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FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084-AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the “Commission” or “FTC”) is amending its Telemarketing Sales Rule (“TSR”) by updating the fees charged to entities accessing the National Do Not Call Registry (the “Registry”) as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: *Effective Date:* The revised fees will become effective October 1, 2012.

ADDRESSES: Requests for copies of this document should be sent to: Public Reference Branch, Federal Trade Commission, Room 130, 600 Pennsylvania Avenue NW., Washington, DC 20580. Copies of this document are also available on the Internet at the Commission’s Web site: <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326-2648, BCP, Federal Trade Commission, 600 Pennsylvania Avenue NW., Room H-246, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110-188, 122 Stat. 635) (“Act”), the Commission is amending the TSR by updating the fees entities are charged for accessing the Registry as follows: the revised rule increases the annual fee for access to the Registry for each area code of data from \$56 to \$58 per area code; increases the fee per area code of data during the second six months of an entity’s annual subscription period from \$28 to \$29; and increases the maximum amount that will be charged to any single entity for accessing area codes of data from \$15,503 to \$15,962.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price

index (for all urban consumers published by the Department of Labor) (“CPI”) for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was \$54 per area code, or \$27 per area code of data during the second six months of an entity’s annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be \$14,850.

The determination whether a fee change is required and the amount of the fee change involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. There was an increase in the fees for fiscal year 2012. Accordingly, we calculated the change in the CPI since last year, and the increase was 2.93 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2013.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above, the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007 to June 30, 2008 was 211.702; the average value for July 1, 2011 to June 30, 2012 was 227.565, an increase of 7.49 percent. Applying the 7.49 percent increase to the base amount from fiscal year 2009, leads to an increase from \$56 to \$58 in the fee from last year for access to a single area code of data for a full year for fiscal year 2013. The actual amount is \$58.04, but when rounded, pursuant to the Act, the amount is \$58. The fee for accessing an additional area code for a half year increases to \$29.02 (rounded to \$29). The maximum amount charged increases to \$15,962.26 (rounded to \$15,962).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act. The revisions to the Fee Rule are technical in nature and merely incorporate statutory changes to the TSR. These statutory changes have been adopted without change or interpretation, making public comment unnecessary. Therefore, the Commission has determined that the notice and comment requirements of the

Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501-3521, the Office of Management and Budget (“OMB”) approved the information collection requirements in the Amended TSR and assigned the following existing OMB Control Number: 3084-0097. The amendments outlined in this Final Rule pertain only to the fee provision (§ 310.8) of the Amended TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the Amended TSR.

List of Subjects in 16 CFR Part 310

Advertising, Consumer protection, Reporting and recordkeeping requirements, Telephone, Trade practices.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101-6108; 15 U.S.C. 6151-6155.

■ 2. In § 310.8, revise paragraphs (c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$58 for each area code of data accessed, up to a maximum of \$15,962; *provided*, however, that there shall be no charge to any person for accessing the first five area codes of data, and *provided further*, that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to

access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee ("the annual period"). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay \$58 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay \$29 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

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By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 3342-2012]

Authorization To Seize Property Involved in Drug Offenses for Administrative Forfeiture (2012R-9P)

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending its regulations to allow the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to exercise, for a one-year period following the effective date of this rule, the authority to seize and administratively forfeit property involved in controlled substance offenses. Many years of experience have demonstrated that forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that would continue to function after the conviction and

incarceration of individual offenders. Moreover, administrative forfeiture permits the expedient and effective use of this crucial law enforcement tool.

DATES: This rule is effective February 25, 2013.

FOR FURTHER INFORMATION CONTACT:

Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226, telephone: (202) 648-7105.

SUPPLEMENTARY INFORMATION:

Background

The Attorney General has delegated to ATF the authority to investigate, seize, and forfeit property involved in a violation or attempted violation within its investigative jurisdiction. *See* 28 CFR 0.130(b). ATF investigations focusing on violent crime frequently involve complex criminal organizations with multiple criminal enterprises and uncover drug-related offenses in addition to offenses within ATF's primary jurisdiction, such as violations of the Gun Control Act, 18 U.S.C. Chapter 44, or the Contraband Cigarette Trafficking Act, 18 U.S.C. Chapter 114. In such investigations, ATF does not currently have authority under 21 U.S.C. Chapter 13 to seize for administrative forfeiture property involved in controlled substance offenses. Instead, ATF generally refers such property to the Drug Enforcement Administration (DEA), which is primarily responsible for investigating violations of drug laws contained in title 21 of the United States Code. DEA then initiates, processes, and concludes all necessary forfeiture actions for the controlled-substance-related property.

The Department of Justice believes that forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that would continue to function after conviction and incarceration. The Department further believes that administrative forfeiture permits the expedient and effective use of this crucial law enforcement tool.

An uncontested administrative forfeiture can be perfected in 60-90 days for minimal cost, including the statutorily required advertisement and notice by registered mail. Conversely, the costs associated with judicial forfeiture can amount to hundreds or thousands of dollars and the judicial process generally can take anywhere from 6 months to years. In the meantime, the government incurs additional costs if the property requires

storage or maintenance until a final order of forfeiture can be obtained.

In recognition of the link between drug trafficking and many criminal organizations, the Attorney General has authorized the Federal Bureau of Investigation (FBI) to seize and forfeit property under 21 U.S.C. 881. *See* 28 CFR 0.85(a). This delegation of authority has allowed the FBI to more effectively investigate and dismantle criminal organizations.

ATF joined the Department of Justice in January 2003 pursuant to the Homeland Security Act of 2002 (Pub. L. 107-296). One of the primary missions of the ATF is to combat firearm-related violent crime. The nexus between drug trafficking and firearm violence is well established. The Attorney General, however, has not previously delegated to ATF title 21 seizure and forfeiture authority. On review of the current role and mission of ATF within the Department of Justice, the Attorney General has decided to authorize a temporary delegation of title 21 seizure and forfeiture authority to determine whether such authority can enhance the effectiveness of ATF in the investigation of violent crimes involving firearms. Consequently, by this final rule the Attorney General is delegating administrative seizure and forfeiture authority under 21 U.S.C. 881 to the ATF for a trial period of one year. The language in this rule delegating administrative forfeiture authority to ATF is modeled after the language in the FBI authorization. ATF may continue to exercise this delegated authority for all property in its possession on or before the end of the one-year period, even if this delegation is not otherwise extended.

Final Rule

This rule amends the regulations in 28 CFR part 0 to authorize the Director of ATF to exercise, for a period of one year from the effective date of this final rule, the authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881.

Forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that otherwise would continue to function after conviction and incarceration of individual participants. The Attorney General has decided to adopt a one-year delegation of administrative seizure and forfeiture authority to permit ATF to make expedient and effective use of this crucial law enforcement tool in the investigation of organizations and