



[Billing Code: 6750-01P]

## **FEDERAL TRADE COMMISSION**

### **16 CFR Part 436**

#### **Disclosure Requirements and Prohibitions Concerning Franchising**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) announces revised monetary thresholds for three exemptions from the Franchise Rule. The FTC is required to adjust the size of the monetary thresholds every fourth year based upon changes in the Consumer Price Index for All Urban Consumers (“CPI-U”) published by the Department of Labor.

**DATES:** This final rule is effective on July 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580; phone number: (202-326- 3711), email address: [ctodaro@ftc.gov](mailto:ctodaro@ftc.gov).

**SUPPLEMENTARY INFORMATION:** The FTC’s Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising” (Franchise Rule or Rule)<sup>1</sup> provides three exemptions based on a monetary threshold: the “minimum payment

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<sup>1</sup> 16 CFR part 436.

exemption,”<sup>2</sup> the “large franchise investment exemption”<sup>3</sup> and the “large franchisee exemption.”<sup>4</sup> The Rule requires the Commission to “adjust the size of the monetary thresholds every fourth year based upon the . . . Consumer Price Index for all urban consumers [CPI-U] published by the Department of Labor.”<sup>5</sup> This requirement, added by the 2007 amendments to the Rule, took effect on July 1, 2007, so that franchisors would have a one-year phase-in period within which to comply with the amended Rule’s revised disclosure requirements before the July 1, 2008, final compliance deadline.<sup>6</sup>

As required by the Rule, the Commission previously revised the three monetary thresholds to reflect inflation in the CPI-U in 2012 and 2016.<sup>7</sup> The Commission bases the exemption monetary thresholds that will take effect on July 1, 2020, on the increase in the CPI– U between 2007 and 2019. During this period, the annual average value of the Consumer Price Index for all urban consumers and all items increased by 23.3%—from an index value of 207.342 to a value of 255.657.<sup>8</sup> Applying the percentage increase to the three monetary thresholds increases the thresholds as follows:

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<sup>2</sup> 16 CFR 436.8(a)(1).

<sup>3</sup> 16 CFR 436.8(a)(5)(i).

<sup>4</sup> 16 CFR 436.8(a)(5)(ii).

<sup>5</sup> 16 CFR 436.8(b).

<sup>6</sup> 72 FR 15444 (Mar. 30, 2007).

<sup>7</sup> 77 FR 36149, 36150 (June 18, 2012); 81 FR 31500 (May 19, 2016).

<sup>8</sup> Bureau of Labor Statistics, Consumer Price Index: Historical Consumer Price Index for All Urban Consumers (CPI-U), available at <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-201912.pdf>.

<b>Exemption</b>	<b>2007 Base</b>	<b>Adjusted 2020 Threshold</b>
Minimum Payment	\$500	\$615 <sup>9</sup>
Large Franchise Investment	\$1,000,000	\$1,233,000
Large franchisee	\$5,000,000	\$6,165,000

Because the calculation of these thresholds is purely ministerial in nature and implements the Rule’s mandatory adjustment mechanism, these adjustments are exempt from the rulemaking procedures specified in section 18 of the FTC Act.<sup>10</sup> In addition, the Commission has determined that notice and comment are unnecessary under the Administrative Procedure Act (“APA”) for the same reason. The Commission, therefore, has omitted notice and comment for good cause as provided by section 553(b)(B) of the APA.<sup>11</sup> For this reason, the requirements of the Regulatory Flexibility Act also do not apply.<sup>12</sup> Accordingly, the adjusted thresholds will take effect on July 1, 2020.

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<sup>9</sup> The Commission has rounded this figure from \$616.50 to \$615 to facilitate compliance and for clarity.

<sup>10</sup> See 15 U.S.C. 57a(d)(2)(B); 16 CFR 1.15(b) (providing that non-substantive amendments to trade regulation rules are exempt from the rulemaking procedures of Section 18 of the FTC Act).

<sup>11</sup> 5 U.S.C. 553(b)(B) (providing that “good cause” exists to forego notice and comment when public comment is unnecessary).

<sup>12</sup> 5 U.S.C. 603 and 604 (no regulatory flexibility analyses required where the APA does not require public comment).

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

**List of Subjects in 16 CFR Part 436**

Advertising, Business and industry, Franchising, Trade practices.

For the reasons set out in the preamble, the Federal Trade Commission amends 16 CFR Part 436 as follows:

**PART 436—DISCLOSURE REQUIREMENTS AND PROHIBITIONS  
CONCERNING FRANCHISING**

1. The authority citation for part 436 continues to read as follows:

**Authority:** 15 U.S.C. 41-58.

**§ 436.8 [Amended]**

2. Amend § 436.8 as follows:

a. In paragraph (a)(1), remove “\$570” and, in its place, add “\$615”;

b. In paragraph (a)(5)(i), remove both references to “\$1,143,000” and, in their place, add “\$1,233,000”; and

c. In paragraph (a)(5)(ii), remove “\$5,715,500” and, in its place, add “\$6,165,000”.

By direction of the Commission.

**April J. Tabor,**

*Acting Secretary.*

[FR Doc. 2020-12617 Filed: 6/26/2020 8:45 am; Publication Date: 6/29/2020]