

securities. Thus, NASD Regulation proposes to amend the Code to expand the language of paragraph (a) of Rule 11100 to state that the Code applies to all secondary market transactions in securities including: (i) The "rights and liabilities of the members participating in the transaction"; (ii) "those operational procedures that affect the day-to-day business of members";<sup>3</sup> (iii) securities transactions compared, cleared or settled through a registered clearing agency when the rules of the clearing agency require that the Code or the rules of other relevant markets apply to the transaction; and (iv) securities transactions in "restricted securities, as defined in Rule 144(a)(3) under the Securities Act of 1933." According to NASD Regulations, as a result of this change, secondary market transactions in restricted securities that are not in a depository will be required to comply with the Code's operational procedures. NASD Regulation is also clarifying that securities sold offshore pursuant to the exemption from registration provided by Regulation S are considered to be subject to the requirements of the Code when those securities are traded in the U.S. after the expiration of the restricted period.

## II. Discussion

The Commission believes the proposed rule change is consistent with the Association's obligations under Section 15A(b)(6) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities because the proposed rule change clarifies that the Code applies to the liabilities of parties to a transaction, transactions in restricted securities, the operational procedures that affect the day-to-day business of members and transactions settled through a clearing agency where the rules of the clearing agency direct that the rules of the governing market apply to the transaction. The Commission believes the proposed rule change should clarify the broad scope and applicability of the Code, simplify the transaction of day-to-day business by NASD members and guide NASD members regarding the application of the Code to transactions settled through a clearing agency.

The Commission also believes the proposed rule change is consistent with

the NADA's obligations under Section 15A(b)(2) to enforce compliance by its members with the provisions of the Act, the rules and regulations thereunder and the rules of the NASD in that the proposed rule change applies the Code to the liabilities of NASD members that are parties to a securities transaction, the operational procedures that affect the day-to-day business of NASD members, transactions in restricted securities and transactions settled through a clearing agency, when the rules of the clearing agency direct that the rules of the governing market apply to the transaction.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR-NASD-97-06 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 97-9715 Filed 4-15-97; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38480]

### Telemarketing and Consumer Fraud and Abuse Prevention Act; Determination that No Additional Rulemaking Required

April 7, 1997.

#### A. Background

The Telemarketing and Consumer Fraud and Abuse Prevention Act (the "Telemarketing Act")<sup>1</sup> requires the Commission to promulgate, or require the securities industry self-regulatory organizations ("SROs") to promulgate, rules substantially similar to the rules adopted by the Federal Trade Commission ("FTC") pursuant to the Telemarketing Act (the "FTC").<sup>2</sup> The

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 6101-08 (1996).

<sup>2</sup> Section 3(d)(1)(a) of the Telemarketing Act provides that "not later than 6 months after the effective date of the rules promulgated by the Federal Trade Commission under subsection (a) [of Section 3 of the Telemarketing Act], the Securities and Exchange Commission shall promulgate, or require any national securities exchange or registered securities association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices described in paragraph (2) [of Section 3(d)]." 15 U.S.C. 6102(d)(1)(a) (1996). The FTC adopted the FTC Rules on August 23, 1995, with an effective date of December 31, 1995. 60 FR 43842 (codified at 16 CFR 310.1-310.8 (1996)). The proposed NASD Rule was filed with the Commission on June 28, 1996. See Securities Exchange Act Release No. 37475 (July 30, 1996).

purpose of these rules is to prohibit deceptive and other abusive telemarketing acts or practices by brokers, dealers, and other securities industry professionals.<sup>3</sup> The Telemarketing Act provides that the Commission may elect not to promulgate such rules only if it determines that existing rules provide protection against deceptive and abusive practices in securities transactions that is substantially similar to that provided by the FTC Rules, or that additional rules are not necessary or appropriate in the public interest.<sup>4</sup>

In early 1996, members of the staff of the Division of Market Regulation conducted a series of meetings and conferences with representatives of the National Association of Securities Dealers, Inc. ("NASD") and other major SROs to discuss the requirements of the Telemarketing Act. As a result, the NASD filed a proposed rule change (the "NASD Rule")<sup>5</sup> with the Commission for approval. Shortly thereafter, the Municipal Securities Rulemaking Board ("MSRB") filed a substantially similar proposed rule change (the "MSRB Rule")<sup>6</sup> with the Commission. The staff, by delegated authority, approved the

<sup>3</sup> Section 3(d)(2)(A) of the Telemarketing Act provides that "[t]he rules promulgated by the Securities and Exchange Commission under paragraph (1)(a) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company, or any individual associated with [any of the foregoing]." 15 U.S.C. 6102(d)(2)(A) (1996). The Telemarketing Act defines such terms by reference to the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, and explicitly states that the FTC Rules shall not apply to such persons.

<sup>4</sup> Section 3(d)(1)(B) of the Telemarketing Act provides that "[t]he Securities and Exchange Commission is not required to promulgate a rule under [Section 3(d)(1)(A)] if it determines that—(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in [Section 3(d)(2)] substantially similar to that provided by rules promulgated by the Federal Trade Commission under [Section 3(a)]; or (ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets." 15 U.S.C. 6102(d)(1)(B) (1996).

<sup>5</sup> The NASD Rule, SR-NASD-96-28, initially was filed with the Commission on June 28, 1996, and subsequently was amended by the NASD on July 18, 1996, July 24, 1996, and October 18, 1996. See Securities Exchange Act Release No. 37475 (July 24, 1996).

<sup>6</sup> The MSRB filed the MSRB Rule, SR-MSRB-96-6, with the Commission for approval on July 30, 1996. See Securities Exchange Act Release No. 37626 (Aug. 30, 1996). The MSRB amended its rule filing on November 1, 1996.

<sup>3</sup> This language is drawn from Article XV, Section 1 of the NASD By-Laws which authorizes the Association to adopt the Uniform Practice Code which states that the adoption of such Code is for the purpose that "the transaction of day-to-day business by members may be simplified and facilitated. . . ."

NASD rule on December 2, 1996,<sup>7</sup> and the MSRB Rule on December 16, 1996.<sup>8</sup>

As discussed below, the Commission finds that the Securities Exchange Act of 1934 (the "Exchange Act") and the Investment Advisers Act of 1940 (the "Advisers Act"), the rules thereunder, and the other rules of the SROs (including the NASD Rule and the MSRB Rule), satisfy the requirements of the Telemarketing Act because the applicable provisions of such laws and rules are substantially similar to the FTC Rules, except for those FTC Rules that involve areas already extensively regulated by existing securities laws or regulations, or activities inapplicable to securities transactions. Accordingly, the Commission has determined that no additional rulemaking is required by it under the Telemarketing Act. In accordance with Section 3(d)(1)(B) of the Telemarketing Act, the Commission is publishing this determination in the Federal Register, together with the reasons therefor.<sup>9</sup>

## B. Discussion

The FTC Rules address three areas: (1) Abusive telemarketing acts or practices, which are addressed through a requirement to maintain a do-not-call list, calling time restrictions, required oral disclosures, and proscriptions against the use of threats, intimidation, profane or obscene language, and certain repetitive calling patterns; (2) deceptive telemarketing acts or practices, which are addressed primarily through required disclosures about the goods or services being offered and prohibitions against misrepresentations with respect thereto; and (3) recordkeeping requirements relating to various aspects of telemarketing transactions.

### 1. Abusive Telemarketing Acts or Practices

Section 310.4 of the FTC Rules proscribes a number of "abusive telemarketing acts or practices" by telemarketers. First, the FTC Rules effectively require the maintenance of do-not-call lists by telemarketers. Second, time-of-day restrictions prohibit cold-calls prior to 8 a.m. or after 9 p.m. local time at the called person's location. Third, telemarketers are required to disclose orally to the called

person the caller's identity, that the purpose of the call is to sell goods or services, the nature of the goods or services being offered, and, if a prize promotion is involved, that no purchase is necessary to participate therein. Fourth, telemarketers are prohibited from using threats or intimidation, profane or obscene language, or certain repetitive calling patterns, in connection with telemarketing transactions. Finally, the FTC Rules prohibit a telemarketer from receiving payment in advance from a consumer for (1) Cleansing a credit report, (2) Obtaining a refund or goods promised with respect to a prior telemarketing transaction, or (3) Arranging a loan or other extension of credit.

With respect to the do-not-call list requirement, the New York Stock Exchange ("NYSE"), the NASD, the Chicago Board Options Exchange ("CBOE"), the American Stock Exchange ("AMEX"), and the Pacific Stock Exchange ("PSE") have each adopted rules that require all members to make and maintain a centralized do-not-call list.<sup>10</sup> Further, the MSRB Rule includes a provision requiring municipal securities brokers and dealers to maintain a do-not-call list.<sup>11</sup>

Certain other abusive telemarketing acts or practices proscribed by the FTC Rules, which are addressed by the calling time restrictions and required oral disclosures, are covered by the NASD Rule and the MSRB Rule.<sup>12</sup> Both the NASD Rule and the MSRB Rule, with certain limited exceptions, (a) prohibit cold-calls at any time other than between 8 a.m. and 9 p.m. local time at the called person's location, without the prior consent of the called person,<sup>13</sup> and (b) require the cold-caller to identify himself and his firm, provide a name or address at which the caller may be contacted, and state that the purpose of the call is to sell securities.<sup>14</sup>

A third group of abusive telemarketing acts or practices proscribed by the FTC Rules, namely the use of threats, intimidation, profane or obscene language, and certain repetitive calling patterns, are prohibited specifically by recent NASD and MSRB interpretations. The NASD and MSRB have each issued an

interpretation of their general rule proscribing conduct inconsistent with just and equitable principles of trade or fair dealing, clarifying that such proscribed conduct includes (a) Threats, intimidation, and the use of profane or obscene language, and (b) calling a person repeatedly with intent to annoy, abuse, or harass the called party.<sup>15</sup>

Finally, certain specific abusive telemarketing acts or practices addressed by the FTC Rules do not appear applicable to securities transactions. The FTC Rules addressing the receipt of payment in advance for cleansing a credit report, obtaining refunds, or arranging a loan, are included in this category.

### 2. Deceptive Telemarketing Acts or Practices

Section 310.3 of the FTC Rules prohibits a number of "deceptive telemarketing acts or practices" by telemarketers, and primarily requires specified disclosures and prohibits misrepresentations. First, the telemarketer must disclose the following information, in a clear and conspicuous manner, prior to payment by a customer for the goods or services offered: (1) The quantity of goods or services involved and the total cost thereof; (2) All material restrictions, limitations, or conditions with respect thereto; (3) All material terms and conditions of the seller's refund, cancellation, exchange, or repurchase policy, or the lack thereof; (4) In a prize promotion, the odds of receiving the prize, that no purchase or payment is required to participate, and instructions on how to participate; and (5) in a prize promotion, all material costs or conditions to redeem the prize that is the subject thereof. Second, a telemarketer may not make any false or misleading statement to induce any person to pay for goods or services, and misrepresentation by a telemarketer, directly or by implication, specifically is prohibited with respect to (1) Any of the required disclosure items described above; (2) Any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services offered; (3) Any material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability; and (4) A seller's or telemarketer's affiliation with, or endorsement by, any government or third-party organization. Third, a telemarketer may not obtain or submit for payment a check, draft, or other form

<sup>7</sup> See Securities Exchange Act Release No. 38009 (Dec. 2, 1996).

<sup>8</sup> See Securities Exchange Act Release No. 38053 (Dec. 16, 1996).

<sup>9</sup> Section 3(d)(1)(B) of the Telemarketing Act provides that, if the Commission determines that no additional rulemaking is required, it "shall publish in the Federal Register its determination with the reasons for it." 15 U.S.C. 6102(d)(1)(B) (1996).

<sup>10</sup> NYSE Rule 440A; NASD Rule 3110(g); CBOE Rule 9.24; AMEX Rule 428; PSE Rule 9.20(b).

<sup>11</sup> MSRB rule G-8(a)(xix)(A).

<sup>12</sup> Virtually all registered broker-dealers that conduct a public business (i.e., those that potentially may engage in telemarketing activities) are NASD members or municipal securities dealers, and accordingly are subject either to the NASD Rule or the MSRB Rule.

<sup>13</sup> NASD Rule 2211(a); MSRB rule G-39(a).

<sup>14</sup> NASD Rule 2211(b); MSRB rule G-39(b).

<sup>15</sup> See NASD Notice to Members 96-44 (July 1996) (conduct inconsistent with NASD Rule 2110); MSRB Reports, Vol. 16, No. 3 (September 1996) (conduct inconsistent with MSRB rule G-17).

of negotiable paper drawn on a customer's bank or other account without the customer's express verifiable authorization, and credit card laundering (i.e., having a third party present a credit card sales draft) is prohibited in connection with a telemarketing transaction. Finally, no person may provide substantial and knowing assistance with respect to a violation of any of the FTC Rules.

One of the deceptive telemarketing acts or practices proscribed by the FTC Rules, namely the unauthorized use of demand drafts, specifically is addressed by the NASD Rule and the MSRB Rule. Both the NASD Rule and the MSRB Rule prohibit the cold-caller from utilizing a demand draft without the customer's express verifiable authorization.<sup>16</sup>

Certain of the deceptive telemarketing acts or practices proscribed by the FTC Rules, namely those addressing prize promotions and credit card laundering, are not applicable to securities transactions.

The remaining deceptive telemarketing acts or practices proscribed by the FTC Rules involve areas already extensively regulated by existing securities laws and regulations. The FTC Rules that proscribe deceptive telemarketing acts or practices primarily (1) Require the disclosure of certain information with respect to the goods or services being offered, and (2) prohibit misrepresentations with respect thereto. However, Section 9(a) of the Exchange Act,<sup>17</sup> section 10(b) of the Exchange Act and the rules promulgated thereunder,<sup>18</sup>

Sections 15(c) and 15(g) of the Exchange Act and the rules promulgated thereunder,<sup>19</sup> and the related antifraud rules of the SROs,<sup>20</sup> extensively regulate disclosure and prohibit misrepresentations in connection with the offer and sale of securities. Therefore, the more limited regulations addressing required disclosures and prohibited misrepresentations set forth in the FTC Rules and applicable to non-securities transactions are unnecessary or inappropriate in the securities context in light of the more extensive existing regulatory framework.

### 3. Recordkeeping Requirements

The FTC Rules require that the following records be kept by telemarketers with respect to their telemarketing activities for a period of 24 months: (1) Copies of all substantially different advertising, brochures, telemarketing scripts, and promotional materials; (2) the name and address of each customer, the product or service purchased, the price paid, and

of shares or units (or principal amount) of the security purchased or sold, whether the broker-dealer acted as principal or agent in the transaction, and the fees paid to, or markup received by, the broker-dealer in connection therewith.

<sup>19</sup> Sections 15(c)(1) and 15(c)(2) of the Exchange Act, among other things, prohibit brokers, dealers, municipal securities dealers, and government securities brokers and dealers from effecting transactions in, or inducing or attempting to induce the purchase or sale of, securities by means of any manipulative, deceptive, or other fraudulent device or contrivance. With respect to non-municipal or non-government securities brokers or dealers, the foregoing is limited to transactions otherwise than on a national securities exchange of which such broker or dealer is a member (in which case Section 9(a)(4) of the Exchange Act would apply). The rules promulgated by the Commission pursuant thereto define the prohibited activities in more detail. For example, Rule 15c1-2 under the Exchange Act defines these proscribed activities as including "any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person" and "any untrue statement of a material fact and any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, which statement or omission is made with knowledge or reasonable grounds to believe it is untrue or misleading." Rule 15c2-8 sets forth certain prospectus delivery requirements for brokers and dealers participating in certain distributions of securities with respect to which a registration statement has been filed under the Securities Act of 1933. Section 15(g) of the Exchange Act and Rules 15g-2 and 15g-9 thereunder, among other things, prohibit a broker or dealer from effecting certain transactions in "penny stocks" (generally, securities with a price of less than \$5 per share or unit that are not traded on an exchange or on NASDAQ) unless the broker or dealer first (1) has delivered a risk disclosure document to the customer, (2) has made certain suitability determinations and delivered to the customer a written statement setting forth the basis therefore, and (3) has received from the customer the customer's written agreement to the transaction.

<sup>20</sup> E.g., NASD Rule 2120; NYSE Rule 476; MSRB rule G-17.

the date shipped or provided; (3) the name, address, telephone number, and job title of each current and former employee directly involved in telephone sales; (4) the name and address of each recipient of a prize with a value of at least \$25, and a description of such prize; and (5) all verifiable authorizations required in connection with the submission of any demand drafts described above.

Both the NASD Rule and the MSRB Rule require the retention of any express verifiable authorization obtained in connection with the use of a demand draft for a period of three years.<sup>21</sup> As noted above, the FTC Rules addressing prize promotions are not applicable to securities transactions.

The remaining recordkeeping requirements of the FTC Rules are unnecessary in the securities context given the more extensive recordkeeping requirements imposed upon broker-dealers by the Exchange Act and existing SRO rules. Rule 17a-3 under the Exchange Act requires a broker-dealer to maintain certain records, including detailed records of all transactions in securities effected by, and all salespersons employed by, such broker-dealer.<sup>22</sup> Rule 17a-4 under the Exchange Act requires, among other things, such records, as well as copies of all communications sent by a broker-dealer relating to its business (which would include advertisements and sales literature),<sup>23</sup> to be retained by the broker-dealer for varying periods, but in no case less than three years. Existing rules of the SROs, in general, also contain comparable recordkeeping requirements.<sup>24</sup>

<sup>21</sup> NASD Rule 3110(g)(3); MSRB rule G-9(b)(xii).

<sup>22</sup> For example, Rule 17a-3(a)(1) under the Exchange Act provides that broker-dealers shall make and keep current "[b]lotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debts and credits. Such records shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered." Rule 17a-3(a)(12) requires broker-dealers to maintain detailed information with respect to each associated person (which includes any salesman or employee soliciting transactions or accounts) of such broker-dealer.

<sup>23</sup> Telemarketing scripts expressly are included within the definitions of "sales literature" or "advertisement" in both the NASD and MSRB rules. See NASD Rule 2210(a)(2); MSRB rule G-21(a).

<sup>24</sup> See, e.g., NASD Rules 2210 and 3110; NYSE Rules 410 and 472.

<sup>16</sup> NASD Rule 3110(g)(2); MSRB rule G-8(a)(xix)(B).

<sup>17</sup> Section 9(a)(4) of the Exchange Act prohibits a broker or dealer, in connection with the purchase or sale of any security registered on a national securities exchange, from making "any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading."

<sup>18</sup> Section 10(b) of the Exchange Act proscribes the use, in connection with the purchase or sale of any security, of "any manipulative or deceptive device or contrivance" in contravention of the rules and regulations promulgated by the Commission. Rule 10b-5 under the Exchange Act, for example, makes it unlawful for "any person, directly or indirectly, . . . (a) to employ any device, scheme, or artifice to defraud, (b) to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security." In addition, Rule 10b-10 under the Exchange Act generally requires a broker-dealer to give or send to its customer, at or before the completion of a securities transaction, a written notification disclosing, among other things, the date of the transaction, the identity, price, and number

#### 4. Investment Companies and Investment Advisers

Most investment company securities are sold through registered broker-dealers that are required by the Exchange Act to be members of the NASD and are subject to NASD rules. Separate rulemaking under the Investment Company Act of 1940 covering the telemarketing of investment company securities by NASD members would be largely duplicative of the NASD Rule and would not provide additional protections to consumers.

A small minority of investment companies are "self-distributed" (*i.e.*, the investment company sells its share to the public directly and not through a registered broker-dealer). The sale of these companies' securities are not covered by NASD rules. Under Exchange Act Rule 3a4-1, however, unsolicited telemarketing by self-distributed investment companies generally is prohibited.<sup>25</sup> Because telemarketing by self-distributed investment companies is already restricted by Rule 3a4-1, additional rulemaking appears unnecessary.

Investment advisers infrequently employ telemarketing to obtain advisory clients. Unlike the sale of a single security or other products and services, the service provided by an investment adviser typically involves an ongoing personal relationship that cannot easily be established over the telephone. Moreover, the Advisers Act and Commission rules thereunder provide procedural safeguards that have the effect of deterring abusive telemarketing by advisers. For example, Rule 204-3 generally requires a registered investment adviser to provide to a prospective client a written disclosure statement containing specified information concerning its personnel, investment strategies and methods, the services provided and the fees charged (1) At least 48 hours before entering into an investment advisory contract, or (2) At the time the contract is entered into, if the client has the right to terminate

<sup>25</sup> Rule 3a4-1 provides an exclusion from the definition of "broker" for certain persons associated with issuers of securities. Self-distributed investment companies operate without NASD membership pursuant to this rule. Rule 3a4-1(a)(4)(iii) prohibits "oral solicitations" of "potential purchasers." Investment company personnel may respond, however, "to inquiries of a potential purchaser in a communication initiated by the potential purchaser in a communication initiated by the potential purchaser" as long as the response is limited to information contained in the investment company's prospectus.

the contract without penalty within five business days.<sup>26</sup>

Unsolicited telemarketing is not, however, prohibited by the Advisers Act or the rules thereunder. Although the Commission does not believe that specific rules are warranted at this time, it will monitor the implementation and effectiveness of the NASD Rule and consider whether similar rules are necessary to deter the development of abusive telemarketing practices by the investment advisory industry.

#### C. Conclusion

The Commission finds that the NASD Rule and MSRB Rule, together with the Exchange Act and the Advisers Act, the rules thereunder, and the other rules of the SROs, satisfy the requirements of the Telemarketing Act, because the applicable provisions of such laws and rules are substantially similar to the FTC Rules,<sup>27</sup> except for those FTC Rules that involve areas already extensively regulated by existing securities laws or regulations or activities inapplicable to securities transactions.<sup>28</sup> Accordingly, the Commission has determined that no additional rulemaking is required by it under the Telemarketing Act.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-9712 Filed 4-15-97; 8:45 am]

BILLING CODE 8010-01-M

<sup>26</sup> Rule 204-3 does not require a disclosure statement for a "contract for impersonal advisory services" involving a payment of less than \$200. Impersonal advisory services include (1) general information or recommendations not tailored for a specific client, and (2) statistical information that does not make a recommendation regarding a particular security. Neither the Division of Investment Management nor the Office of Compliance Inspections and Examinations is aware of any instances in which impersonal advisory services have been sold to consumers through unsolicited telemarketing.

<sup>27</sup> The Commission finds that such laws and rules provide protection from deceptive and other abusive telemarketing acts and practices by persons described in Section 3(d)(2) of the Telemarketing Act substantially similar to that provided by the FTC Rules. See Section 3(d)(1)(B)(i) of the Telemarketing Act, 15 U.S.C. 6102(d)(1)(B)(i) (1996).

<sup>28</sup> With respect to those FTC Rules that involve areas already extensively regulated by existing securities laws or regulations, or activities inapplicable to securities transactions, the Commission finds that the promulgation of substantially similar rules is not necessary or appropriate in the public interest. See Section 3(d)(1)(B)(ii) of the Telemarketing Act, 15 U.S.C. 6102(d)(1)(B)(ii) (1996).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-97-20]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 24, 1997.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule docket (AGC-200), Petition Docket No. 28890, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Fred Haynes (202) 267-3939 or Angela Anderson (202) 267-9681 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).