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Sample

## Section 1 General

### 1.1 Statement of Purpose

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[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

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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

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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 and texting 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

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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
- Require businesses to obtain written consumer consent before initiating a prerecorded telemarketing call to a residential land line or wireless phone number; or before initiating an autodialed or prerecorded call or text to a wireless number.
- 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

### 3.1 Autodialer, and Prerecorded or Artificial Voice Prohibitions

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[Sample Client] must develop methods for complying with the TCPA by implementing measures to ensure [Sample Client] does not initiate marketing communication using

### 3.1.2.1 Reasonable Manner

Consumers may revoke prior express written consent for autodialed or prerecorded or artificial voice calls and autodialed texts in any reasonable manner that clearly expresses a desire not to receive further calls or text messages. [Sample Client] may not infringe on that right by designating an exclusive means to revoke consent that precludes the use of any other reasonable method.

Any revocation request made using an automated, interactive voice or key press-activated opt-out mechanism on a robocall; via a response of “stop” or a similar, standard response message sent in reply to an incoming text message; or submitted at a website or telephone number provided by the caller to process opt-out requests constitute examples of a reasonable means to revoke consent. If a called party uses any such method consent must be revoked and future robocalls from must be stopped.

### 3.1.2.2 Words to Revoke Consent

The following is a standardized list of the specific words that may be used to revoke consent via a reply text message:

- Stop
- Quit
- End
- Revoke
- Opt out
- Cancel
- Unsubscribe

The above list is not exhaustive; if a consumer’s reply text contains words or phrases other than those listed above, [Sample Client] must document why the consumer’s use of alternative words or phrases did not constitute a reasonable means to revoke consent.

### 3.1.2.3 Use of Non-Reply Texting Protocols

Should [Sample Client] utilize a texting protocol that does not allow reply texts, [Sample Client] must comply with the following requirements:

## 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

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[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

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[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 [Autodialer, and Prerecorded or Artificial Voice Prohibitions](#) in this guide for requirements.

### 4.3 Disclosure and Notice Requirements

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[Sample Client] mandates artificial or prerecorded telephone messages for telemarketing purposes must include all the following:

- Identity of the caller stated clearly at the beginning of the message
- Caller telephone number, which is not a 900 number or other number for which charges exceed local or long distance transmission charges, stated during or after the message

## 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

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

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

### 5.2 Informational Calls

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For informational calls, including debt collection calls, [Sample Client] servicing must comply with the TCPA 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 written consent](#) which may be written or oral.