

## Federal Trade Commission

## § 5.2

(3)(i) Such motion shall be addressed in the first instance by the Commissioner whose disqualification is sought.

(ii) In the event such Commissioner declines to recuse himself or herself from further participation in the proceeding, the Commission shall determine the motion without the participation of such Commissioner.

(c) *Standards.* Such motion shall be determined in accordance with legal standards applicable to the proceeding in which such motion is filed.

(15 U.S.C. 46(g))

[46 FR 45750, Sept. 15, 1981]

## PART 5—STANDARDS OF CONDUCT

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 15 U.S.C. 46(g); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635, unless otherwise noted.

SOURCE: 32 FR 13272, Sept. 20, 1967, unless otherwise noted. Redesignated at 41 FR 54483, Dec. 14, 1976.

### Subpart A—Employee Conduct Standards and Financial Conflicts of Interest

#### § 5.1 Cross-reference to executive branch-wide regulations.

Commissioners and employees, including special government employees, of the Federal Trade Commission (FTC) are subject to and should refer to the “Standards of Ethical Conduct for Employees of the Executive Branch” at 5 CFR part 2635 (“executive branch-wide Standards of Conduct”) and to the FTC regulations at 5 CFR 5701 that supplement the executive branch-wide Standards of Conduct.

[58 FR 15764, Mar. 24, 1993, as amended at 64 FR 42594, Aug. 5, 1999]

#### § 5.2 Exemption of insubstantial financial conflicts.

(a) An employee or special Government employee will not be subject to remedial or disciplinary action or to criminal prosecution under 18 U.S.C. 208(a), if he makes a full disclosure in writing to the official responsible for his appointment of the nature and circumstances of the particular matter involved and of his conflicting financial interest relating thereto, and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee or special Government employee.

(b) For the purposes of paragraph (a) of this section, the “official responsible for appointment” shall be the Executive Director in all cases where the employee is classified at grade GS-15 or below, or at a comparable pay level, except that each Commissioner shall be the “official responsible for appointment” of advisors in the Commissioner’s immediate office.

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(c) In all other cases, the Chairman shall be the "official responsible for appointment."

(d) Pursuant to 5 CFR part 2640, certain financial interests are exempted from the provisions of 18 U.S.C. 208(a) as being too remote too inconsequential to affect the integrity of an employee's services.

[58 FR 15764, Mar. 24, 1993, as amended at 63 FR 35130, June 29, 1998]

### Subpart B—Financial Disclosure Requirements

#### § 5.10 Cross-reference to executive branch-wide regulations.

Commissioners and employees, including special government employees, of the Federal Trade Commission are subject to and should refer to the executive branch-wide financial disclosure regulations at 5 CFR part 2634, and to the procedures for filing and review of financial disclosure reports found in Chapter 3 of the FTC *Administrative Manual*.

[58 FR 15765, Mar. 24, 1993]

### Subparts C–D [Reserved]

### Subpart E—Disciplinary Actions Concerning Postemployment Conflict of Interest

AUTHORITY: 15 U.S.C. 41 *et seq.*

SOURCE: 46 FR 26050, May 11, 1981, unless otherwise noted.

#### § 5.51 Scope and applicability.

These regulations establish procedures for investigating and determining alleged violations of 18 U.S.C. 207 (postemployment restrictions applicable to federal employees) or regulations issued by the Office of Government Ethics, set forth in 5 CFR parts 2637 and 2641, reflecting the views of the Office of Government Ethics and the Department of Justice as to the requirements of 18 U.S.C. 207.

[58 FR 15765, Mar. 24, 1993]

#### § 5.52 Nonpublic proceedings.

Any investigation or proceedings held under this part shall be nonpublic

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unless the respondent specifically requests otherwise, except to the extent required by the Freedom of Information Act (5 U.S.C. 552) or by the Sunshine Act (5 U.S.C. 552b). However, the presiding official's initial decision and any final decision of the Commission shall be placed on the public record, except that information may be designated *in camera* in accordance with § 3.45 of the Commission's Rules of Practice.

#### § 5.53 Initiation of investigation.

(a) Investigations under this part may be initiated upon the submission by any person of a written statement to the Secretary setting forth sufficient information to indicate a possible violation of 18 U.S.C. 207 or by the Commission on its own initiative when a possible violation is indicated by information within the Commission's possession.

(b) At the direction of the Commission, the General Counsel shall investigate any alleged violation of 18 U.S.C. 207.

#### § 5.54 Referral to the Office of Government Ethics and to the Department of Justice.

(a) The General Counsel shall make a preliminary determination of whether the matter appears frivolous and, if not, shall expeditiously transmit any available information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice.

(b) Unless the Department of Justice communicates to the Commission that it does not intend to initiate criminal prosecution, the General Counsel shall coordinate any investigation or proceeding under this part with the Department of Justice in order to avoid prejudicing criminal proceedings.

#### § 5.55 Conduct of investigation.

(a) The General Counsel may (1) exercise the authority granted in § 2.5 of the Commission's Rules of Practice to administer oaths and affirmations; and (2) conduct investigational hearings pursuant to part 2 of these rules. He