CFR 64.1200(d)(6)]
- The institution or its third-party vendor employs a version of the national “Do-Not Call” registry or portions of the database for areas called that was obtained no more than three months prior to the call date (three-month process). [47 CFR 64.1200(c)(2)(i)(D)]

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_usc_sup_01_15_10_83.html

Telemarketing and Consumer Fraud and Abuse Prevention Act

http://www.law.cornell.edu/uscode/html/uscode15/uscode15_usc_sup_01_15_10_87.html

Telecommunication Act of 1996

http://www.law.cornell.edu/uscode/html/uscode15/uscode15_usc_sec_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.