

Telemarketing Sales Rule

SpeedChex

Payment Authorization Requirements for All Telemarketers

The Telemarketing Sale Rule

The Telemarketing Sales Rule (TSR) was created by the Federal Trade Commission to govern the business practices of all companies and charities that conduct business with individual consumers/donors over the phone, regardless of whether your phone calls are inbound or outbound. Violation of the provisions laid down in the TSR can result in penalties from civil actions brought against your company by the FTC, states, or by individual consumers.

The Telemarketing Sales Rule can be viewed in its entirety at the following URL:

<http://www.ftc.gov/os/2002/12/tsrfinalrule.pdf>

Other related materials including documents that explain how to comply with the TSR can be viewed at <http://www.ftc.gov/bcp/menu-tmark.htm#bized>.

How the TSR relates to SpeedChex

The TSR requires “express verifiable authorization” when a payment is made by a consumer/donor using a method other than a credit card. That means the TSR governs all transactions conducted through SpeedChex by a telemarketing company.

Authorization for a SpeedChex transaction is only considered verifiable under the TSR if it is obtained in one of the following three ways:

- Advance written authorization (a signed document) must be received from the consumer before the transaction is created
- An audio recording must be made of the consumer giving express oral authorization; or
- Written confirmation of the transaction must be sent via first class mail to the consumer before you submit the transaction

Prior to 2003, it was permissible for telemarketers to send written confirmation via fax or email, but that is no longer the case. If your business is relying on this method of authorization, you will need to update your procedures in order to conduct transactions through SpeedChex.

These three authorization methods are designed to protect individuals from unauthorized transactions, but they also protect your business from false claims by consumers that funds were withdrawn from their bank account without their express authorization.

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A signed document authorizing a debit is the most secure method of authorization, but most telemarketers will choose to record payment authorizations. If your business chooses to make voice authorization recordings, the TSR dictates that a consumer/donor must be told about and must acknowledge each of the following details individually in order for the authorization to be considered valid:

- The number of debits, charges, or payments (if more than one).
- The date the debits, charges, or payments will be submitted for payment.
- The amount of the debits, charges, or payments.
- The customer or donor's name.
- The customer or donor's billing information, identified in specific enough terms that the consumer understands which account will be used to collect payment for the transaction.
- A telephone number that is answered during normal business hours by someone who can answer the consumer's questions.
- The date of the consumer's oral authorization.

You may have noticed that this information is presented to you at the end of the "New Check Transaction" process in SpeedChex to assist your sales personnel in abiding by this rule.

Please note that NACHA regulations (a subject for another letter) stipulate that an electronic check payment cannot be sent through the ACH system if the authorization was obtained during an outbound sales call to a new customer. ACH transactions can be done for inbound calls or outbound calls made to one of your customers who purchased something from you in the past 2 years.

Proof of Compliance

We make this information available to you because we sincerely want all of our SpeedChex merchants to operate a prosperous business that respects and protects individuals from fraud and abuse and operates within the legal confines of all laws, including the TSR.

It is also true that as a 3rd-party payment processor, the TSR makes it vividly clear that our company can also be subject to civil action if we are aware that your business is not in compliance with the TSR and we continue to provide payment processing services to you.

We are, therefore, publishing this letter to make you aware of the Telemarketing Sale Rule and your specific obligations under it regarding authorizations.

We may also be contacting your business in the near future to obtain material proof that you are getting "express verifiable authorizations" that meet the requirements of the TSR. We are required to do this to meet our obligations under the TSR as well. Failure to provide adequate proof now or anytime in the future may result in the cancellation of your SpeedChex account.

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Please do not hesitate to contact our offices if you have any questions about obtaining proper authorizations for your SpeedChex transactions.