

ANALYSIS OF PROPOSE

The proposed consent order contains provisions designed to prevent respondent from violating the FTC Act or failing to make clear and conspicuous disclosures required by TILA and Regulation Z, as amended, *see* 73 Fed. Reg. 44,522 (July 30, 2008), and as may be further amended in the future.

Part I of the proposed order prohibits respondent, in connection with closed-end credit, from advertising a monthly payment amount unless respondent discloses, clearly and conspicuously and in close proximity to those representations, as applicable, that the advertised monthly payment amount: (1) applies only for a limited period of time, after which it will increase; (2) does not include the amount of interest that the consumer owes each month; and (3) is less than the monthly payment amount (including interest) that the consumer owes, with the difference added to the total amount due from the consumer or total loan balance.

Part II of the proposed order prohibits respondent, in connection with closed-end credit, from advertising a rate lower than the rate at which interest is accruing, regardless of whether the rate is referred to as an “effective rate,” a “payment rate,” a “qualifying rate,” or any other term, provided that this provision does not prohibit advertisement of the “annual percentage rate” or “APR.” In light of respondent’s deceptive use of payment rates in its advertisements, and the Federal Reserve Board’s amendments to Regulation Z banning the use of such rates effective October 1, 2009, the proposed order prohibits respondent from advertising a rate lower than the rate at which interest is accruing, regardless of whether the rate is referred to as an “effective rate,” a “payment rate,” a “qualifying rate,” or any other term, provided that this provision does not prohibit advertisement of the “annual percentage rate” or “APR.”

Part VIII of the proposed order requires respondent to distribute copies of the order to various principals, officers, directors, and managers, and all current and future employees, agents and representatives having responsibilities with respect to the subject matter of the order.

Part IX of the proposed order requires respondent to notify the Commission of any changes in its corporate structure that might affect compliance with this order.

Part X of the proposed order requires respondent to file with the Commission one or more reports detailing compliance with the order.

Part XI of the proposed order is a “sunset” provision, dictating the conditions under which the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violations of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.