

paragraph (b)(2) of this section will replace the level identified in paragraph (a)(1) of this section.

Subpart D—Report, Recordkeeping and Audits

■ 19. Amend § 158.63 by revising paragraphs (a) and (c) to read as follows:

§ 158.63 Reporting requirements: Public agency.

(a) The public agency must provide quarterly reports to air carriers collecting PFCs for the public agency with a copy to the appropriate FAA Airports Office. The quarterly report must include:

- (1) Actual PFC revenue received from collecting air carriers, interest earned, and project expenditures for the quarter;
- (2) Cumulative actual PFC revenue received, interest earned, project expenditures, and the amount committed for use on currently approved projects, including the quarter;
- (3) The PFC level for each project; and
- (4) Each project's current schedule.

* * * * *

(c) For medium and large hub airports, the public agency must provide to the FAA, by July 1 of each year, an estimate of PFC revenue to be collected for each airport in the following fiscal year.

■ 20. Revise § 158.65 to read as follows:

§ 158.65 Reporting requirements: Collecting air carriers.

(a) Each air carrier collecting PFCs for a public agency must provide quarterly reports to the public agency unless otherwise agreed by the collecting air carrier and public agency, providing an accounting of funds collected and funds remitted.

(1) Unless otherwise agreed by the collecting air carrier and public agency, reports must state:

- (i) The collecting air carrier and airport involved,
- (ii) The total PFC revenue collected,
- (iii) The total PFC revenue refunded to passengers,
- (iv) The collected revenue withheld for reimbursement of expenses under § 158.53, and
- (v) The dates and amounts of each remittance for the quarter.

(2) The report must be filed by the last day of the month following the calendar quarter or other period agreed by the collecting carrier and public agency for which funds were collected.

(b) A covered air carrier must provide the FAA with:

(1) A copy of its quarterly report by the established schedule under paragraph (a) of this section; and

(2) A monthly PFC account statement delivered not later than the fifth day of the following month. This monthly statement must include:

- (i) The balance in the account on the first day of the month,
- (ii) The total funds deposited during the month,
- (iii) The total funds disbursed during the month, and
- (iv) The closing balance in the account.

■ 21. Amend § 158.67 by revising paragraph (c)(2) to read as follows:

§ 158.67 Recordkeeping and auditing: Public agency.

* * * * *

(c) * * *

(2) Conducted as part of an audit under Office of Management and Budget Circular A-133 (the Single Audit Act of 1984, Pub. L. 98-502, and the Single Audit Act Amendments of 1996, Pub. L. 104-156) provided the auditor specifically addresses the PFC.

* * * * *

Subpart E—Termination

■ 22. Revise § 158.81 to read as follows:

§ 158.81 General.

This subpart contains the procedures for termination of PFCs or loss of Federal airport grant funds for violations of this part or 49 U.S.C. 40117. This subpart does not address the circumstances under which the authority to collect PFCs may be terminated for violations of 49 U.S.C. 47523 through 47528.

§ 158.97 [Removed]

■ 23. Remove § 158.97.

■ 24. Amend appendix A to part 158 by revising paragraphs 10 and 12 of section B of this appendix to read as follows:

Appendix A to Part 158—Assurances

* * * * *
* * *

10. Recordkeeping and Audit. It will maintain an accounting record for audit purposes for 3 years after physical and financial completion of the project. All records must satisfy the requirements of 14 CFR part 158 and contain documentary evidence for all items of project costs.

* * * * *

12. Compliance with 49 U.S.C. 47523 through 47528. It understands 49 U.S.C. 47524 and 47526 require that the authority to impose a PFC be terminated if the Administrator determines the public agency has failed to comply with those sections of the United States Code or with the implementing regulations published under the Code.

Issued in Washington, DC, on May 14, 2007.

Marion C. Blakey,
Administrator.

[FR Doc. E7-9941 Filed 5-22-07; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 4

Access Requests From Foreign Law Enforcement Agencies for Consumer Protection Materials

AGENCY: Federal Trade Commission.
ACTION: Final rule amendment.

SUMMARY: The Federal Trade Commission is amending Rule 4.11 of its Rules of Practice, which addresses disclosure requests, to add a new provision, Rule 4.11(j). The new provision conforms the agency's rules to its authority to share confidential information in non-antitrust matters with foreign law enforcers, with appropriate confidentiality assurances and subject to certain restrictions, as provided for under the recently-enacted U.S. SAFE WEB Act of 2006, Pub. L. No. 109-455, 120 Stat. 3372 (2006). The Commission is also amending Rules 4.10(d) and (e), which describe certain materials subject to prohibitions on disclosures and exceptions for specified circumstances, to cross-reference the new Rule 4.11(j).

DATES: *Effective Date:* May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Joannie T. Wei, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2840, jwei@ftc.gov.

SUPPLEMENTARY INFORMATION: The Undertaking Spam, Spyware and Fraud Enforcement With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act), Pub. L. No. 109-455, 120 Stat. 3372 (2006), was enacted to enhance the Federal Trade Commission's enforcement activities against a range of practices that harm U.S. consumers, including illegal spam, spyware, cross-border fraud and deception, misleading health and safety advertising, privacy and security breaches, and other law violations. The practices the FTC enforces against are increasingly global in nature, and the U.S. SAFE WEB Act improves the FTC's ability to cooperate with its foreign counterparts to combat such practices.

Authority to share certain materials with foreign law enforcement agencies. Information sharing is one area in which the U.S. SAFE WEB Act strengthens the

Commission's authority to cooperate with its foreign counterparts. Sections 4 and 6 of the U.S. SAFE WEB Act amend sections 6(f) and 21(b)(6) of the Federal Trade Commission Act to allow the Commission to share certain confidential and compelled information in its files with foreign law enforcement agencies.¹ 15 U.S.C. 46(f), 57b-2(b)(6). These sections of the U.S. SAFE WEB Act do not provide authority for the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)). 15 U.S.C. 57b-2(b)(6).

The Commission's disclosure authority under the U.S. SAFE WEB Act is subject to appropriate limitations and assurances. Under section 6 of the statute, the Commission must obtain certification from an appropriate official of the foreign law enforcement agency, either by prior agreement or memorandum of understanding or by other written certification, that such material will be maintained in confidence and will only be used for official law enforcement purposes. 15 U.S.C. 57b-2(b)(6). The foreign law enforcement agency must have set forth a bona fide legal basis for its authority to maintain the material in confidence. In addition, the foreign law enforcement agency must be using the materials for purposes of investigating or engaging in enforcement proceedings related to possible violations of: (1) Foreign laws prohibiting fraudulent or deceptive practices or other practices substantially similar to practices prohibited by any law administered by the Commission; (2) a law administered by the Commission if disclosure would further a Commission investigation or proceeding; or (3) with the approval of the Attorney General, other foreign criminal laws that are encompassed in an applicable mutual legal assistance treaty. 15 U.S.C. 57b-2(b)(6)(A), 57b-2(b)(6)(B).

If the materials to be provided to the foreign law enforcement agency are requested for the purpose of investigating or engaging in enforcement proceedings based on possible violations by a bank, savings and loan

institution, or Federal credit union, the material will not be disclosed unless the appropriate Federal banking agency, or the National Credit Union Administration in the case of a Federal credit union, has given its prior approval. 15 U.S.C. 57b-2(b)(6)(C).

Further, section 6 of the U.S. SAFE WEB Act does not permit disclosure to foreign law enforcement agencies from foreign states that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405, have repeatedly provided support for acts of international terrorism, unless and until such determination has been rescinded pursuant to section 6(j)(4) of that Act, 50 U.S.C. App. 2405(j)(4).

Rule provisions. To implement this new authority under the U.S. SAFE WEB Act, the Commission's Rules of Practice have been amended to create a new provision, Rule 4.11(j), that delineates the internal procedure for handling requests from foreign law enforcement agencies for nonpublic material other than material subject to disclosure pursuant to other delegations. Rule 4.11(j) is not intended to supersede existing Commission delegations or to preclude additional future delegations, subject to any statutory constraints.

The new provision, Rule 4.11(j), generally adopts the procedures of the current Rule 4.11(c) (sharing confidential information with Federal and State law enforcement agencies), and incorporates the requirements and restrictions of the U.S. SAFE WEB Act. Under the new provision, requests for nonpublic records from foreign law enforcement agencies will be addressed to the Director of the Office of International Affairs or the Director's designee. For any material requested that is subject to the disclosure restrictions in sections 6(f)² or 21(b)³ of the FTC Act or Rule 4.10(d) of the Commission's Rules of Practice,⁴ the

² Section 6(f) of the FTC Act protects from public disclosure "any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," except in certain specified circumstances. 15 U.S.C. 46(f).

³ Section 21(b) of the FTC Act protects from public disclosure material received by the Commission "pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission," except in certain specified circumstances. 15 U.S.C. 57b-2(b).

⁴ In addition to the two categories listed above, Rule 4.10(d) also protects from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552, material submitted to the Commission voluntarily in lieu of compulsory process in a law enforcement investigation and marked or otherwise identified as confidential. 16 CFR 4.10(d).

Director or the Director's designee will obtain any certification required by the U.S. SAFE WEB Act from an appropriate official of such foreign law enforcement agency. Rule 4.11(j)(3) establishes the requirements for access to such material in accordance with the U.S. SAFE WEB Act. The Director will then, with approval of the Bureau of Consumer Protection, forward the requests to the General Counsel with recommendations for disposition. The General Counsel or the General Counsel's designee is delegated the authority to dispose of the requests in accordance with the requirements of the U.S. SAFE WEB Act. Under Rule 4.11(j), the General Counsel may refer such requests to the Commission for determination, and must do so when the Bureau of Consumer Protection or the Office of International Affairs do not agree with the General Counsel's proposed disposition.

The Commission has also amended Rules 4.10(d) and (e) of its Rules of Practice, which describe materials that the Commission generally cannot make public at all or can make public only after finding the material is not confidential and giving ten days' notice to the submitter. These provisions also set forth exceptions to these restrictions, including, inter alia, certain disclosures to Federal and State law enforcement agencies. Rules 4.10(d) and (e) have been amended to include disclosure to foreign law enforcement agencies pursuant to the new Rule 4.11(j) as a specifically stated exception.

The amendments to Rules 4.10(d) and (e) and Rule 4.11(j)(3) will apply to all material that is subject to the disclosure restrictions in sections 6(f) and 21(b) of the FTC Act or in Rule 4.10(d) of the Commission's Rules of Practice, and that was submitted to the Commission on or after December 22, 2006, the date of enactment of the U.S. SAFE WEB Act.

Procedural matters. These amendments adopted herein will reconcile the Commission's rules with existing agency memoranda of understanding (MOUs), under which the Commission has an obligation to use its best efforts to share relevant consumer protection law enforcement material requested by applicable foreign agencies to the extent consistent with national laws, international obligations, enforcement policies and other important interests. Under these MOUs, the Commission has the implied obligation to implement any internal procedures required to allow the Commission to take into account all applicable laws, including the new U.S. SAFE WEB Act authority, in processing and considering applicable foreign

¹ "Foreign law enforcement agency" means—(i) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigate authority in civil, criminal, or administrative matters; and (ii) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (i). 15 U.S.C. 44.

agency requests for information. Because failure to make the proposed amendments would impair the Commission's ability to meet its foreign obligations, the amendments are exempt, by virtue of the foreign affairs exemption to the Act, 5 U.S.C. 553(a)(1), from both the Administrative Procedure Act's notice and comment requirement, 5 U.S.C. 553(b), and its restriction on the rules' effective date, 5 U.S.C. 553(d).

These amendments are also exempt from the notice and comment requirement and effective date restriction of the Commission's Rules of Practice by virtue of the good cause exceptions in Rules 1.26(b) and 1.26(e). 16 CFR 1.26(b), (e). In these circumstances, providing a period of public comment would delay implementation of these rules and is both unnecessary and contrary to the public interest.⁵

Finally, these amendments are not a collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and are not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act, Sunshine Act.

■ For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

Subchapter A—Organization, Procedures, And Rules Of Practice

PART 4—MISCELLANEOUS RULES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 4.10 by revising paragraphs (d) and (e) to read as follows:

§ 4.10 Nonpublic material.

* * * * *

(d) Except as provided in paragraphs (f) or (g) of this section or in § 4.11(b), (c), (d), (i), or (j), no material that is marked or otherwise identified as confidential and that is within the scope of § 4.10(a)(8), and no material within the scope of § 4.10(a)(9) that is not otherwise public, will be made available without the consent of the person who produced the material, to any individual other than a duly authorized officer or

employee of the Commission or a consultant or contractor retained by the Commission who has agreed in writing not to disclose the information. All other Commission records may be made available to a requester under the procedures set forth in § 4.11 or may be disclosed by the Commission except where prohibited by law.

(e) Except as provided in paragraphs (f) or (g) of this section or in § 4.11(b), (c), (d), (i), or (j), material not within the scope of § 4.10(a)(8) or § 4.10(a)(9) that is received by the Commission and is marked or otherwise identified as confidential may be disclosed only if it is determined that the material is not within the scope of § 4.10(a)(2), and the submitter is provided at least ten days notice of the intent to disclose the material.

* * * * *

■ 3. Amend § 4.11 by adding a new paragraph (j) to the end that reads as follows:

§ 4.11 Disclosure requests.

* * * * *

(j)(1) The procedures specified in this section apply to disclosures of certain records to foreign law enforcement agencies in specified circumstances in accordance with the U.S. SAFE WEB Act of 2006. Nothing in this section authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws, as defined in paragraph (j)(5)(i) of this section.

(2) Requests from foreign law enforcement agencies, as defined in paragraph (j)(5)(ii) of this section, for nonpublic records shall be addressed to the Director of the Office of International Affairs or the Director's designee, who shall forward them to the General Counsel with recommendations for disposition after obtaining any required certification described in paragraph (j)(3) of this section and approval of the Bureau of Consumer Protection. With respect to requests under this paragraph, the General Counsel or the General Counsel's designee is delegated the authority to dispose of them. Alternatively, the General Counsel may refer such requests to the Commission for determination, except that requests must be referred to the Commission for determination where the Bureau of Consumer Protection or the Office of International Affairs disagrees with the General Counsel's proposed disposition.

(3) Access under this section to any material subject to the disclosure restrictions in sections 6(f) or 21(b) of the FTC Act or § 4.10(d) may not be granted unless—

(i) An appropriate official of the foreign law enforcement agency has certified, either by prior agreement or memorandum of understanding or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes; and

(ii)(A) The foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

(B) The materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of:

(1) Foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

(2) A law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

(3) With the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

(C) The appropriate Federal banking agency, (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration has given its prior approval if the materials to be provided under paragraph (j)(3)(ii)(B) of this section are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

(D) The foreign law enforcement agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

(4) A copy of the certificate described in paragraph (j)(3) of this section will be forwarded to the submitter of the

⁵ See *Int'l Brotherhood of Teamsters v. Peña*, 17 F. 3d 1478 (D.C. Cir. 1994) (applying APA foreign affairs exemption and good cause exception of agency rule).

information at the time the request is granted unless the foreign law enforcement agency requests that the submitter not be notified.

(5) For purposes of this section:

(i) "Federal antitrust laws" and "foreign antitrust laws" are to be interpreted as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211); and

(ii) "Foreign law enforcement agency" is defined as:

(A) Any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters and

(B) Any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (j)(5)(i)(A) of this section.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7-9966 Filed 5-22-07; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9319]

RIN 1545-BD52

Limitations on Benefits and Contributions Under Qualified Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9319) that were published in the Federal Register on Thursday, April 5, 2007 (72 FR 16878) regarding the limitations of section 415, including updates to the regulations for numerous statutory changes since comprehensive final regulations were last published under section 415.

DATES: These correcting amendments are effective May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 622-6060 or Linda S. F. Marshall at (202) 622-6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 401(a), 401(a)(4), 401(a)(9), 401(k), 402, 414(s), 415, 416, 457, and 924 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9319) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.415(b)-1 is amended by revising paragraph (c)(5)(i)(A), and the second sentence of paragraph (c)(6) Example 6, paragraph (iv). The revisions read as follows:

§ 1.415(b)-1 Limitations for defined benefit plans.

* * * * *

(c) * * *

(5) * * *

(i) * * *

(A) The benefit is paid in a form to which section 417(e)(3) does not apply.

* * * * *

(6) * * *

Example 6. * * *

(iv) * * * With respect to the single-sum distribution, the annual amount of the actuarially equivalent straight life annuity commencing at the same age determined using the plan's actuarial factors is equal to \$45,000. * * *

* * * * *

Par. 3. Section 1.415(d)-1 is amended by revising its heading to read as follows:

§ 1.415(d)-1 Cost-of-living adjustments.

* * * * *

Par. 4. Section 1.415(f)-1 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§ 1.415(f)-1 Aggregating plans.

* * * * *

(d) * * *

(1) * * * Instead, the transferee plan takes into account the transferred benefits that are actually provided under the transferee plan (see § 1.415(b)-1(b)(3)(i)(C)) and, pursuant to

paragraph (c)(1) of this section, any nontransferred benefits provided under plans maintained by the predecessor employer with respect to a participant whose benefits have been transferred to the transferee plan.

* * * * *

Par. 5. Section 1.457-5(d), Example 2, paragraphs (ii) and (iii) are amended by revising the third sentence of (ii) and all of (iii) to read as follows:

§ 1.457-5 Individual limitation for combined annual deferrals under multiple eligible plans.

* * * * *

(d) * * *

Example 2. * * *

(ii) * * * Alternatively, Participant E could instead elect to defer the following combination of amounts: An aggregate total of \$15,000 to Plans X, Y, and Z, if no contribution is made to Plan W; an aggregate total of \$20,000 to any of the four plans, assuming at least \$5,000 is contributed to Plan W; or \$22,000 to Plan W and none to any of the other three plans.

(iii) * * * If the underutilized amount under Plans W, X, and Y for year 2006 were in each case zero (because E had always contributed the maximum amount or E was a new participant) or an amount not in excess of \$5,000, the maximum exclusion under this section would be \$20,000 for Participant E for year 2006 (\$15,000 plus the \$5,000 age 50 catch-up amount), which Participant E could contribute to any of the plans assuming at least \$5,000 is contributed to Plan W.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7-9877 Filed 5-22-07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9319]

RIN 1545-BD52

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