

communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. Oral communications from members of Congress shall be transcribed or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

Section F. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this document because it is believed that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605).

The Telemarketing Act requires the Commission to issue regulations, not later than 365 days after the date of enactment, prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices. The Act limits the scope of the regulations to entities that engage in telemarketing through one or more interstate telephone calls; telemarketing sales by local companies to local customers would most likely be intrastate calls and thus outside the parameters of the proposed rule. The Act also exempts certain catalog sales operations from the scope of the regulations. In addition, the proposed rule exempts incidental telemarketing sales, i.e., calls made by any person who engages in fewer than ten sales each year through the use of the telephone. The proposed rule also exempts certain contacts between businesses, and certain calls initiated by a person when there is no initial sales contact directed to that particular person from a seller or telemarketer.

As a result of these statutory and regulatory limitations, we believe that many small entities will fall outside the scope of the regulations. In addition, any economic costs imposed on small entities remaining within the parameters of the rule are, in many instances, specifically imposed by statute. Where they are not, efforts have

been made to make the proposed rule's requirements flexible, in part to minimize any unforeseen burden on small entities, as described elsewhere in this notice.

To ensure that no substantial economic impact is being overlooked, public comment is requested on the effect of the proposed regulations on the costs to, profitability and competitiveness of, and employment in small entities. Subsequent to the receipt of public comments, it will be decided whether the preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission hereby certifies under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed regulations will not have a significant economic impact on a substantial number of small entities. This notice serves as certification to that effect for the purposes of the Small Business Administration.

Section G. Questions on the Proposed Rule

The Commission seeks comments on various aspects of the proposed rule. Without limiting the scope of issues it seeks comment on, the Commission is particularly interested in receiving comments on the questions that follow. Responses to these questions should be itemized according to the numbered questions in this Notice. In responding to these comments, include detailed, factual supporting information whenever possible.

Section 310.2 Definitions

1. The proposed rule defines the following terms for use in the prohibition on credit card laundering: "acquirer," "cardholder," "credit card," "credit card sales draft," "credit card system," "merchant," and "merchant agreement."

a. Are these definitions clear, meaningful, and appropriate?

b. Are there other approaches to defining these terms that would be more useful?

2. The proposed rule defines the term "business venture."

a. Is this definition clear, meaningful, and appropriate? What are the advantages and disadvantages of defining the term in this manner?

b. Is the definition as drafted sufficiently comprehensive to encompass the types of business ventures which have been, are, or may be sold through telemarketing?

c. Are there other approaches to defining the term "business venture" that would be more useful?

3. The proposed rule defines the term "goods or services."

a. Is this definition clear, meaningful, and appropriate? What are the advantages and disadvantages of defining the term in this manner?

b. Is the definition as drafted sufficiently comprehensive to encompass the types of products, services, or other offers which have been, are, or may be sold through telemarketing?

c. Are there other approaches for defining the term "goods or services" that would be more useful?

4. The proposed rule defines the term "investment opportunity."

a. Is this definition clear, meaningful, and appropriate? What are the advantages and disadvantages of defining the term in this manner?

b. Is the definition as drafted sufficiently comprehensive to encompass the types of investment opportunities which have been, are, or may be sold or traded through telemarketing?

c. Are there other approaches to defining the term "investment opportunity" that would be more useful?

5. The proposed rule defines the terms "premium," "prize," and "prize promotion."

a. Are these definitions clear, meaningful, and appropriate? Are the distinctions between a "premium" and a "prize" clear, meaningful, and appropriate? What are the advantages and disadvantages of defining these terms in this manner?

b. Are the definitions as drafted sufficiently comprehensive to encompass the types of premiums, prizes, and prize promotions which have been, are, or may be offered through telemarketing?

c. Are there other approaches to defining these terms that would be more useful?

6. The proposed rule defines the terms "seller" and "telemarketer."

a. Are these definitions clear, meaningful, and appropriate? Are the distinctions between a "seller" and a "telemarketer" clear, meaningful, and appropriate? What are the advantages and disadvantages of defining these terms in this manner?

b. Are there other approaches to defining these terms that would be more useful?

c. Since most of the provisions of the proposed rule apply to sellers and/or telemarketers, do these definitions reflect the appropriate scope of the rule?

7. The proposed rule states that the term "telemarketing" includes the use of a facsimile machine, computer