

**§ 162.7 Reasonable and simple methods of opting out.**

(a) *In general.* A covered affiliate shall be prohibited from using eligibility information about a consumer received from an affiliate to make a solicitation to the consumer about the covered affiliate's financial products or services, unless the consumer is provided a reasonable and simple method to opt out, as required by this subpart.

(b) *Examples.* Reasonable and simple methods of opting out include:

(1) Designating a check-off box in a prominent position on an opt-out election form;

(2) Including a reply form and a self-addressed envelope (in a mailing);

(3) Providing an electronic means, if the consumer agrees, that can be electronically mailed or processed through an Internet Web site;

(4) Providing a toll-free telephone number; or

(5) Exercising an opt-out election through whatever means are acceptable under a consolidated privacy notice required under other laws.

(c) *Specific opt-out method.* Each consumer may be required to opt out through a specific method, as long as that method is acceptable under this subpart.

**§ 162.8 Acceptable delivery methods of opt-out notices.**

(a) *In general.* The opt-out notice must be provided so that each consumer can reasonably be expected to receive actual notice.

(b) *Electronic notices.* For opt-out notices provided electronically, the notice may be provided in compliance with either the electronic disclosure provisions in § 1.4 of this title or the provisions in section 101 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*

**§ 162.9 Renewal of opt out.**

(a) *Renewal notice and opt-out requirement*—(1) *In general.* Since the FCRA provides that opt-out elections can expire in a period of no less than five years, an affiliate that has or previously had a pre-existing business relationship with a consumer must provide a renewal notice to the consumer

after such time in order to allow its affiliates to make solicitations. After the opt-out election period expires, its affiliates may make solicitations unless:

(i) The consumer has been given a renewal notice that complies with the requirements of this section and §§ 162.6 through 162.8 of this subpart, and a reasonable opportunity and a reasonable and simple method to renew the opt-out election, and the consumer does not renew the opt out; or

(ii) An exception in Sec. 162.3(c) of this subpart applies.

(2) *Renewal period.* Each opt-out renewal must be effective for a period of at least five years as provided in § 162.4(b) of this subpart.

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

(i) By the affiliate that provided the previous opt-out notice, or its successor; or

(ii) As part of a joint renewal notice from two or more members of an affiliated group of companies, or their successors, that jointly provided the previous opt-out notice.

(b) *Contents of renewal or extension notice.* The contents of the renewal notice must include all of the same contents of the initial notices, but also must include:

(1) A statement that the consumer previously elected to limit the use of certain information to make solicitations to the consumer;

(2) A statement that the consumer may elect to renew the consumer's previous election; and

(3) If applicable, a statement that the consumer's election to renew will apply for a specified period of time stated in the notice and that the consumer will be allowed to renew the election once that period expires.

(c) *Timing of renewal notice.* Renewal notices must be provided in a reasonable period of time before the expiration of the opt-out election period or any time after the expiration of the opt-out period, but before solicitations that would have been prohibited by the expired opt-out election are made to the consumer.

(d) *No effect on opt-out period.* An opt-out period may not be shortened by

sending a renewal notice to the consumer before the expiration of the opt-out period, even if the consumer does not renew the opt-out election.

§§ 162.10–162.20 [Reserved]

**Subpart B—Disposal Rules**

**§ 162.21 Proper disposal of consumer information.**

(a) *In general.* Any covered affiliate must adopt reasonable, written policies and procedures that address administrative, technical, and physical safeguards for the protection of consumer information. These written policies and procedures must be reasonably designed to:

(1) Insure the security and confidentiality of consumer information;

(2) Protect against any anticipated threats or hazards to the security or integrity of consumer information; and

(3) Protect against unauthorized access to or use of consumer information that could result in substantial harm or inconvenience to any consumer.

(b) *Standard.* Any covered affiliate under this part who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

(c) *Examples.* The following examples are “reasonable” disposal measures for the purposes of this subpart—

(1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed;

(2) Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing consumer information so that the information cannot practically be read or reconstructed; and

(3) After due diligence, entering into and monitoring compliance with a written contract with another party engaged in the business of record destruction to dispose of consumer infor-

mation in a manner that is consistent with this rule.

(d) *Relation to other laws.* Nothing in this section shall be construed:

(1) To require a person to maintain or destroy any record pertaining to a consumer that is imposed under Sec. 1.31 or any other provision of law; or

(2) To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

**Subpart C—Identity Theft Red Flags**

SOURCE: 78 FR 23660, Apr. 19, 2013, unless otherwise noted.

**§ 162.30 Duties regarding the detection, prevention, and mitigation of identity theft.**

(a) *Scope of this subpart.* This section applies to financial institutions or creditors that are subject to administrative enforcement of the FCRA by the Commission pursuant to Sec. 621(b)(1) of the FCRA, 15 U.S.C. 1681s(b)(1).

(b) *Special definitions for this subpart.* For purposes of this section, and Appendix B to this part, the following definitions apply:

(1) Account means a continuing relationship established by a person with a financial institution or creditor to obtain a product or service for personal, family, household or business purposes. Account includes an extension of credit, such as the purchase of property or services involving a deferred payment.

(2) The term *board of directors* includes:

(i) In the case of a branch or agency of a foreign bank, the managing official in charge of the branch or agency; and

(ii) In the case of any other creditor that does not have a board of directors, a designated senior management employee.

(3) *Covered account* means:

(1) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a margin account; and