

j. What will be the economic impact, and the costs and benefits, of requiring that the written disclosures be provided in duplicate? Will this requirement ensure that consumers retain a copy of the required disclosure, or are there other approaches to achieve this goal? What are the costs and benefits of these alternative approaches?

k. How many telemarketing campaigns per year will be required to comply with the written disclosure requirements? How many prize promotions per year are conducted as part of telemarketing campaigns? How many people participate in the average prize promotion conducted via telemarketing?

l. How many telemarketing campaigns per year involve sales of investment goods? What particular investment goods are sold via telemarketing by legitimate sellers? On average, how many people buy investments as a result of a telemarketing campaign?

38. Section 310.4(f) of the proposed rule prohibits any person who is subject to any federal court order resolving a case in which the complaint alleged a violation of certain sections of the rule, and the court did not dismiss or strike all such allegations from the case, to sell, rent, publish, or distribute any list of customer contacts from that person.

a. Is this prohibition appropriate? Is the description of the prohibited activities clear, meaningful, and appropriate?

b. What will be the economic impact, and the costs and benefits, of prohibiting the sale of lists by such persons?

c. What are the current practices of telemarketers regarding the sale of lists? Specifically, under what circumstances do sellers or telemarketers sell or otherwise distribute lists to others?

d. What would be the effect if this prohibition only applied for a certain period of time after the court order was entered? How would this limitation hinder law enforcement efforts? What would be an appropriate period of time following the entry of an order to prohibit list sales?

e. Should this prohibition extend to a broader class of rule violations than that currently proposed? A narrower class?

39. In addition to or in lieu of some of the provisions in § 310.4 of the proposed rule, would it be more appropriate that telemarketing sales be subject to a cooling-off rule, or a period of time in which the purchaser can cancel a transaction? How would such a rule be structured? Should all telemarketing sales be subject to such a rule? What is an appropriate "cooling-off" time period? Should payment be

permitted at the time of sale, or should payment be prohibited until the end of the cooling-off period? Would it be more appropriate to impose a mandatory right to a refund in all telemarketing sales?

How long of a period would be appropriate for consumers to examine a product before returning it?

#### *Section 310.5 Recordkeeping Requirements*

40. Section 310.5(a) of the proposed rule requires sellers or telemarketers to keep certain records relating to their telemarketing activities for a period of 24 months from the date the record is produced.

a. Are the specified records appropriate to verify compliance with the rule? Are any of the required records unnecessary to verify compliance with the rule? Should any additional records be required? Specifically, should sellers and telemarketers keep copies of any consumer complaints they receive? How burdensome would it be to maintain such complaints? How many consumer complaints will the average legitimate firm have involving its telemarketing sales?

b. Is the 24-month record retention period appropriate? Why or why not? If not, what period is appropriate?

c. Are there other approaches to recordkeeping requirements that would be more useful?

d. What are the current record retention policies and practices of sellers and telemarketers with respect to the records listed in § 310.5?

Specifically, what records, required to be maintained by § 310.5(a), currently are maintained by sellers or telemarketers? How long are they maintained?

e. What will be the economic impact, and the costs and benefits, of these recordkeeping requirements?

f. If the records listed are not required to be retained, how would rule compliance be verified?

g. What has been the experience of State and local law enforcement agencies with respect to record retention requirements? Have such requirements been useful? If yes, how? If no, why not? What types of enforcement issues could arise if recordkeeping were not required?

h. What volume of records will have to be maintained to comply with the requirements of § 310.5(a)? In particular, how many telemarketing campaigns will the average firm conduct on an annual basis? How many different scripts are used during an average campaign? How many consumers are called during an average telemarketing campaign, and what percentage of the persons called

agree to buy goods or services? How many employee records will have to be maintained by the average firm engaged in telemarketing?

41. Under Section 310.5(b) of the proposed rule, a seller and a telemarketer calling on behalf of that seller need not keep duplicative records, but can enter into a written agreement allocating recordkeeping responsibilities between themselves. Section 310.5(c) of the proposed rule sets forth the recordkeeping requirements in the event of the dissolution, termination, or change in ownership of a seller or telemarketer.

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

b. What are the advantages or disadvantages to these provisions?

c. What are the current practices of sellers and telemarketers regarding the distribution of responsibility for maintaining records? Regarding the maintenance of records in the event of the dissolution, termination, or change in ownership of a seller or telemarketer?

#### *Section 310.6 Exemptions*

42. The proposed rule exempts the solicitation of sales by any person who engages in fewer than ten telephone sales per year.

a. Is this proposed exemption clear, meaningful, and appropriate?

b. Is the scope of the proposed rule sufficiently limited to exempt those persons who do not regularly engage in telemarketing?

c. Are there other approaches to limiting the scope of the rule that would be more useful?

d. Does this exemption pose problems for law enforcement efforts to stop deceptive or abusive telemarketing acts or practices?

43. The proposed rule also exempts telephonic contacts between businesses, except such contacts involving the sale of office or cleaning supplies or certain charitable solicitations.

a. Is this proposed exemption clear, meaningful, and appropriate?

b. Are there other types of goods or services sold in business-to-business contacts which should not be exempted from the rule?

c. Are there other approaches to limiting the scope of the rule that would be more useful?

d. Does this exemption pose problems for law enforcement efforts to stop deceptive or abusive telemarketing acts or practices?

44. Finally, the proposed rule exempts a telephonic contact made solely by a person when there has been no initial sales contact directed to that particular person by the seller or