

Regulatory & Compliance Information For Banks

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Oxford Pierpont provides business development and digital marketing services to corporate clients locally and internationally. Learn more at OxfordPierpont.com.

All of our larger banking clients have compliance departments which verify that our Lead Automation Services are in line with US marketing laws and regulations for banks. To simplify this process for our clients, or those who are considering becoming our clients, we have outlined exactly how our service complies with the regulations for your banking business.

Unfair, Abusive, Or Deceptive Acts Or Practices

How our lead automation service complies with regulations regarding unfair, deceptive, or abusive acts or practices:

Our lead automation service relies on surveying interested parties with 10-15 questions about their intentions for purchasing a home, and their qualifications for doing so. The survey page itself is completely unbranded, and does not encourage said parties to engage any particular company during the survey process. Furthermore, all intake form surveys are approved by each client individually prior to publishing to ensure that the questions listed are in compliance with the laws and regulations of the client's particular State.

During the survey process, we do not provide any information regarding rates or pricing, and we do not provide information that would potentially impair or impact the judgement of the survey respondent.

Additional Details

Source: American Bankers Association, 2016

Although the FTC has authority strictly over nonbank businesses, the federal banking regulators and the CFPB have the authority to enforce the FTC Act, Section 5, which details the unfair, deceptive, and abusive practices that are forbidden in the financial industry.

Deceptive acts or practices are those that are likely to mislead the reasonable consumer and constitute a material practice, defined as follows:

- Likely to mislead. A representation, omission, act, or practice can mislead. Examples are false oral or written representations, misleading claims about costs, bait-and-switch tactics, and failure to provide the service or product
- Reasonable customer. The act or practice would be deceptive to a person of average intelligence exercising an average amount of judgment. Omitting material information from an otherwise truthful advertisement could mislead a reasonable customer and thus be deceptive
- Material practice. The misrepresentation, omission, act, or practice affects the customer's choice or conduct, as when misleading information about costs leads the customer to decide to buy the product

The FTC Act, Section 5, defines the elements of unfair acts or practices as those causing substantial injury or injuries that are not outweighed by the benefits and could not be reasonably avoided, defined as follows:

- Substantial injury. This occurs when a customer suffers, for example, monetary harm, such as paying an unnecessary fee or interest charge due to an unfair practice. The injury may be small but affect many people or be significant for a single customer. An example would be claiming there are no fees in the promotion and mentioning the fees only in the small print.
- Benefit less than the injury. For this element, the net effect of the practice is analyzed to see if the overall benefits are not greater than the harm caused by incomplete or misleading communications.
- Not a reasonably avoidable injury. The consumer could not avoid the injury. This can occur when information is withheld or distorted to impede the customer's reasonable choice.



- The Dodd-Frank Wall Street Reform and Consumer Protection Act added “abusive” acts or practices to the scope of the FTC Act. An abusive act or practice is one that would meet one of these tests:
 - Materially interferes with a consumer’s ability to understand the terms or conditions of a financial product or service
 - Takes unreasonable advantage of the consumer’s lack of understanding of the material risks or costs of the product or service
 - Takes unreasonable advantage of the consumer’s inability to protect his or her own interests when selecting or using a financial product or service

Do Not Call, Do Not Fax

How our lead automation service complies with regulations regarding calling and faxing survey respondents:

Part of our lead automation service includes the ability to preform autonomous text messages, phone calls, voice messages, and emails so that our clients can make more efficient use of the contacts we provide them, and so that they can provide these contacts with a higher quality of service in a timely manner.

To provide this service while remaining in compliance, we do the following:

- Confirm that survey respondents understand that they may be contacted
- Only contact survey respondents via methods of communication which they have provided (phone, email address)
- Ask that survey respondents suggest the best time to be contacted
- Require that survey respondents acknowledge that they may be contacted via text, phone, or email, prior to submitting the form.

Additional Details

Source: American Bankers Association, 2016

In 2007, the Federal Financial Institutions Examination Council (FFIEC) approved updated interagency examination procedures for consumer compliance with the Telephone Consumer Protection Act of 1991 and the Junk Fax Prevention Act of 1994. Banks are subject to the Federal Communications Commission (FCC) regulations implementing the two acts.

The FCC regulations give consumers options to avoid unwanted telephone solicitations. For example:

- No seller, or entity telemarketing on behalf of a seller, may initiate a telephone solicitation to residential telephone subscribers who have registered their number on the National Do Not Call Registry.
- Calls (other than pre-recorded calls) are permitted, however, to those with whom the seller has an established business relationship.
- Banks must maintain bank-specific do-not-call lists with the names of people with whom they have a business relationship who have asked to be excluded from telemarketing.
- Telemarketing calls may be made between 8:00 a.m. and 9:00 p.m. only.
- Telemarketers must comply with limits on abandoned calls.
- Consumer-friendly practices must be used when calls are made with automated telephone-dialing equipment.
- Prerecorded messages must identify the name and telephone number of the entity responsible for the call.
- Telemarketers must transmit caller ID information, when available, and refrain from blocking such transmissions to the consumer.
- The advertiser must first obtain the written permission and signature of the intended recipient before sending unsolicited advertising fax transmissions unless there is an established business relationship and the recipient has provided a fax number for such communications.

Prescreening

How our lead automation service complies with regulations regarding prescreening survey respondents:

We understand that our clients may not find value in 100% of the contacts we provide due to disqualifying factors that they may have for each of their individual business models. However, to comply with laws and regulations regarding prescreening, we send our clients 100% of the survey responses that are submitted and received.

Additional Details

Source: American Bankers Association, 2016

When banks prescreen customers for marketing purposes, the Fair Credit Reporting Act (FCRA) contains several rules with which banks must comply. Banks that prescreen consumers must offer to extend credit to anyone who applies for it. If a consumer responds to a prescreened offer, the bank normally does a more in-depth credit analysis. Recipients of the advertising must be informed that they received the solicitation based on information in their credit reports and that they satisfied the bank's criteria. Consumers must also be told that they may prohibit the use of information in their credit file in connection with future prescreened offers.

The FCRA also defines when banks can share third-party information (such as credit reports or transaction or experience information) with affiliates for marketing purposes. The requirements of the FCRA with regard to information sharing were subsequently amended and then changed again by the Fair and Accurate Credit Transactions (FACT) Act. As it now stands, before a bank can use certain information about a consumer received from an affiliate to solicit the consumer for marketing purposes, the customer must be given an opportunity to opt out.

Fair lending laws prohibit creditors from prescreening credit applicants on a prohibited basis—that is, based on the applicant's race, sex, national origin, or other prohibited personal characteristic.

Privacy Of Customer Information

How our lead automation service complies with regulations regarding privacy and customer information:

1. Prior to submitting the survey, respondents are required to acknowledge that they understand that their information will be sent to a lender who will further assist them in completing an application.
2. The contacts we provide our clients are never shared with third parties, and the information gathered is *exclusive* to the client for which the information has been collected.

Additional Details

Source: American Bankers Association, 2016

Banking laws, such as the Gramm-Leach-Bliley Act (GLBA), require financial institutions to protect the privacy of personal customer information. The GLBA requires banks to tell customers whether they share customer information with third parties and to refrain from doing so if the customer objects. Banks have always made protecting customer account information a priority, but the GLBA privacy provisions offer additional assurance that the banking industry is committed to protecting private financial information.

CAN-SPAM Act

How our lead automation service complies with the CAN-SPAM Act:

During the survey, respondents are asked to provide their email address, strictly for the following reasons:

- To confirm that their survey was submitted, and to provide a record of the answers provided.
- To enable our clients to send loan applications and other relevant documents to the survey respondent.

We do not sell the email addresses of survey respondents, or otherwise use this information to market, advertise or promote services of any kind, and Oxford Pierpont does not email survey respondents after the initial survey confirmation. Emails created on behalf of our clients must be approved prior to publishing, and are approved by our client's management teams.

Additional Details

Source: American Bankers Association, 2016

The CAN-SPAM Act covers email that has as its primary purpose the advertising or promotion of a commercial product or service. It does not cover emails facilitating a transaction or providing information to a customer with whom there is an established business relationship. Both the FTC and the Department of Justice enforce the CAN-SPAM Act. The act prohibits, for example, false or misleading header information and deceptive subject lines, and requires senders to give recipients an opt-out method, respond to opt-out requests, and identify commercial email as advertising. The CAN-SPAM Act focuses on:

- False or misleading header information. The email address must be accurate and identify the person who initiated the email.
- Deceptive subject lines. The subject line may not mislead the recipient about the message's contents.
- Opt-out methods. The message must contain a return email address or other Internet-based response mechanism allowing recipients to opt out of future email messages.
- Response to opt-out requests. Senders must process opt-out requests for at least 30 days after the original commercial email. Upon receipt of an opt-out request, the sender has 10 business days to stop sending the emails.

Identifying commercial email as advertising. The email must clearly state that the message is an advertisement or solicitation and that the recipient can opt out of future emails. A valid postal address is required.

One of the purposes of the CAN-SPAM Act is to deter phishing, which is the illegal transmission of email masquerading as coming from a legitimate sender. Phishing and other targeted scams are discussed in detail in Reading 3, Safeguarding the Customer and the Bank. Because the purpose of phishing is to obtain sensitive personal and financial information such as bank account numbers and Social Security numbers, the fraudulent email is often in the guise of a marketing solicitation that appears to be from a bank.
goes here.

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