

CHECKLIST:



COMPLIANCE WITH TCPA and FTSA

✓ CHECK THE NATIONAL DO NOT CALL REGISTRY AND FLORIDA'S DO NOT CALL REGISTRY.

- Businesses cannot “cold call” consumers on the Do Not Call Registry to solicit sales or purchases.
- **Exception:** when there is a pre-existing business relationship, businesses may call former customers on the DNC list for up to 18 months after the last purchase, rental, or lease. Beyond 18 months, businesses must obtain written consent to continue communication.
- Search the National DNC Registry and Florida's Do Not Call Registry monthly.
 - To obtain Florida's Do Not Call List, you may order it by mail using the Do Not Call List Order Form or purchase it online at the Florida Department of Agriculture and Consumer Services e-Gov Service Center to download the currently available quarter.

✓ WHEN IS “COLD CALLING” OKAY?

- If the individual is not on the DNC Lists, “cold calling” is generally okay as long as businesses are not using an automated system. Stick to manual dialing!
- If you are using an auto-dialer, you must obtain “prior express written consent” from the consumer when calling, texting, sending prerecorded messages, or using AI-driven tools.

✓ WHAT IS AN AUTO-DIALER?

- Under the TCPA, the system must have the capacity to store or produce numbers using a **random or sequential number generator** and dial such numbers.
- Under the FTSA, systems must automatically select **and** dial numbers.
- The definition of an auto-dialer under the FTSA is broader than the TCPA since the FTSA does not include a random or sequential number generator.

✓ PRIOR TO USING AN AUTO-DIALER, MAKE SURE YOU HAVE “PRIOR EXPRESS WRITTEN CONSENT!”

- Prior express written consent must bear the “signature” of the called party.
- A consumer can give consent by checking a box indicating consent or responding affirmatively to a text message. Consent must not be a requirement to doing business.

✓ PROVIDE CONSUMERS WITH AN EASY WAY TO OPT OUT AND COMPLY WITH SUCH REQUESTS WITHIN 10 BUSINESS DAYS.

- As of 4/11/25, the TCPA requires that businesses provide consumers with an easy way of revoking consent by responding “stop” or “quit” to text messages.
- Businesses will have 10 business days to comply - make sure you keep all records!
- Use an Excel template, like the example available in our legal updates, to track consumer consents and revocations.

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