e: 6750-01-P

FEDERAL TRADE COMMISSION

16 CFR Chapter I

RIN 3084-AB85

Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission" or "FTC") is amending its rules of practice to revise the description of the FTC's EEO Office and Regional Offices and to update the list of current control numbers assigned by the Director of the Office of Management and Budget ("OMB") to the Commission's information collection requirements. The Commission is also amending its rules of practice to clarify that FTC staff may consider a variety of relevant issues when modifying a Second Request—i.e., a request for additional information or documentary material relevant to an acquisition the Commission is investigating. In addition, the Commission is amending its rules of practice to clarify the procedures by which Administrative Law Judges ("ALJs") are assigned to administrative adjudicative proceedings and to restore previously deleted language that provided a page limit for opening briefs. Finally, the Commission is amending its rules of practice to update the list of documents that are part of the Commission's public record; to revise and clarify the methods for submitting FOIA requests; to clarify how the Commission calculates a quorum under its quorum rule; and to add several requirements to the procedures governing motions seeking disqualification of Commissioners.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], except that the Commission may determine that application of amended 16 CFR 2.20 in an investigation pending as of [INSERT DATE OF

PUBLICATION IN THE *FEDERAL REGISTER*] would not be feasible or would create an injustice.

FOR FURTHER INFORMATION CONTACT: Josephine Liu, (202) 326-2170, or Michael Lezaja, (202) 326-2661, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission is revising certain rules in parts 0 through 4 of the FTC Rules, parts 0 through 4 of title 16 of the Code of Federal Regulations ("CFR"), each of which are explained below with respect to their current state and how they will change under the amended regulations. Because these rule revisions relate solely to agency procedure and practice, and do not substantively alter any rights or interests of members of the public, notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(b).[1]

A. Description of the Chairman's Responsibilities

The Commission is reverting to the term "Chairman" in § 0.8, to ensure consistency with the statutory language in the FTC Act. *See* 15 U.S.C. 41. In addition, the Commission is amending § 0.8(c) to reflect the current title and responsibilities of the agency's EEO office.

B. Revision to Description of Regional Offices

To reflect the creation of the American Competition Enforcement ("ACE") Division within the Bureau of Competition, the Commission is revising the language in § 0.19(a) describing how the Regional Offices are supervised. ACE operates as a nationally integrated division with employees across the United States.

[1] For this reason, the requirements of the Regulatory Flexibility Act are also inapplicable. 5 U.S.C. 601(2), 604(a). Likewise, the amendments do not modify any FTC collections of information within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*.

In addition, the Commission is revising § 0.19(c) to remove the reference to Assistant Regional Directors in the FTC's Regional Offices. Although the FTC's Regional Offices will continue to have Assistant Regional Directors, this amendment better aligns the description in § 0.19 with the descriptions of other FTC administrative units in Part 0, which do not specify the reporting structure within those units.

C. Updates to List of Current Control Numbers Assigned by the OMB Director

The Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.*, as implemented by 5 CFR part 1320, requires Federal agencies to obtain OMB approval before undertaking a collection of information directed to ten or more persons. Upon approval of an information collection, OMB issues a control number. The agency must display this control number to inform the public that the agency's information collection has been approved by OMB. *See* 44 U.S.C. 3512. For ease of reference, the Commission publishes all the control numbers assigned to its rules, and rules it otherwise co-enforces with other Federal agencies, in a centrally codified table in § 1.101(b). The Commission is amending § 1.101(b) to update this table as follows.

First, the Commission is amending § 1.101(b) to reflect the discontinuation of OMB Control No. 3084-0132 (Title: Prescreen Opt-Out Notice Rule). Although the Commission initially obtained OMB clearance for the notice requirements in the Prescreen Opt-Out Notice Rule, 16 CFR part 642, the Commission subsequently determined, and OMB concurred, that the Rule's notice requirements in fact do not constitute an information collection for the purpose of the PRA.[2] Accordingly, OMB Control No. 3084-0132 has been discontinued. The discontinuation of this OMB clearance does not affect motor vehicle dealers' existing obligations under the Prescreen

[2] The Commission determined, and OMB concurred, that the notice requirements contained in the Prescreen Opt-Out Notice Rule, 16 CFR part 642, do not constitute a "collection of information" under the PRA, because the PRA expressly exempts "[t]he public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public." *See* 5 CFR 1320.3(c)(2).

Opt-Out Notice Rule, 16 CFR part 642.

Second, the Commission is amending § 1.101(b) to reflect that the Commission has obtained OMB approval to collect information for the purpose of various administrative activities, which include applications by members of the public to the Commission pursuant to parts 1, 4, and 6 of the FTC Rules, 16 CFR parts 1, 4, and 6. OMB has assigned this information collection OMB Control No. 3084-0169 (Title: FTC Administrative Activities).

Third, the Commission is amending § 1.101(b) to reflect that the Commission has obtained OMB approval for the information collection requirements set forth in the Standards for Safeguarding Customer Information, 16 CFR part 314 ("Safeguards Rule"). Pursuant to the Safeguards Rule, financial institutions are required to report to the Commission notification events where unencrypted customer information involving 500 or more consumers is acquired without authorization. OMB has assigned this information collection OMB Control No. 3084-0171 (Title: Standards for Safeguarding Customer Information ("Safeguards Rule")).

Fourth, the Commission is amending § 1.101(b) to reflect that the Commission has obtained OMB approval for the information collection requirements set forth in the Ophthalmic Practice Rules (Eyeglass Rule), 16 CFR part 456. Pursuant to the Eyeglass Rule, covered entities are required to obtain a signed confirmation of prescription receipt after providing a copy of the prescription to the patient, and to retain records to demonstrate compliance with the rule's prescription release requirements. OMB has assigned this information collection OMB Control No. 3084-0174 (Title: Ophthalmic Practice Rules).

Finally, the Commission is amending § 1.101(b) to reflect that the Commission has obtained OMB approval for the information collection requirements set forth in the Rule on Unfair or Deceptive Fees, 16 CFR part 464. The Fees Rule includes disclosure obligations relating to the total price of live-event tickets or short-term lodging, any fee or charge imposed on the transaction that has been excluded from the total price, and the final amount of payment for the transaction. OMB has assigned this information collection OMB Control No. 3084-0176 (Title: Unfair or Deceptive Fees).

D. Clarifications of Procedures for Modifications of Second Requests during Premerger Review

Section 7A of the Clayton Act, 15 U.S.C. 18a ("Clayton Act" or "Act"), which was enacted as Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, title II, 90 Stat. 1390 (Sep. 30, 1976), and is implemented in 16 CFR parts 801 to 803, established the Federal Premerger Notification Program. The Act requires parties to certain mergers or acquisitions to submit premerger notification filings to the Commission and the Assistant Attorney General in charge of the Antitrust Division of the DOJ (collectively, "enforcement agencies"), and to wait a short period of time before consummating such transactions.[3] The reporting and waiting period requirements are intended to enable the enforcement agencies to determine whether the proposed merger or acquisition, if consummated, would violate the antitrust laws (including section 7A of the Clayton Act) and, when appropriate, to seek an injunction in Federal court in order to enjoin anticompetitive acquisitions prior to consummation.[4]

If, during the waiting period, either the FTC or the DOJ determines that a further inquiry is necessary, section 7A(e)(1)(A) of the Clayton Act authorizes the determining agency to request additional information or documentary material from any person required to file notification. This request for additional information or documentary material is referred to as a "Second Request," and results in an extension of the waiting period.[5]

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[3] See 15 U.S.C. 18a(b)(1)(B), for the applicable time periods.

[4] *See* 15 U.S.C. 18a(f).

[5] *See* 16 CFR 803.20(c).

Section 2.20 sets forth procedures for Second Requests. Currently, paragraph (b)(3) of § 2.20 permits the Commission's authorized representative to modify the Second Request, or recommend such modification to the responsible Assistant Director of the Bureau of Competition, if the authorized representative "determines that a less burdensome request would be consistent with the needs of the investigation." The Commission is revising § 2.20(b)(3) to clarify that, in determining whether to modify the request or recommend a modification, the authorized representative may consider all relevant factors, including (1) timing agreement negotiations, (2) the competitive issues involved, (3) the manner in which information and documents are maintained by the recipient, (4) the type of information available to the recipient, (5) the relative burdens to the recipient(s) of producing the requested information, and (6) whether a less burdensome request would be consistent with the needs of the investigation.

E. Clarification of Procedures for Assigning ALJs to Administrative Adjudicative Proceedings

Section 3.42(b) sets forth how cases are assigned to ALJs in administrative adjudicative proceedings. Specifically, it currently provides that the presiding ALJ in an FTC adjudicative proceeding "shall be designated by the Chief Administrative Law Judge or, when the Commission or one or more of its members preside, by the Commission." 16 CFR 3.42(b). The Commission is amending § 3.42(b) to clarify the procedures applicable to the Chief ALJ's assignment of ALJs to adjudicative proceedings. The revisions specify that the Commission's Chief ALJ assigns ALJs to adjudicative proceedings on a rotational basis, so far as practicable, and may only depart from the rotational assignment of cases, on an as-needed basis, to ensure the just and expeditious disposition of proceedings. These revisions are consistent with the Administrative Procedure Act, which provides that ALJs "shall be assigned to cases in rotation so far as practicable." 5 U.S.C. 3105.

F. Page Limits for Opening Briefs in Administrative Adjudicative Proceedings

On July 5, 2023, the Commission published a final rule in the *Federal Register* adopting several amendments to its rules of practice, including its rules of practice for adjudicative proceedings (hereinafter, "July 2023 Amendments").[6] Among other things, the July 2023 Amendments provided parties with an opportunity to file exceptions to an ALJ's recommended decision by filing an opening brief. Language providing for a page limit for such opening briefs was inadvertently deleted as part of the July 2023 Amendments. Specifically, the deleted language provided that, without leave of the Commission, opening briefs shall not exceed 14,000 words. Accordingly, the Commission is revising § 3.52(c) to restore the inadvertently deleted language.

G. Update to Description of the Public Record of the Commission

In § 4.9(b)(5)(ii), the Commission is adding a reference to recommended decisions of ALJs to reflect that ALJs will issue "recommended" decisions rather than "initial" decisions under the July 2023 Amendments.

H. Revision of Methods to Submit FOIA Requests

Section 4.11(a)(1)(i)(A) provides the methods that may be used to submit a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, to the Commission. The Commission is revising § 4.11(a)(1)(i)(A) to specify that FOIA requests may be submitted via the FTC's online FOIA portal; indicate that FOIA requests may be submitted via the Federal government-wide National FOIA Portal; and remove facsimile and email as methods to submit a FOIA request. Currently, § 4.11(a)(1)(i)(A) indicates that FOIA requests may be submitted "by the form located on the FTC's FOIA Web site." The Commission has an online FOIA portal instead of an online FOIA request form. To better reflect current practice, the Commission is replacing the rule language referencing "the form" with "the online FOIA portal." Section 4.11(a)(1)(i)(A) is also

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[6] 88 FR 42872 (Jul. 5, 2023), as corrected by 88 FR 45063 (Jul. 14, 2023).

updated to add that FOIA requests may be submitted "by the National FOIA Portal, found at www.foia.gov," which was created by the FOIA Improvement Act of 2016, 5 U.S.C. 552(m), to allow the public to centrally submit a FOIA request to any agency from a single website. The Commission is eliminating facsimile because it is a rarely used transmission method and postal mail remains available as an alternative to online submission. The Commission is also removing email as a method to submit a FOIA request because both the FTC's online FOIA portal and the National FOIA Portal provide an electronic form that helps requesters submit necessary information for a proper FOIA request, and requests submitted via these online portals are automatically received by the FTC.

I. Clarification of the Commission's Quorum Rule

Section 4.14(b) sets forth how the Commission calculates a quorum for the conduct of Commission business. Specifically, it provides that "[a] majority of the members of the Commission in office and not recused from participating in a matter (by virtue of 18 U.S.C. 208 or otherwise) constitutes a quorum for the transaction of business in that matter." When the Commission adopted this language in 2005, it understood that one Commissioner constitutes a "majority" under the rule—and therefore qualifies as a quorum—if there is only a single Commissioner in office or only a single Commissioner not recused from participating in a matter. Accordingly, consistent with § 4.14(b), the Commission occasionally has taken action with a quorum of one.[7] To provide clear and

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[7] See, e.g., Press Release, FTC, FTC Secures Major Settlement with Caremark, Resolving Antitrust Case against Second Drug Middleman (July 14, 2026) (noting that a two-member Commission voted 1-0 to accept a consent agreement for public comment with one Commissioner recused), *https://www.ftc.gov/news-events/news/press-releases/2026/07/ftc-secures-major-settlement-caremark-resolving-antitrust-case-against-second-drug-middleman*; Press Release, FTC, FTC Secures Agreement with Haveas to Restore Competition in the Digital Advertising Ecosystem (June 30, 2026) (noting that a two-member Commission voted 1-0 to issue a complaint and final order with one Commissioner recused), *https://www.ftc.gov/news-events/news/press-releases/2026/06/ftc-secures-agreement-havas-restore-competition-digital-advertising-ecosystem*; Press Release, FTC, FTC Secures Landmark Settlement with Express Scripts to Lower Drug Costs for American Patients, (Feb. 4, 2026) (noting that a two-member Commission voted 1-0 to accept a consent agreement for public comment with one Commissioner recused), *https://www.ftc.gov/news-events/news/press-releases/2026/02/ftc-secures-landmark-settlement-express-*

unambiguous guidance to the public and avoid any misconceptions about the meaning of the Commission's quorum rule, the Commission is amending § 4.14(b) to specify how the Commission calculates a quorum under the rule in every possible scenario. The Commission is also revising § 4.14(b) to refer to "Commissioners" rather than "members of the Commission" for consistency with other language in § 4.14(b). Finally, to make the revisions more readable, the amendments use "available to participate in a matter" as a shorthand for "in office and not recused from participating in a matter (by virtue of 18 U.S.C. 208 or otherwise)."

J. Additional Procedural Requirements When Resolving Motions Seeking Disqualification of Commissioners

Section 4.17 governs motions seeking the disqualification of a Commissioner in any rulemaking or adjudicative proceeding. Under § 4.17, any participant in a proceeding before the Commission may file a motion to disqualify a Commissioner. Such a motion is first addressed by the Commissioner in question; if that Commissioner declines to recuse himself or herself, the Commission determines the motion without the participation of the challenged Commissioner. Section 4.17 specifies that the motion is to be determined in accordance with the legal standards applicable to the proceeding in which the motion is filed.

Section 4.17 currently does not include any requirement for a challenged Commissioner, or the Commission, to explain in writing the reasons for their decisions regarding disqualification motions. In practice, challenged Commissioners and the Commission have provided and made publicly available written explanation for their § 4.17 decisions. The amendments to § 4.17(b)(3)(ii) codify this current practice. The

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scripts-lower-drug-costs-american-patients; Press Release, FTC, FTC Adds Requirements to 2014 Order to Remedy CoreLogic Inc.'s Compliance Deficiencies (Mar. 15, 2018) (noting that a two-member Commission voted 1-0 to modify a consent order with one Commissioner recused), *https://www.ftc.gov/news-events/news/press-releases/2018/03/ftc-adds-requirements-2014-order-remedy-corelogic-incs-compliance-deficiencies*.

amendments require that in the event a Commissioner declines to recuse himself or herself from further participation in a proceeding, he or she will issue a written statement explaining the reasons for this decision and provide it to the other Commissioners. The amendments also require that if the challenged Commissioner declines to recuse and the Commission must then determine the motion without the participation of the challenged Commissioner, the Commission will issue an order ruling on the motion that sets forth the Commission's reasons for its decision. Both the Commissioner's statement and Commission's order will be made part of the public record, consistent with § 4.9.

In addition, § 4.17 does not currently include any requirement that a challenged Commissioner inform agency ethics officials about a disqualification motion. As a matter of agency practice, challenged Commissioners and the remaining Commissioners already inform agency ethics officials and other officials in the FTC's Office of the General Counsel about motions under § 4.17 and work with those officials when addressing the motions. The Commission believes that codifying these practices into § 4.17 will promote public understanding of the § 4.17 process. The amendment adds the requirement that a challenged Commissioner must inform agency ethics officials of a § 4.17 motion.

II. Procedural Requirements

A. The Administrative Procedure Act and Regulatory Flexibility Act

Because these rule revisions relate solely to agency personnel, procedure, or practice, publication for notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(a)(2), (b).

For this reason, the requirements of the Regulatory Flexibility Act are also inapplicable. 5 U.S.C. 601(2), 604(a).

B. E.O. 14215, Ensuring Accountability for All Agencies; E.O. 12866, Regulatory Planning and Review; E.O. 14192, Unleashing Prosperity Through Deregulation

E.O. 12866 states that agencies should assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and distributive impacts). E.O. 14215 requires all executive branch departments and agencies, including independent agencies, to submit all their proposed and final significant regulatory actions to the Office of Budget and Management (OMB) for review. OMB determined that this final rule is not a significant regulatory action under E.O. 12866.

Executive Order 14192 requires that any new incremental costs associated with certain significant regulatory actions "shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." Because this final rule is not a significant regulatory action under E.O. 12866, E.O. 14192's offset requirement does not apply.

C. Congressional Review Act

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

16 CFR Part 0

Organization and functions.

16 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

16 CFR Part 2

Administrative practice and procedure, Investigations.

16 CFR Part 3

Administrative practice and procedure.

16 CFR Part 4

Administrative practice and procedure.

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

PART 0—ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 552(a)(1); 15 U.S.C. 46(g).

2. In § 0.8, revise the section heading, introductory text, and paragraph (c) to read as follows:

§ 0.8 The Chairman.

The Chairman of the Commission is designated by the President, and, subject to the general policies of the Commission, is the executive and administrative head of the agency. The Chairman presides at meetings of and hearings before the Commission and participates with other Commissioners in all Commission decisions. In rulemaking proceedings under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)), the Chairman serves as or may designate another Commissioner to serve as the Chief Presiding Officer or may appoint another person to serve as Chief Presiding Officer who is not responsible to any other official or employee of the Commission. Attached to the Office of the Chairman, and reporting directly to the Chairman, and through the Chairman to the Commission, are the following staff units:

* * * * *

(c) The Office of Equal Employment Opportunity, which advises and assists the Chairman and the organizational units in EEO issues;

* * * * *

3. In § 0.19, revise paragraphs (a) and (c) to read as follows:

§ 0.19 The Regional Offices.

(a) These offices are investigatory and enforcement arms of the Commission, and have responsibility for investigational, trial, compliance, and consumer educational activities as delegated by the Commission. They are under the general supervision of the Bureau of Consumer Protection.

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(c) Each of the regional offices is supervised by a Regional Director, who is available for conferences with attorneys, consumers, and other members of the public on matters relating to the Commission's activities.

PART 1—GENERAL PROCEDURES

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

> **Authority:** 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 552; 5 U.S.C. 601 note.

5. In § 1.101, amend the table in paragraph (b) by:

   a. Removing the entry for “0132”; and

   b. Adding in numerical order entries for “0169”, “0171”, “0174”, and “0176”.

The additions read as follows:

§ 1.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

Current OMB control number (all numbers begin with 3084–)	16 CFR part where the information collection requirement is located (or alternate part(s) if issued by another agency, co-enforced by the Federal Trade Commission)
* *	* * * * *
0169	1, 4, and 6.
0171	314.

0174	456.
0176	464.

PART 2—NONADJUDICATIVE PROCEDURES

6. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 46.

7. In § 2.20, revise paragraph (b)(3) to read as follows:

§ 2.20 Petitions for review of requests for additional information or documentary material.

* * * * *

(b) * * *

(3) *Modification of requests*. The authorized representative may modify the request for additional information or documentary material, or recommend such modification to the responsible Assistant Director of the Bureau of Competition. In determining whether to modify the request or recommend a modification, the authorized representative may consider all relevant factors, including timing agreement negotiations, the competitive issues involved, the manner in which information and documents are maintained by the recipient, the type of information available to the recipient, the relative burdens to the recipient(s) of producing the requested information, and whether a less burdensome request would be consistent with the needs of the investigation. A request for additional information or documentary material may be modified only in writing signed by the authorized representative.

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PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

8. The authority citation for part 3 continues to read as follows:

Authority: 15 U.S.C. 46.

9. In § 3.42, revise paragraph (b) to read as follows:

§ 3.42 Presiding officials.

* * * * *

(b) *How assigned*. The presiding Administrative Law Judge will be designated by the Chief Administrative Law Judge or, when the Commission or one or more of its members preside, by the Commission, who will notify the parties of the Administrative Law Judge designated. Designations by the Chief Administrative Law Judge will be made by rotation so far as practicable, and the Chief Administrative Law Judge may depart from the rotation only as needed to ensure the just and expeditious disposition of proceedings.

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10. In § 3.52, add paragraph (c)(2) to read as follows:

§ 3.52 Exceptions to recommended decision.

* * * * *

(c) * * *

(2) The opening brief shall not, without leave of the Commission, exceed 14,000 words.

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PART 4—MISCELLANEOUS RULES

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

Authority: 15 U.S.C. 46.

12. In § 4.9, revise paragraph (b)(5)(ii) to read as follows:

§ 4.9 The public record.

* * * * *

(b) * * *

(5) * * *

(ii) Initial decisions and recommended decisions of administrative law judges;

* * * * *

13. In § 4.11, revise paragraph (a)(1)(i)(A) to read as follows:

§ 4.11 Disclosure requests.

(a) * * *

(1) * * *

(i) * * *

(A) A request under the provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended, for access to Commission records shall be in writing and transmitted by one of the following means: by the online FOIA portal located on the FTC's FOIA Web site, found at www.ftc.gov; by the National FOIA Portal, found at www.foia.gov; or by mail to the following address: Freedom of Information Act Request, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

* * * * *

14. In § 4.14, revise paragraph (b) to read as follows:

§ 4.14 Conduct of business.

* * * * *

(b) A majority of the Commissioners available to participate in a matter constitutes a quorum for the transaction of business in that matter. For purposes of this paragraph, any Commissioner in office and not recused from participating in a matter (by virtue of 18 U.S.C. 208 or otherwise) is considered available to participate in that matter, and a majority is calculated as follows:

(1) If the number of Commissioners available to participate is five or four, then a majority consists of three Commissioners;

(2) If the number of Commissioners available to participate is three or two, then a majority consists of two Commissioners; and

(3) If the number of Commissioners available to participate is one, then a majority

consists of one Commissioner.

* * * * *

15. In § 4.17, revise paragraph (b)(3) to read as follows:

§ 4.17 Disqualification of Commissioners.

* * * * *

(b) * * *

(3)(i) Such motion will be addressed in the first instance by the Commissioner whose disqualification is sought. The Commissioner must inform agency ethics officials of the motion.

(ii) In the event such Commissioner declines to recuse himself or herself from further participation in the proceeding, he or she must issue a written statement explaining the reasons for this decision and provide it to the other Commissioners. The Commission will then determine the motion without the participation of such Commissioner, and must issue an order ruling on the motion that sets forth the Commission's reasons for its decision. Both the Commissioner statement and Commission order will be made part of the public record, consistent with § 4.9.

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By direction of the Commission.

April J. Tabor,

Secretary.

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