

arranging a loan or credit service for a person;

(6) Failing to distribute all prizes or purported prizes offered in a prize promotion, within 18 months of the initial offer to any person;

(7) Offering or selling goods or services through a telephone solicitation to a person who previously has paid the same seller for goods or services, until all terms and conditions of the initial transaction have been fulfilled, including but not limited to the distribution of all prizes or premiums offered in conjunction with the initial transaction; or

(8) Identifying a person as a reference for a business venture unless:

(i) Such person has actually purchased the business venture;

(ii) Such person has operated that business venture for a period of at least six (6) months, or the seller or telemarketer discloses the length of time the person has operated such business venture; and

(iii) Such person does not receive consideration for any statements made to prospective business venture purchasers.

(b) Pattern of calls. (1) It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the following conduct:

(i) Without a person's prior consent, calling that person's residence to offer, offer for sale, or sell, on behalf of the same seller, the same or similar goods or services more than once within any three (3) month period. This requirement does not apply to attempted calls which do not reach a person or to calls made solely to verify a previous telephone sale; or

(ii) Calling a person's residence when that person previously has stated that he or she does not wish to receive telephone solicitations made by or on behalf of the seller whose goods or services are being offered.

(2) A seller or telemarketer will not be liable for violating § 310.4(b)(1) once in any calendar year per person called if:

(i) It has established and implemented written procedures to comply with § 310.4(b)(1) (i) and (ii);

(ii) It has trained its personnel in the procedures established pursuant to § 310.4(b)(2)(i);

(iii) The seller, or the telemarketer acting on behalf of the seller, has maintained and recorded lists of persons who may not be contacted, in compliance with § 310.4(b)(1) (i) and (ii); and

(iv) Any subsequent call is the result of administrative error.

(c) Calling time restrictions. Without the prior consent of a person, it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in telephone solicitations to a person's residence at any time other than between 8 a.m. and 9 p.m. local time at the called person's location.

(d) Required oral disclosures. It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to fail to make any oral disclosures set forth in this section.

(1) All telephone solicitations shall begin by disclosing:

(i) The caller's true first and last name, the seller's name, and that the purpose of the call is to sell goods or services; or

(ii) If a telephone solicitation includes a charitable solicitation, the caller's true first and last name, the telemarketer's name, the telemarketer's status as a paid professional fundraiser, the seller's name, that the purpose of the call is to solicit charitable donations, and if other goods or services are offered, that the purpose of the call is also to sell goods or services.

(2) If a caller verifies a telemarketing sale, the caller verifying the sale must repeat the disclosures required under § 310.3(a)(1).

(3) Any telemarketing which includes a prize promotion must disclose, in addition to all other disclosures required under this Section, the following information:

(i) That no purchase or payment is necessary to win;

(ii) The verifiable retail sales price of each prize offered or a statement that the retail sales price of the prize offered is less than \$20.00; and

(iii) The odds of winning each prize offered.

(4) Any telemarketing which includes an offer of a premium must disclose, in addition to all other disclosures required under this Section, the verifiable retail sales price of such premium or comparable item, or a statement that the retail sales price of the premium is less than \$20.00.

(e) Written disclosures/ acknowledgements. It is an abusive telemarketing act or practice and a violation of this Rule for a seller or telemarketer to fail to make any written disclosures set forth in this section.

(1) Prize promotions. If a seller or telemarketer conducts a prize promotion, the seller or telemarketer may not request that a person pay for goods or services, or accept a payment in any form from a person, without first providing the person with a written disclosure, in duplicate, and receiving

from the person a written acknowledgement that the person has read the disclosure. The information shall be disclosed on one page, in not less than 10-point type (unless otherwise noted), and of a color or shade that readily contrasts with the background of the notice. This disclosure shall be sent in an envelope that contains no writing representing that the person to whom the envelope is addressed has been selected or may be eligible to receive a prize and shall contain no other enclosures except for a return envelope, if the seller or telemarketer wishes to include such an envelope. This disclosure must contain the following information:

(i) The seller's legal name and telephone number, and the complete street address of the seller's principal place of business;

(ii) If the seller has been in operation under any other name(s), each such name and the length of time the seller has operated under each name;

(iii) The verifiable retail sales price of each prize offered or a statement that the retail sales price of the prize offered is less than \$20.00;

(iv) The odds of winning each prize offered and the number of persons who will receive each prize;

(v) The total amount and description of any shipping or handling fees or any other charges that must be paid to receive or use a prize;

(vi) A complete description of any restrictions, conditions, or limitations on eligibility to receive or use a prize, including all steps a person must take to receive the most valuable prize offered;

(vii) The statement: "No purchase or payment is necessary to win," with a description of the no-purchase entry method;

(viii) A statement that a list of winners is available and the address to which a person may write to obtain such a list;

(ix) A statement that it is a violation of this Rule for the seller to accept payment in any form unless the seller has received from the person the written disclosure acknowledgment required pursuant to § 310.4(e)(1); and

(x) The statement: "I have read and understand this disclosure," in at least 12-point bold face type immediately preceding a signature block.

(2) Investment opportunities. (i) If a seller or telemarketer offers for sale any investment opportunity, the seller or telemarketer may not request that a person pay, or accept a payment in any form from a person, for that investment opportunity without first providing the person with a written disclosure, in