

² Once an entity requested access to area codes of data in the national registry, it could access those area codes as often as it deemed appropriate for one year (defined as its "annual period"). If, during the course of its annual period, an entity needed to access data from more area codes than those initially selected, it would be required to pay for access to those additional area codes. For purposes of these additional payments, the annual period was divided into two semi-annual periods of six months each. Obtaining additional data from the registry during the first semi-annual, six month period required a payment of \$25 for each new area code. During the second semi-annual, six month period, the charge for obtaining data from each new area code requested during that six-month period was \$15. These payments for additional data would provide the entity access to those additional area codes of data for the remainder of its annual term.

¹ The Commission recently amended the TSR to require telemarketers to access the national registry at least once every 31 days, effective January 1, 2005. See 69 FR 16368 (Mar. 29, 2004).

³ The Original Fee Rule stated 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 the National Do Not Call Registry without being required to under this Rule, 47 CFR 64.1200, or any other federal law." 16 CFR 310.8(c). Such "exempt" organizations include entities that engage in outbound telephone calls to consumers to induce charitable contributions, for political fund raising, or to conduct surveys. They also include entities engaged solely in calls to persons with whom they have an established business relationship or from whom they have obtained express written agreement to call, pursuant to 16 CFR

⁵ Telemarketers were first able to access the national registry on September 2, 2003. As a result, the first year of operation will not conclude until August 31, 2004. The Commission realizes that a small number of additional entities may access the national registry for the first time prior to September 1, 2004, and should be considered in calculating the revised fees. However, the Commission believes that most, if not virtually all, of those new entrants will be smaller entities accessing five or fewer area codes, and thus will

⁹ 68 FR 16238, 16245 (April 3, 2003). As stated in the Original Fee Rule NPRM, this estimate is likely to be conservative for Paperwork Reduction Act purposes. The OMB regulation defining "information" generally excludes disclosures that require persons to provide facts necessary simply to identify themselves, *e.g.*

businesses, to the extent they are more likely to access fewer area codes than larger entities. Accordingly, the Commission believes its current proposal is likely to be the least burdensome for small businesses, while achieving the goal of covering the necessary costs to implement and enforce the Amended TSR.

Despite these conclusions, the Commission welcomes comment on any significant alternatives that would further minimize the impact on small entities, consistent with the objectives of the Telemarketing Act, the 2004 Appropriations Act, and the Implementation Act.

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

Proposed Rule

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission proposes to amend 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.

2. Amend § 310.8 by revising paragraphs (c) and (d) to read as follows:

§ 310.8 Fee for access to 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 \$45 per area code of data accessed, up to a maximum of \$12,375; *provided*, however, that there shall be no charge for the first five area codes of data accessed by any person, 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 the National Do Not Call Registry without being required under this Rule, 47 CFR 64.1200, or any other Federal 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) After a person, either directly or through another person, pays the fees set forth in § 310.8(c), the person will be provided a unique account number which will allow that person to access

the registry data for the selected area codes at any time for twelve months following 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, the person must first pay \$45 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, the person must first pay \$25 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 THE TREASURY

31 CFR Part 1

Privacy Act of 1974, Proposed Implementation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury gives notice of a proposed amendment to this part to exempt a new Internal Revenue Service (IRS) system of records entitled “IRS 42.031—Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records” from certain provisions of the Privacy Act.

DATES: Comments must be received no later than June 1, 2004.

ADDRESSES: Please submit comments to the Office of Governmental Liaison and Disclosure, 1111 Constitution Avenue, N:ADC:C, NW., Washington, DC 20224. Comments will be made available for inspection at the IRS Freedom of Information Reading Room also located at 1111 Constitution Avenue, NW. The telephone number for the Reading Room is (202) 622–5164.

FOR FURTHER INFORMATION CONTACT: IRS National Anti-Money Laundering Program Manager, S: C: CP:RE:AML, SBSE TEC, 19th Floor, 1601 Market Street, Philadelphia, PA 19106, phone (215) 861–1547

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a

system of records from certain provisions of 5 U.S.C. 552a if the system is investigatory material compiled for law enforcement purposes. The IRS is hereby giving notice of a proposed rule to exempt IRS 42.031—the Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records, from certain provisions of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions

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