

Telephone Consumer Protection Act and Junk Fax Prevention Act Worksheet

BANK:

PREP. BY:

EXAM DATE:

REV.
BY:

The purpose of this worksheet is to assist the examiner in conducting transactional testing. It can be used to verify and test the work of the compliance officer or internal/external audit function.

The questions should be answered with a "Yes" or "No" for each item selected. Generally, a "No" answer indicates a potential violation or internal control deficiency and must be fully explained in the workpapers.

Retain appropriate documentation in workpapers.

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
1. Does the financial institution engage, directly or indirectly through a third-party telemarketing firm, in any form of telemarketing via telephone or facsimile machine (even if such communications are made only to existing customers)? If No, stop here. If Yes, continue to question #2.		
2. Does the financial institution make any telemarketing calls to consumers that are not its customers? If Yes, continue to question 3. If No, skip to question 4.		
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.		
3. 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)]		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
4. 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)]		
5. The financial institution (or third party engaged in making telemarketing calls on the financial institution's behalf) maintains a written policy, available upon demand, for maintaining a do-not-call list. [47 CFR 64.1200(d)(1)]		
6. The financial institution (or third party engaged in making telemarketing calls on the financial institution's behalf) trains and informs personnel engaged in any aspect of telemarketing in the existence and use of the do-not-call list. [47 CFR 64.1200(d)(2)]		
<p>7. 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?</p> <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)] • 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)] • It has a personal relationship with the recipient of the call. [47 CFR 64.1200(c)(2)(iii)] 		
8. 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)(4)(ii)]		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
<p>9. 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:</p> <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)] • A residential line without the express prior consent of the called party. [47 CFR 64.1200(a)(2)] 		
<p>10. 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)]</p>		
<p>11. 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)]</p>		
<p>12. 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)]</p>		
<p>13. 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)]</p>		
<p>14. 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)]</p>		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
<p>15. 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)]</p> <ul style="list-style-type: none"> • At the beginning of the message, the business, individual, or other entity initiating the call is clearly identified. [47 CFR 64.1200(b)(1)] • During or after the message, the telephone number for the business responsible for initiating the call is provided. [47 CFR 64.1200(b)(2)] • The number provided is available during regular business hours. [47 CFR 64.1200(b)(2)] • The number provided is one that is not a 900 number or any other number for which charges exceed local or long distance transmission charges. [47 CFR 64.1200(b)(2)] 		
<p>16. 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)]</p>		
<p>17. The financial institution (or third party engaged in making telemarketing calls on the financial institution's behalf) has instituted procedures to provide the called party with the following information: [47 CFR 64.1200(d)(4)]</p> <ul style="list-style-type: none"> • The name of the individual caller. [47 CFR 64.1200(d)(4)] • The name of the person or entity on whose behalf the call is being made. [47 CFR 64.1200(d)(4)] • A telephone number or address at which the entity may be contacted. [47 CFR 64.1200(d)(4)] 		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
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)]		
<p>18. The financial institution (or third party, including facsimile broadcasters) refrains from using a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine without</p> <ul style="list-style-type: none"> • An established business relationship; [47 CFR 64.1200(a)(3)(i)] and • The express invitation or permission of the recipient by either obtaining the fax number through <ul style="list-style-type: none"> ○ Voluntary communication with the recipient directly to the sending, within the context of the established business relationship [47 CFR 64.1200(a)(3)(ii)(A)] or ○ A directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution. [47 CFR 64.1200(a)(3)(ii)(B)] ○ Note: If an established business relationship with recipient was in existence before July 9, 2005, and the sender also possessed the facsimile machine number of the recipient before at that time, then clauses A and B (the above two clauses) do not apply. [47 CFR 64.1200(a)(3)(ii)(C)] ○ Note: If a sender obtains the facsimile number from the recipient's own directory, advertisement, or Internet site, it will be presumed that the number was voluntarily made available for public distribution, unless such materials explicitly note that unsolicited advertisements are not accepted at the specified facsimile number. If a sender obtains the facsimile number from other sources, the sender must take reasonable steps to verify that the recipient agreed to make the number available for public distribution. [47 CFR 64.1200(a)(3)(ii)(B)] 		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
<p>19. The advertisement contains a notice that informs the recipient of the ability and means to avoid future unsolicited advertisements. [47 CFR 64.1200(a)(3)(iii)]</p> <ul style="list-style-type: none"> • The notice is clear and conspicuous and on the first page of the advertisement. [47 CFR 64.1200(a)(3)(iii)(A)] • The notice states that the sender must comply with such requests within 30 days. [47 CFR 64.1200(a)(3)(iii)(B)] • The notice includes a domestic contact telephone number and facsimile machine number for the recipient to transmit such a request to the sender. [47 CFR 64.1200(a)(3)(iii)(D)(1)] • Note: If neither the required telephone number nor facsimile machine number is a toll-free number, a separate cost-free mechanism, including a Web site address or e-mail address, must be available for a recipient to transmit a request. [47 CFR 64.1200(a)(3)(iii)(D)(2)] 		
<p>20. The telephone and facsimile numbers and cost-free mechanism identified in the opt-out notice are available 24 hours a day, 7 days a week. [47 CFR 64.1200(a)(3)(iii)(E)]</p>		
<p>21. The institution honors opt-out requests where the request:</p> <ul style="list-style-type: none"> • Identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates; [47 CFR 64.1200(a)(3)(v)(A)] • Is made to the telephone number, facsimile number, Web site address or e-mail address identified in the sender's facsimile advertisement; [47 CFR 64.1200(a)(3)(v)(B)] and • The person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine. [47 CFR 64.1200(a)(3)(v)(C)] 		

Telephone Consumer Protection Act and Junk Fax Prevention Act Examination Worksheet	Yes	No
22. The institution honors opt-out requests within the shortest reasonable time from the date of each such request, not to exceed 30 days, and does not send unsolicited advertisements to the recipient unless the recipient subsequently provides prior express invitation or permission to the sender. [47 CFR 64.1200(a)(3)(vi)]		