

(b) Commencement

The Commission shall commence carrying out the requirements of this section not later than 1 year after March 15, 2022.

(c) Use of existing funds

No additional funds are authorized to be appropriated to carry out this section and the Commission shall carry out this section using amounts otherwise made available to the Commission.

(Pub. L. 117–103, div. Q, title I, § 122, Mar. 15, 2022, 136 Stat. 811.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Seniors Fraud Prevention Act of 2022, the Fraud and Scam Reduction Act, and also as part of the Consolidated Appropriations Act, 2022, and not as part of the Federal Trade Commission Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries**SENIOR SCAMS PREVENTION ADVISORY GROUP**

Pub. L. 117–103, div. Q, title I, § 112(a)–(d), Mar. 15, 2022, 136 Stat. 809, 810, provided that:

“(a) ESTABLISHMENT.—There is established a Senior Scams Prevention Advisory Group (in this subtitle [subtitle A of div. Q of Pub. L. 117–103, amending section 21711 of Title 34, Crime Control and Law Enforcement, and enacting provisions set out as notes under section 58 of this title and section 21711 of Title 34] referred to as the ‘Advisory Group’).

“(b) MEMBERS.—The Advisory Group shall be composed of stakeholders such as the following individuals or the designees of those individuals:

“(1) The Chairman of the Federal Trade Commission.

“(2) The Secretary of the Treasury.

“(3) The Attorney General.

“(4) The Director of the Bureau of Consumer Financial Protection.

“(5) Representatives from each of the following sectors, including trade associations, to be selected by the Federal Trade Commission:

“(A) Retail.

“(B) Gift cards.

“(C) Telecommunications.

“(D) Wire-transfer services.

“(E) Senior peer advocates.

“(F) Consumer advocacy organizations with efforts focused on preventing seniors from becoming the victims of scams.

“(G) Financial services, including institutions that engage in digital currency.

“(H) Prepaid cards.

“(6) A member of the Board of Governors of the Federal Reserve System.

“(7) A prudential regulator, as defined in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

“(8) The Director of the Financial Crimes Enforcement Network.

“(9) Any other Federal, State, or local agency, industry representative, consumer advocate, or entity, as determined by the Federal Trade Commission.

“(c) NO COMPENSATION FOR MEMBERS.—A member of the Advisory Group shall serve without compensation in addition to any compensation received for the service of the member as an officer or employee of the United States, if applicable.

“(d) DUTIES.—

“(1) IN GENERAL.—The Advisory Group shall—

“(A) collect information on the existence, use, and success of educational materials and programs

for retailers, financial services, and wire-transfer companies, which—

“(i) may be used as a guide to educate employees on how to identify and prevent scams that affect seniors; and

“(ii) includes—

“(I) useful information for retailers, financial services, and wire transfer companies for the purpose described in clause (i);

“(II) training for employees on ways to identify and prevent senior scams;

“(III) best practices for keeping employees up to date on current scams;

“(IV) the most effective signage and placement in retail locations to warn seniors about scammers’ use of gift cards, prepaid cards, and wire transfer services;

“(V) suggestions on effective collaborative community education campaigns;

“(VI) available technology to assist in identifying possible scams at the point of sale; and

“(VII) other information that would be helpful to retailers, wire transfer companies, financial institutions, and their employees as they work to prevent fraud affecting seniors; and

“(B) based on the findings in subparagraph (A)—

“(i) identify inadequacies, omissions, or deficiencies in those educational materials and programs for the categories listed in subparagraph (A) and their execution in reaching employees to protect older adults; and

“(ii) create model materials, best practices guidance, or recommendations to fill those inadequacies, omissions, or deficiencies that may be used by industry and others to help protect older adults from scams.

“(2) ENCOURAGED USE.—The Chairman of the Federal Trade Commission shall—

“(A) make the materials or guidance created by the Federal Trade Commission described in paragraph (1) publicly available; and

“(B) encourage the use and distribution of the materials created under this subsection to prevent scams affecting seniors by governmental agencies and the private sector.”

[Pub. L. 117–103, div. Q, title I, § 112(a)–(d), set out above, ceases to be effective on the date that is 5 years after Mar. 15, 2022, see section 112(f) of title I of div. Q of Pub. L. 117–103, set out as a Termination of 2022 Amendment note under section 21711 of Title 34, Crime Control and Law Enforcement.]

§ 45f. Collection, verification, and disclosure of information by online marketplaces to inform consumers**(a) Collection and verification of information****(1) Collection****(A) In general**

An online marketplace shall require any high-volume third party seller on such online marketplace’s platform to provide, not later than 10 days after qualifying as a high-volume third party seller on the platform, the following information to the online marketplace:

(i) Bank account**(I) In general**

A bank account number, or, if such seller does not have a bank account, the name of the payee for payments issued by the online marketplace to such seller.

(II) Provision of information

The bank account or payee information required under subclause (I) may be

provided by the seller in the following ways:

- (aa) To the online marketplace.
- (bb) To a payment processor or other third party contracted by the online marketplace to maintain such information, provided that the online marketplace ensures that it can obtain such information within 3 business days from such payment processor or other third party.

(ii) Contact information

Contact information for such seller as follows:

- (I) With respect to a high-volume third party seller that is an individual, the individual's name.
- (II) With respect to a high-volume third party seller that is not an individual, one of the following forms of contact information:
 - (aa) A copy of a valid government-issued identification for an individual acting on behalf of such seller that includes the individual's name.
 - (bb) A copy of a valid government-issued record or tax document that includes the business name and physical address of such seller.

(iii) Tax ID

A business tax identification number, or, if such seller does not have a business tax identification number, a taxpayer identification number.

(iv) Working email and phone number

A current working email address and phone number for such seller.

(B) Notification of change; annual certification

An online marketplace shall—

- (i) periodically, but not less than annually, notify any high-volume third party seller on such online marketplace's platform of the requirement to keep any information collected under subparagraph (A) current; and
- (ii) require any high-volume third party seller on such online marketplace's platform to, not later than 10 days after receiving the notice under clause (i), electronically certify that—
 - (I) the seller has provided any changes to such information to the online marketplace, if any such changes have occurred; or
 - (II) there have been no changes to such seller's information.

(C) Suspension

In the event that a high-volume third party seller does not provide the information or certification required under this paragraph, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide such information or certification not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller until such seller provides such information or certification.

(2) Verification

(A) In general

An online marketplace shall—

- (i) verify the information collected under paragraph (1)(A) not later than 10 days after such collection; and
- (ii) verify any change to such information not later than 10 days after being notified of such change by a high-volume third party seller under paragraph (1)(B).

(B) Presumption of verification

In the case of a high-volume third party seller that provides a copy of a valid government-issued tax document, any information contained in such document shall be presumed to be verified as of the date of issuance of such document.

(3) Data use limitation

Data collected solely to comply with the requirements of this section may not be used for any other purpose unless required by law.

(4) Data security requirement

An online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, appropriate to the nature of the data and the purposes for which the data will be used, to protect the data collected to comply with the requirements of this section from unauthorized use, disclosure, access, destruction, or modification.

(b) Disclosure required

(1) Requirement

(A) In general

An online marketplace shall—

- (i) require any high-volume third party seller with an aggregate total of \$20,000 or more in annual gross revenues on such online marketplace, and that uses such online marketplace's platform, to provide the information described in subparagraph (B) to the online marketplace; and
- (ii) disclose the information described in subparagraph (B) to consumers in a clear and conspicuous manner—
 - (I) on the product listing page (including via hyperlink); or
 - (II) in the order confirmation message or other document or communication made to the consumer after the purchase is finalized and in the consumer's account transaction history.

(B) Information described

The information described in this subparagraph is the following:

- (i) Subject to paragraph (2), the identity of the high-volume third party seller, including—

- (I) the full name of the seller, which may include the seller name or seller's company name, or the name by which the seller or company operates on the online marketplace;

- (II) the physical address of the seller; and

- (III) contact information for the seller, to allow for the direct, unhindered com-

munication with high-volume third party sellers by users of the online marketplace, including—

- (aa) a current working phone number;
- (bb) a current working email address; or
- (cc) other means of direct electronic messaging (which may be provided to such seller by the online marketplace), provided that the requirements of this item shall not prevent an online marketplace from monitoring communications between high-volume third party sellers and users of the online marketplace for fraud, abuse, or spam.

(ii) Whether the high-volume third party seller used a different seller to supply the consumer product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information described in clause (i) relating to any such seller that supplied the consumer product to the purchaser, if such seller is different than the high-volume third party seller listed on the product listing prior to purchase.

(2) Exception

(A) In general

Subject to subparagraph (B), upon the request of a high-volume third party seller, an online marketplace may provide for partial disclosure of the identity information required under paragraph (1)(B)(i) in the following situations:

(i) If such seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may—

(I) disclose only the country and, if applicable, the State in which such seller resides; and

(II) inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace.

(ii) If such seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

(iii) If such seller certifies to the online marketplace that the seller does not have a phone number other than a personal phone number, the online marketplace shall inform consumers that there is no phone number available for the seller and that consumer inquiries should be submitted to the seller's email address or other means of electronic messaging provided to such seller by the online marketplace.

(B) Limitation on exception

If an online marketplace becomes aware that a high-volume third party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under subparagraph (A) or that a high-volume third party seller who has requested and received a provision for a partial disclosure under subparagraph (A) has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to respond not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller unless such seller consents to the disclosure of the identity information required under paragraph (1)(B)(i).

(3) Reporting mechanism

An online marketplace shall disclose to consumers in a clear and conspicuous manner on the product listing of any high-volume third party seller a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

(4) Compliance

If a high-volume third party seller does not comply with the requirements to provide and disclose information under this subsection, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide or disclose such information not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller until the seller complies with such requirements.

(c) Enforcement by Federal Trade Commission

(1) Unfair and deceptive acts or practices

A violation of subsection (a) or (b) by an online marketplace shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of the Commission

(A) In general

The Commission shall enforce subsections (a) and (b) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.

(B) Privileges and immunities

Any person that violates subsection (a) or (b) shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) Regulations

The Commission may promulgate regulations under section 553 of title 5 with respect to the collection, verification, or disclosure of information under this section, provided that such regulations are limited to what is necessary to collect, verify, and disclose such information.

(4) Authority preserved

Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

(d) Enforcement by State attorneys general**(1) In general**

If the attorney general of a State has reason to believe that any online marketplace has violated or is violating this section or a regulation promulgated under this section that affects one or more residents of that State, the attorney general of the State may bring a civil action in any appropriate district court of the United States, to—

- (A) enjoin further such violation by the defendant;
- (B) enforce compliance with this section or such regulation;
- (C) obtain civil penalties in the amount provided for under subsection (c);
- (D) obtain other remedies permitted under State law; and
- (E) obtain damages, restitution, or other compensation on behalf of residents of the State.

(2) Notice

The attorney general of a State shall provide prior written notice of any action under paragraph (1) to the Commission and provide the Commission with a copy of the complaint in the action, except in any case in which such prior notice is not feasible, in which case the attorney general shall serve such notice immediately upon instituting such action.

(3) Intervention by the Commission

Upon receiving notice under paragraph (2), the Commission shall have the right—

- (A) to intervene in the action;
- (B) upon so intervening, to be heard on all matters arising therein; and
- (C) to file petitions for appeal.

(4) Limitation on State action while Federal action is pending

If the Commission has instituted a civil action for violation of this section or a regulation promulgated under this section, no State attorney general, or official or agency of a State, may bring a separate action under paragraph (1) during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this section or a regulation promulgated under this section that is alleged in the complaint. A State attorney general, or official or agency of a State, may join a civil action for a violation of this section or regulation promulgated under this section filed by the Commission.

(5) Rule of construction

For purposes of bringing a civil action under paragraph (1), nothing in this section shall be

construed to prevent the chief law enforcement officer, or official or agency of a State, from exercising the powers conferred on such chief law enforcement officer, or official or agency of a State, by the laws of the State to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

(6) Actions by other State officials**(A) In general**

In addition to civil actions brought by attorneys general under paragraph (1), any other officer of a State who is authorized by the State to do so, except for any private person on behalf of the State attorney general, may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) Savings provision

Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

(e) Severability

If any provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of this section and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

(f) Definitions

In this section:

(1) Commission

The term “Commission” means the Federal Trade Commission.

(2) Consumer product

The term “consumer product” has the meaning given such term in section 2301 of this title and section 700.1 of title 16, Code of Federal Regulations.

(3) High-volume third party seller**(A) In general**

The term “high-volume third party seller” means a participant on an online marketplace’s platform who is a third party seller and, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products and an aggregate total of \$5,000 or more in gross revenues.

(B) Clarification

For purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues under subparagraph (A), an online marketplace shall only be required to count sales or transactions made through the online marketplace and for which payment was processed by the online market-

place, either directly or through its payment processor.

(4) Online marketplace

The term “online marketplace” means any person or entity that operates a consumer-directed electronically based or accessed platform that—

(A) includes features that allow for, facilitate, or enable third party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States;

(B) is used by one or more third party sellers for such purposes; and

(C) has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(5) Seller

The term “seller” means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace’s platform.

(6) Third party seller

(A) In general

The term “third party seller” means any seller, independent of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through such online marketplace’s platform.

(B) Exclusions

The term “third party seller” does not include, with respect to an online marketplace—

(i) a seller who operates the online marketplace’s platform; or

(ii) a business entity that has—

(I) made available to the general public the entity’s name, business address, and working contact information;

(II) an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and

(III) provided to the online marketplace identifying information, as described in subsection (a), that has been verified in accordance with that subsection.

(7) Verify

The term “verify” means to confirm information provided to an online marketplace pursuant to this section, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided are valid, corresponding to the seller or an individual acting on the seller’s behalf, not misappropriated, and not falsified.

(g) Relationship to State laws

No State or political subdivision of a State, or territory of the United States, may establish or continue in effect any law, regulation, rule, requirement, or standard that conflicts with the requirements of this section.

(h) Effective date

This section shall take effect 180 days after December 29, 2022.

(Pub. L. 117-328, div. BB, title III, § 301, Dec. 29, 2022, 136 Stat. 5555.)

Editorial Notes

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (c)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2023, and not as part of the Federal Trade Commission Act which comprises this chapter.

§ 46. Additional powers of Commission

The Commission shall also have power—

(a) Investigation of persons, partnerships, or corporations

To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce, excepting banks, savings and loan institutions described in section 57a(f)(3) of this title, Federal credit unions described in section 57a(f)(4) of this title, and common carriers subject to the Act to regulate commerce, and its relation to other persons, partnerships, and corporations.

(b) Reports of persons, partnerships, and corporations

To require, by general or special orders, persons, partnerships, and corporations, engaged in or whose business affects commerce, excepting banks, savings and loan institutions described in section 57a(f)(3) of this title, Federal credit unions described in section 57a(f)(4) of this title, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the Commission in such form as the Commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective persons, partnerships, and corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the Commission may prescribe, and shall be filed with the Commission within such reasonable period as the Commission may prescribe, unless additional time be granted in any case by the Commission.

(c) Investigation of compliance with antitrust decrees

Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and re-