**Procedure 9600.10: TCPA Procedures**

**Model Revised Date: 05/13/2024**

The Telephone Consumer Protection Act (TCPA) places restrictions on telemarketing calls, text messages and faxes. Generally speaking, the law requires prior express written consent of the called party for autodialed or prerecorded telemarketing calls to wireless numbers and residential land lines.

**DEFINITIONS**

**Coverage and Automatic Dialing System** - the TCPA defines an Automatic Telephone Dialing System and Autodialer as equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator to dial such numbers.

In determining coverage of the TCPA, the credit union must determine if their phone system has the capacity or capability either currently, or at some point in the future (i.e., after an upgrade) to dial random and sequential numbers. EVEN IF THEY DON’T USE IT.

**Prior Express Written Consent** – an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered. The written agreement shall include a clear and conspicuous disclosure informing the person signing that:

1. By executing the agreement, such person authorizes the seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and
2. The person is not required to sign the agreement (directly or indirectly) or agrees to enter into such an agreement as a condition of purchasing any property, goods, or services.

**PROCEDURES**

1. **Prior Express Written Consent.** While there are details and exemptions based on certain call types, certain calls to residential vs. wireless, to most effectively protect the Credit Union an effort will be made to get Express Written Consent from a member to make calls to them on a phone number they provide.

	1. The **written agreement** bearing the signature of the person called (your member) that clearly authorizes the Credit Union to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered.
	2. The agreement shall also include a clear and conspicuous disclosure informing the member signing that:

		1. By executing the agreement, they authorize the Credit Union to deliver or cause to be delivered to them telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and
		2. The member is not required to sign the agreement or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.
	3. The consent will only be associated with products and services that are logically and topically associated with the interaction with the member. For example, if the member is coming in to open an account, the consent will only be for products associated with account-related activity. Separate consent should be received from the member who applies for a loan, if the credit union wants to promote and market loan-related products and services.
2. **Wireless calls.** If prior express written consent is not obtained, a call to a wireless number may be exempt provided the call is not charged to the member (called person) or counted against the called person’s plan limits or minutes/texts and subject to the below. Voice calls and text messages must:

	1. Be sent only to the wireless number provided by the member.
	2. State the name and contact information of the credit union (for voice calls, the disclosures must be made at the beginning of the call).
	3. **Strictly limited** to the following purposes:

		1. Transactions and events that suggest a risk of fraud or identity theft;
		2. Possible breaches of the security of the member’s personal information;
		3. Steps members can take to prevent or remedy harm caused by data security breaches; and
		4. Actions needed to arrange for receipt of pending money transfers.
	4. Not include any telemarketing, cross-marketing, solicitation, debt collection, or advertising content;
	5. Be concise, generally one minute or less in length for voice calls (unless more time is needed to obtain member responses or answer questions) or 160 characters or less in length for text messages;
	6. Be limited to not more than three messages (whether by voice call or text message) per event over a three-day period for an impacted account;
	7. Include an easy way for the member to **opt out of future messages**:

		1. voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call;
		2. voice calls that that could be answered by an answering machine or voice mail service must include a toll-free number that the member can call to opt out of future calls; OR
		3. text messages must inform recipients of the ability to opt out by replying ”STOP” (or something similar), which will be the exclusive means by which the member may opt out of such messages; and
		4. the credit union must honor opt-out requests immediately, no later than 10 business days after receipt of the request.
3. **Residential Line Calls.** The Credit Union will not make any telephone call to a residential line using an artificial or prerecorded voiced to deliver a message without prior written consent of the member, unless the call:

	1. Is made for emergency purposes;
	2. Is not made for commercial purposes; or
	3. Is made for a commercial purpose but does not include or introduce an advertisement or constitute telemarketing.
4. **Requirements for the artificial or prerecorded voice telephone message.** If the Credit Union determines to pursue this method of communication with the member, the following requirements will be followed:

	1. At the beginning of the message the Credit Union will clearly state the identity of the credit union, individual, or other entity that is responsible for initiating the call;
	2. During or after the message, clearly state the telephone number of the credit union. For telemarketing messages (made for both commercial purposes and for non-commercial purposes to land lines without prior written consent), the telephone number must permit any individual to make a do-not-call-request during regular business hours; and
	3. Provide an automated, interactive voice- and/or key press-activated opt-out mechanism for the called person to make a do-not-call request, including a brief explanation with instructions on how to use it within 2 seconds of providing the identification information.

		1. When the called person elects to opt out using such mechanism, the mechanism must automatically record the called person’s number to the caller’s do-not-call list and immediately terminate the call.
		2. When a message is left on an answering machine or voicemail service, the message must provide a toll-free number that enables the person to call back at a later time and connect directly to the automated, interactive voice- and/or key press-activated opt-out mechanism and automatically record the called person’s number to the caller’s do-not-call list.
5. **Training.** The Credit Union will provide training to employees at least annually to review the process for complying with applicable policy and procedures.
6. **Do not call lists.** The Credit Union will maintain documentation associated with member’s request not to be called, reassigned or wrong numbers, general updates to information, etc. These requests may come through in person or through an automated method of communication or response such as voice telephone messages, text messages, etc. Some components of maintaining a compliant list and documenting member requests include:

	1. Central database or location for employees to document reassigned or wrong numbers.
	2. Central database or location for employees to document new phone numbers when receiving calls from members/persons.
	3. A process for periodically requesting an update from members/persons regarding contact information.
	4. A process for determining and recording whether a number has been reassigned if there has been no response after attempting to contact a member/person.
	5. A process for members/persons to update their contact information electronically and the credit union’s recording that information in their central database/location after receiving those requests.
	6. A process for documenting the member’s request to not be called and placed on a do not call list.
	7. When using a prerecorded method or text message, the credit union provides an interactive method to opt-out of calls and the credit union has a process in place to record those opt-out requests.
	8. The credit union’s autodialing system has the capability to recognize disconnected numbers and the credit union properly records those numbers.
7. **Record Retention**. In situations where the member has opted out or asked to be placed on the do not call list, the Credit Union will maintain records to document compliance for at least 5 years from the date the member makes the request. The Credit Union will also maintain documentation of compliance generally as required within record retention policies.