

■ 8. Section 109.35 is removed and reserved.

§ 109.35 [Removed and reserved]

■ 9. Section 109.36 is amended by revising the heading to read as follows:

§ 109.36 Are there circumstances under which a political party committee is prohibited from making independent expenditures?

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Dated: October 28, 2004.

Bradley A. Smith,

Chairman, Federal Election Commission.

[FR Doc. 04-24475 Filed 11-2-04; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 105

RIN 3245-AF24

Standards of Conduct and Employee Restrictions and Responsibilities

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The Small Business Administration (SBA) amends its regulations governing employee standards of conduct by deleting references to Supplemental Standards of Ethical Conduct and revising the descriptions of the headings for Office of the Government Ethics (OGE) regulations. The effect of these amendments is to make SBA's Standards of Conduct and Employee Restrictions and Responsibilities a more precise statement of existing authorities applicable to the ethical conduct of SBA employees.

DATES: This direct final rule is effective January 3, 2005, without further action, unless adverse comment is received by December 3, 2004. If adverse comment is received, SBA will publish a timely withdrawal of the direct final rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN number, by any of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>; (2) e-mail: robert.gangwere@sba.gov. Include RIN number in the subject line of the message; (3) Fax: (202) 481-5275; (4) mail: Robert L. Gangwere, Deputy General Counsel, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; (5) hand delivery/courier: 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT:

Susan L. Sundberg, Alternate Designated Agency Ethics Official, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; (202) 619-0585; e-mail: susan.sundberg@sba.gov.

SUPPLEMENTARY INFORMATION: SBA issued regulations governing employee standards of conduct on January 26, 1996, at 61 FR 2399 based on its independent authority under the Small Business Act, 15 U.S.C. 631 *et seq.*, and Executive Order 11222, May 8, 1965. According to 5 CFR 2635.105, an agency may also issue regulations that supplement OGE's regulations on standards of conduct for Executive branch employees, which the agency determines are necessary and appropriate in view of its programs and operations. Although SBA's standards of conduct regulations currently make general and specific references to supplemental regulations, SBA has no current plans to issue such supplemental regulations. Therefore, it is necessary to amend the regulations so as not to imply that such supplemental regulations exist. The current regulations also cross-reference two parts of OGE's regulations, 5 CFR part 2634 and 5 CFR part 2635, and describe them as the Uniform Financial Disclosure regulations and the Uniform Standards of Ethical Conduct for Executive Branch employees, respectively. This direct final rule will revise these descriptions to make them consistent with the actual headings used by OGE in its regulations.

SBA is publishing this rule as a direct final rule because the Agency believes that this rule is non-controversial; it merely makes the Agency's regulations consistent with existing authorities. SBA expects no adverse comments on this rule. If, however, adverse comments are received, SBA will publish a timely notice of withdrawal in the **Federal Register**.

Section-by-Section Analysis

Section 105.101 notifies employees that 5 CFR part 2635 codifies the "Uniform Standards of Ethical Conduct for Executive Branch employees" and that 5 CFR part 2634 codifies the "Uniform Financial Disclosure regulation for Executive Branch employees." Because these headings do not accurately reflect the headings found at 5 CFR parts 2634 and 2635, this direct final rule amends § 105.101 to indicate the accurate headings for these OGE regulations. Section 105.101 also refers employees to SBA Supplemental Standards of Ethical

Conduct at 5 CFR XLIV. This direct final rule deletes that reference because such regulations do not exist.

Section 105.402 identifies the Designated Agency Ethics Official as the official who serves as SBA's Standards of Conduct Counselor, delegates authority to that official to designate Assistant Standards of Conduct Counselors, and describes their responsibilities under OGE and SBA regulations, including SBA's supplemental regulations. Paragraph (b)(4) of this section will be removed in order to delete the provision directing standards of conduct counselors to rely on SBA's Supplemental Standards of Ethical Conduct in making decisions on outside employment. SBA will also make minor grammatical changes to this section to improve clarity.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601-612) and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

This direct final rule will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Therefore, for the purposes of Executive Order 13132, SBA determines that this direct final rule has no federalism implications warranting preparation of a federalism assessment.

This direct final rule meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The direct final rule does not have retroactive or preemptive effect.

The Office of Management and Budget (OMB) has determined that this direct final rule does not constitute a significant regulatory action under Executive Order 12866.

SBA certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612 because the direct final rule applies to SBA employees, not small entities.

SBA has determined that this direct final rule will not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

List of Subjects in 13 CFR Part 105

Conflicts of interest, Conduct standards, Ethical conduct, Financial disclosure, Government employees.

■ For the reasons stated in the preamble, SBA amends 13 CFR part 105 as follows:

PART 105—STANDARDS OF CONDUCT AND EMPLOYEE RESTRICTIONS AND RESPONSIBILITIES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 5 U.S.C. 7301; 15 U.S.C. 634, 637(a)(18) and (a)(19), 642 and 645(a).

■ 2. Revise § 105.101 to read as follows:

§ 105.101 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

In addition to this part, Small Business Administration (SBA) employees should refer to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635 and the regulations at 5 CFR part 2634 entitled, Executive Branch Financial Disclosure, Qualified Trusts and Certificates of Divestiture.

■ 3. Amend § 105.402 by revising paragraphs (b) (2) and (b) (3) and removing paragraph (b) (4) to read as follows:

§ 105.402 Standards of Conduct Counselors.

* * * * *

(b) * * *

(2) Monitor the Standards of Conduct Program within their assigned areas and provide required reports thereon; and

(3) Review Confidential Financial Disclosure reports as required under 5 CFR part 2634, subpart I, and provide an annual report on compliance with filing requirements to the SBA Standards of Conduct Counselor as of February 1 of each year.

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Hector V. Barreto,
Administrator.

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FEDERAL TRADE COMMISSION

16 CFR Parts 603, 613, and 614

RIN 3084-AA94

Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity Under the Fair Credit Reporting Act

AGENCY: Federal Trade Commission (FTC or the Commission).

ACTION: Final rule.

SUMMARY: The recently enacted Fair and Accurate Credit Transactions Act of

2003 (FACT Act or the Act), amending the Fair Credit Reporting Act (FCRA), establishes requirements for consumer reporting agencies, creditors, and others to help remedy identity theft. In this document, the Commission issues final rules to establish definitions for the terms “identity theft” and “identity theft report;” the duration of an “active duty alert;” and the “appropriate proof of identity” for purposes of sections 605A (fraud alerts and active duty alerts), 605B (consumer report information blocks), and 609(a)(1) (truncation of Social Security numbers) of the FCRA, as amended by the Act.

DATES: Effective Date: This rule is effective on December 1, 2004.

ADDRESSES: Requests for copies of the Rule and the Statement of Basis and Purpose should be sent to the Commission’s Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The complete record of this proceeding is also available at that address. Relevant portions of the proceeding, including the Rule and Statement of Basis and Purpose, are also available at the Commission’s Web site, www.ftc.gov.

FOR FURTHER INFORMATION CONTACT:

Naomi B. Lefkowitz, Attorney, Division of Planning and Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. (202) 326-3228.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Introduction

The FACT Act was signed into law on December 4, 2003. Pub. L. 108-159, 117 Stat. 1952. Portions of the Act amend the FCRA to enhance consumers’ ability to resolve problems caused by identity theft. Section 111 of the Act adds several new definitions to the FCRA, including “identity theft” and “identity theft report.” The Act permits the Commission to further define the term “identity theft,” and requires the Commission to determine the meaning of the term “identity theft report,” although the Act does provide a minimum definition. Section 112 of the Act requires the Commission to determine the duration of an “active duty alert,” which the Act sets at a minimum of 12 months. Section 112 also requires the Commission to determine the “appropriate proof of identity” for purposes of sections 605A (fraud alerts and active duty alerts), 605B (consumer report information blocks), and 609(a)(1) (truncation of

Social Security numbers) of the FCRA, as amended by the Act.

The Commission published a Notice of Proposed Rulemaking and request for Public Comment (“NPRM”) in the **Federal Register** on April 28, 2004,¹ and the comment period closed on June 15, 2004. The Commission received forty-nine comments.² The commenters included the National Association of Attorneys General Executive Committee, consumer advocacy groups,³ industry trade organizations,⁴ three nationwide consumer reporting agencies,⁵ financial institutions and other companies,⁶ two

¹ Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity under the Fair Credit Reporting Act, 69 FR 23370 (proposed April 28, 2004) (to be codified at 16 CFR. parts 603, 613, and 614).

² The public comments relating to these rulemakings may be viewed at <http://www.ftc.gov/os/comments/factidt/index.htm>. The Commission considered all comments timely filed, *i.e.*—those received on or before the close of the comment period on June 15, 2004. As a matter of discretion, the Commission also considered comments that were filed after the close of the comment period. Citations to comments filed in this proceeding are made to the name of the organization (if any) or the last name of the commenter, and the comment number of record. Comment number may appear as all numeric characters—*e.g.*, #000031 (indicating a comment received by paper or electronic mail), or as numeric characters preceded by “EREG”—*e.g.*, “EREG-000031” (indicating a comment received through www.regulations.gov).

³ Consumers Union submitted a comment on behalf of 11 organizations. Consumer advocacy groups commenting included Consumer Action, Consumer Federation of America, Consumers Union, Electronic Privacy Information Center, Identity Theft Resource Center, National Association of Consumer Advocates, National Consumer Law Center, National Council of La Raza, Privacy Rights Clearinghouse, Privacy Times, and U.S. Public Interest Research Group (US-PIRG).

⁴ In addition to Consumer Data Industry Association (CDIA)—the trade association that represents the nationwide consumer reporting agencies and a variety of other consumer reporting agencies—the Commission received comment on the proposed rule on behalf of a number of trade organizations representing a variety of industries and concerns. These included ACA International (representing debt collection agencies and other accounts receivable professionals), American Bankers Association, American Financial Services Association (representing companies primarily engaged in the business of providing consumer credit), America’s Community Bankers, Credit Union National Association (CUNA), Coalition to Implement the FACT Act (representing trade associations and companies that furnish, use, collect, and disclose consumer information), Consumer Bankers Association, Independent Community Bankers of America, National Automobile Dealers Association, National Business Coalition on Privacy and E-Commerce (representing diverse companies interested in national policy on privacy and electronic commerce issues), Michigan Credit Union League, National Retail Federation, Pennsylvania Credit Union Association, and the Financial Services Roundtable.

⁵ Equifax Information Services LLC, Experian Information Solutions, Inc., and Trans Union LLC.

⁶ These included Bank of America, Bank One Corporation, BMO Financial Group, Boeing Employees’ Credit Union, Capital One Financial Corporation, Countrywide Home Loans, Fifth Third