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Section 1 General

1.1 Statement of Purpose

[Sample Client] designed these policies and procedures to safeguard its legal responsibility to comply with applicable residential lending laws and regulations. The [board of directors](#) and senior management, through a sound [Compliance Management System](#), ensure the integration of these policies and procedures into the overall framework for product design, delivery, and administration across the residential lending origination and service life cycle. Management and employees utilize these policies and procedures to guide their daily responsibilities to effect mitigation of regulatory compliance risk within their job roles.

1.2 Objective

The guidance in this guide applies throughout [Sample Client]'s operations with the objective to mitigate regulatory risk and consumer harm within the standards of [Sample Client]'s compliance program. [Sample Client] requires employees, contractors, and [third-party vendors](#) to comply with these policies and procedures.

1.3 State Law and Agency Guidelines

Federal law may alter, affect, or preempt state laws that are inconsistent with the federal law. Preemption applies only to the extent of the inconsistency. A state law is not inconsistent if it is more protective of a consumer. Wherever state law or local regulations overlap and provide greater consumer protections than federal law or the requirements set out in this guide, [Sample Client] will comply with the more protective law or regulation and will consult with the appropriate legal counsel to set forth [Sample Client]'s policies and procedures for compliance.

In some instances, agencies may overlay guidelines that expand upon the requirements of federal law. [Sample Client] must be cognizant of agency guidelines and incorporate those guidelines into [Sample Client]'s policies and procedures.

Section 2 Summary

The Telephone Consumer Protection Act (TCPA) places restrictions on the use of telephone equipment, specifically regulating [telephone solicitations](#), and sets forth requirements for [telemarketing](#) calls, autodialed calls, prerecorded message calls, text messaging services, and [unsolicited](#) facsimile machine messages. The TCPA also created a national database of telephone numbers of residential subscribers who object to receiving telephone solicitations—the National Do Not Call Registry—and telemarketers must remove numbers in the database from their calling lists.

Amendments and Related Regulations

In addition to the Federal Communications Commission (FCC) regulations in the TCPA, the Federal Trade Commission (FTC) set forth the Telemarketing Sales Rule (TSR). The TSR contains parallel rules for telemarketing sales which require implementing specific calling procedures, disclosing information to consumers during the telemarketing process, and maintaining records of telemarketing activities.

The Junk Fax Prevention Act amended provisions of the TCPA related to unsolicited advertising facsimile messages and the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act enhanced consumer protections from robocalls and strengthened FCC enforcement capabilities. Consumers are also afforded protections from unwanted e-mail messages on wireless devices by the FTC's Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM Act).

Related State Laws

Numerous states have enacted telemarketing laws, frequently modeled after the TCPA and using the National Do Not Call Registry or a similar state list. The TCPA does not preempt state laws that impose more restrictive telephone solicitation requirements.

2.1 Coverage

The FCC's Telephone Consumer Protection Act (TCPA) regulations apply to individuals and entities, including financial institutions such as banks, savings associations, and credit unions engaged in telemarketing activities.

Section 3 Requirements

[Sample Client] is expected to develop methods and implement measures to comply with the TCPA consumer protections from unwanted, [unsolicited](#), and nuisance calls, facsimile messages, pre-recorded messages, auto-dialed calls, and text messages. [Sample Client] must also comply with the applicable TCPA requirements for [telemarketing](#) calls, identification of telemarketing callers, call times limits, and telemarketing opt out rules.

The following are key provisions of the TCPA:

- Establish prohibitions and define limited exceptions for the use of any [automatic telephone dialing system](#) or artificial or prerecorded voice to initiate marketing communications
- Impose restrictions on the times of the day when telephone solicitation to a residential telephone subscriber may be initiated
- Establish a National Do Not Call Registry and prohibit initiating telephone solicitation to registered telephone numbers
- Set requirements for telemarketing calls made by financial institutions
- Prohibit the use of an automatic telephone dialing system to simultaneously engage more than one telephone line of a multi-line business
- Establish rules for disconnection of unanswered calls and limitations for abandoned call rates
- Require identification of a caller, including the caller's identity, telephone number or address, and information about how the called party can make a do not call request
- Impose strict limitations on the use of a telephone facsimile machine, computer, or other devices to send any unsolicited advertisement to a telephone facsimile machine unless the recipient voluntarily provided or made available the fax machine telephone number and the recipient received notice of opt out

Section 4 Origination Compliance

[Sample Client] origination must fully comply with the requirements of the TCPA in conducting any [telemarketing](#) activities on behalf of [Sample Client].

4.1 Procedures and Training Requirements

[Sample Client]'s compliance with the requirements of the TCPA begins even before making any telemarketing calls. [Sample Client] must provide training for employees who engage in telemarketing and [Sample Client] requires origination personnel to follow all written procedures for telemarketing activities, recording do not call requests, and maintaining a do not call list.

4.2 Telemarketing Call Prohibitions

[Sample Client] prohibits telemarketing calls using an artificial or prerecorded voice to deliver a message to any residential line or any telephone numbers, such as cellular telephone calls and texts and paging or radio service numbers, for which the called party is charged for the call unless prior express written consent is obtained from the called party or the call meets another exception criteria.

Refer to [General Prohibitions](#) and [Residential Lines](#) in this guide for requirements.

Section 5 Servicing Compliance

[Sample Client] servicing must fully comply with applicable requirements of the TCPA, including following written procedures for recording do not call requests, maintaining a do not call list, and honoring do not call requests. Servicing procedures must provide for prompt removal of cellular telephone numbers from any pool of potential autodialed numbers if a customer revokes consent.

5.1 Telemarketing Calls

If [Sample Client] servicing personnel engage in [telemarketing](#), any telemarketing calls must meet the TPCA requirements.

Refer to [Origination Compliance](#) in this guide for details.

5.2 Informational Calls

For informational calls, including debt collection calls, [Sample Client] servicing must comply with the TPCA requirements for informational calls. These rules also apply to texts.

Debt Collection Calls

Debt collection calls are not the same as telemarketing calls—so long as those collection calls do not also contain telemarketing messages.

[Sample Client] may make autodialed or prerecorded debt collection calls that do not contain telemarketing messages subject to the following consent requirements:

- Calls to residential lines do not require consumer consent.
- Calls made to a consumer's wireless number do require prior express consent which may be written or oral.

[Sample Client] may make autodialed or prerecorded collection calls to a wireless number by relying on the prior express consent provided by the consumer either including his wireless telephone number on a mortgage application or making his cell phone number available to [Sample Client] in normal business communications, such as by letter or on a phone call, for use to reach the consumer.

Other Informational Calls

Certain other informational calls are exempt from written consent requirements. The FCC provides a non-exhaustive list of other types of calls considered exempt from the written