

(ii) Intended to encourage the consumer to purchase or obtain such product or service.

(2) *Exclusion of marketing directed at the general public.* A solicitation does not include marketing communications that are directed at the general public. For example, television, general circulation magazine, and billboard advertisements do not constitute solicitations, even if those communications are intended to encourage consumers to purchase products and services from the person initiating the communications.

(3) *Examples of solicitations.* A solicitation would include, for example, a telemarketing call, direct mail, e-mail, or other form of marketing communication directed to a particular consumer that is based on eligibility information received from an affiliate.

(1) *You* means a person described in § 680.1(b).

§§ 680.4–680.20 [Reserved]

§ 680.21 Affiliate marketing opt-out and exceptions.

(a) *Initial notice and opt-out requirement*—(1) *In general.* You may not use eligibility information about a consumer that you receive from an affiliate to make a solicitation for marketing purposes to the consumer, unless—

(i) It is clearly and conspicuously disclosed to the consumer in writing or, if the consumer agrees, electronically, in a concise notice that you may use eligibility information about that consumer received from an affiliate to make solicitations for marketing purposes to the consumer;

(ii) The consumer is provided a reasonable opportunity and a reasonable and simple method to “opt out,” or prohibit you from using eligibility information to make solicitations for marketing purposes to the consumer; and

(iii) The consumer has not opted out.

(2) *Example.* A consumer has a homeowner’s insurance policy with an insurance company. The insurance company furnishes eligibility information about the consumer to its affiliated creditor. Based on that eligibility information, the creditor wants to make a solicitation

to the consumer about its home equity loan products. The creditor does not have a pre-existing business relationship with the consumer and none of the other exceptions apply. The creditor is prohibited from using eligibility information received from its insurance affiliate to make solicitations to the consumer about its home equity loan products unless the consumer is given a notice and opportunity to opt out and the consumer does not opt out.

(3) *Affiliates who may provide the notice.* The notice required by this paragraph (a) must be provided:

(i) By an affiliate that has or has previously had a pre-existing business relationship with the consumer; or

(ii) As part of a joint notice from two or more members of an affiliated group of companies, provided that at least one of the affiliates on the joint notice has or has previously had a pre-existing business relationship with the consumer.

(b) *Making solicitations*—(1) *In general.* For purposes of this part, you make a solicitation for marketing purposes if—

(i) You receive eligibility information from an affiliate;

(ii) You use that eligibility information to do one or more of the following:

(A) Identify the consumer or type of consumer to receive a solicitation;

(B) Establish criteria used to select the consumer to receive a solicitation; or

(C) Decide which of your products or services to market to the consumer or tailor your solicitation to that consumer; and

(iii) As a result of your use of the eligibility information, the consumer is provided a solicitation.

(2) *Receiving eligibility information from an affiliate, including through a common database.* You may receive eligibility information from an affiliate in various ways, including when the affiliate places that information into a common database that you may access.

(3) *Receipt or use of eligibility information by your service provider.* Except as provided in paragraph (b)(5) of this section, you receive or use an affiliate’s eligibility information if a service provider acting on your behalf (whether an affiliate or a nonaffiliated third party) receives or uses that information in