§ 248.128 Effective date, compliance date, and prospective application.

(a) Effective date. This subpart is effective September 10, 2009.

(b) Mandatory compliance date. Compliance with this subpart is required not later than January 1, 2010.

(c) Prospective application. The provisions of this subpart do not prohibit you from using eligibility information that you receive from an affiliate to make a marketing solicitation to a consumer if you receive such information prior to January 1, 2010. For purposes of this section, you are deemed to receive eligibility information when such information is placed into a common database and is accessible by you.

APPENDIX TO SUBPART B OF PART 248—MODEL FORMS

a. Although you and your affiliates are not required to use the model forms in this Appendix, use of a model form (if applicable to each person that uses it) complies with the requirement in section 624 of the FCRA for clear, conspicuous, and concise notices.

b. Although you may need to change the language or format of a model form to reflect your actual policies and procedures, any such changes may not be so extensive as to affect the substance, clarity, or meaningful sequence of the language in the model forms. Acceptable changes include, for example:

1. Rearranging the order of the references to “your income,” “your account history,” and “your credit score.”

2. Substituting other types of information for “income,” “account history,” or “credit score” for accuracy, such as “payment history,” “credit history,” “payoff status,” or “claims history.”

3. Substituting a clearer and more accurate description of the affiliates providing or covered by the notice for phrases such as “the [ABC] group of companies.”

4. Substituting other types of affiliates covered by the notice for “credit card,” “insurance,” or “securities” affiliates.

5. Omitting items that are not accurate or applicable. For example, if a person does not limit the duration of the opt out period, the notice may omit information about the renewal notice.

6. Adding a statement informing the consumer how much time they have to opt out before shared eligibility information may be used to make solicitations to them.

7. Adding a statement that the consumer may exercise the right to opt out at any time.

8. Adding the following statement, if accurate: “If you previously opted out, you do not need to do so again.”

9. Providing a place on the form for the consumer to fill in identifying information, such as his or her name and address.

10. Adding disclosures regarding the treatment of opt-outs by joint consumers to comply with §248.123(a)(2), if applicable.