

information obtained from the initial seller.⁶³

The Commission recognizes that ROSCA does not apply to negative option marketing in media other than the Internet. However, as noted above, the record indicates that Internet marketing represents a large and growing share of negative option marketing. Accordingly, the Commission can and will continue to challenge deceptive or unfair negative option practices as needed under the Negative Option Rule, Section 5 of the FTC Act, the TSR, EFTA,⁶⁴ and the PRA,⁶⁵ and will consider whether changes in the marketplace warrant reevaluation of the Commission's rules as they apply to negative option marketing in specific contexts.

The TSR, like ROSCA, addresses many of the negative option abuses identified by the comments. For example, the Commission previously addressed trial conversions and other negative option marketing in the context of outbound telemarketing by amending the TSR in 2003.⁶⁶ In addition, the Commission recently proposed amending the TSR to prohibit the use of payment methods often used in deceptive marketing, including of negative options, such as unsigned checks and remotely created "payment orders."⁶⁷ Furthermore, in May 2013,

⁶³ This provision applies to all Internet marketing, including negative option marketing.

⁶⁴ Among other things, EFTA prohibits imposing recurring charges on a consumer's bank account without written authorization. EFTA provides that the Commission shall enforce its requirements, except to the extent that enforcement is specifically committed to some other Government agency, and that a violation of any of its requirements shall be deemed a violation of the FTC Act. Accordingly, the Commission has authority to seek the same injunctive and monetary equitable relief for EFTA violations that it can seek for other Section 5 violations.

⁶⁵ The PRA provides that mailing unordered merchandise, or a bill or dunning communications for such merchandise, constitutes an unfair method of competition and an unfair trade practice in violation of Section 5 of the FTC Act. Accordingly, the Commission has authority to seek the same remedies for PRA violations that it can seek for other Section 5 violations. For example, the Commission can seek civil penalties pursuant to Section 5(m)(1)(B) of the FTC Act from violators who have actual knowledge that the Commission has found mailing unordered merchandise unfair.

⁶⁶ See *Federal Trade Commission: Telemarketing Sales Rule; Final Amended Rule*, 68 FR 4580, 4594-97 (Jan. 29, 2003) (codified at 16 CFR 310.2(p), 310.2(u), 310.3(a)(1)(vii), and 310.6(b)(4)-(6)) (telemarketers must disclose all material terms and conditions of negative option offers, including "free-to-pay conversion" offers, in outbound telemarketing calls and upsells).

⁶⁷ *Federal Trade Commission: Telemarketing Sales Rule; Notice of Proposed Rulemaking*, 78 FR 41200 (July 9, 2013). The TSR Notice of Proposed Rulemaking noted negative option cases where the defendants used unauthorized remotely created checks. *E.g., FTC v. FTM Promotions, Inc.*, Civ. No.

the Commission announced that it plans to initiate a regulatory review of the TSR.⁶⁸ Commenters in that review can raise issues related to negative option marketing.

If the Commission concludes that ROSCA and its other enforcement tools do not provide adequate protection for consumers, it can then consider, based on a more complete record, whether and how to amend the Rule. The Commission can also consider whether to recommend that Congress amend ROSCA or take some other action.⁶⁹

By direction of the Commission.

Donald S. Clark,

Secretary.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 405

[Docket No. SSA-2014-0034]

RIN 0960-AH67

Extension of Expiration Date for Temporary Pilot Program Setting the Time and Place for a Hearing Before an Administrative Law Judge; Correction

AGENCY: Social Security Administration.

ACTION: Correction amendment.

SUMMARY: The Social Security Administration published a final rule document in the *Federal Register* on July 18, 2014 (79 FR 41881), extending the expiration date for the Temporary Pilot Program Setting the Time and Place for a Hearing Before an Administrative Law Judge. That document inadvertently had a timing issue with § 405.315(e) not being codified by the July 18, 2014 publication. Section 405.315(e) was codified on July 25, 2014. This document corrects the final regulation by revising the now codified § 405.315(e).

DATES: Effective on July 31, 2014, and applicable beginning July 25, 2014.

FOR FURTHER INFORMATION CONTACT: Brian J. Rudick, Office of Regulations and Reports Clearance, Social Security

8:07-1279 (M.D. Fla. Dec. 30, 2008) (Stip. Perm. Inj.) (defendants allegedly caused more than \$171 million in unauthorized charges to consumers accounts for bogus travel and buyers' clubs in part by using unauthorized remotely created checks).

⁶⁸ *Federal Trade Commission: Notice of Intent to Request Public Comments*, 78 FR 30798 (May 23, 2013).

⁶⁹ For example, the Commission could seek authority to conduct a rulemaking using more expeditious procedures than those set forth in Section 18.

Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-7102. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213, or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: We published a final rule document in the *Federal Register* of July 18, 2014, (79 FR 41883) extending the expiration date for the Temporary Pilot Program Setting the Time and Place for a Hearing Before an Administrative Law Judge in our regulations. In this final rule, we inadvertently had a timing issue with section 405.315(e) not being codified by the July 18, 2014 publication. Section 405.315(e) was codified on July 25, 2014. This document corrects the final regulation by revising the now codified section 405.315(e).

List of Subjects in 20 CFR Part 405

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Public assistance programs, Reporting and recordkeeping requirements, Social Security, Supplemental Security Income (SSI).

Accordingly, 20 CFR chapter III, part 405 is corrected by making the following correcting amendment:

PART 405—ADMINISTRATIVE REVIEW PROCESS FOR ADJUDICATING INITIAL DISABILITY CLAIMS

■ 1. The authority citation for part 405 continues to read as follows:

Authority: Secs. 201(j), 205(a)-(b), (d)-(h), and (s), 221, 223(a)-(b), 702(a)(5), 1601, 1602, 1631, and 1633 of the Social Security Act (42 U.S.C. 401(j), 405(a)-(b), (d)-(h), and (s), 421, 423(a)-(b), 902(a)(5), 1381, 1381a, 1383, and 1383b).

Subpart D—[Amended]

■ 2. In § 405.315, revise the second sentence in paragraph (e) to read as follows:

§ 405.315 Time and place for a hearing before an administrative law judge.

* * * * *

(e) *Pilot program.* * * * These provisions will no longer be effective on August 10, 2015, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the *Federal Register*.

Paul Kryglik,

Director, Office of Regulations and Reports Clearance.

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