

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

January 27, 2012

Sandra F Braunstein, Director
Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Ms. Braunstein:

This letter responds to your request for information concerning the Federal Trade Commission's ("Commission" or "FTC") enforcement activities related to compliance with Regulation B (Equal Credit Opportunity Regulation E (Electronic Fund Transfer); Regulation M (Consumer Leasing); Regulation P (Privacy of Consumer Financial Information); Regulation Z (Truth in Lending); Regulation AA (Unfair or Deceptive Acts or Practices) and Regulation DD (Electronic Fund Transfers).

to provide you with this information¹

I. FTC Role in Administering and Enforcing the Regulations

Your letter asks for information relating to the Commission's administration and enforcement of the Regulations. The FTC does not have enforcement or other authority with regard to Regulations P, AA, CC, and DD. Consequently, in this response the Commission only provides information concerning its activities regarding Regulations B, E, M,² and Z.

A copy of this report is being provided to the Consumer Financial Protection Bureau ("CFPB"), 5080 Glenmont Road, Washington, DC 20512.

² In 2011, the Commission did not initiate any enforcement actions alleging violations of the Consumer Leasing Act ("CLA") and Regulation M. Information regarding other consumer leasing issues is addressed below, *see infra* Part V.

The FTC's primary focus in the financial services area is bringing law enforcement actions against those who violate statutes and regulations (including Regulations B, E, M, and Z).³ In addition to its law enforcement activities, the FTC engages in research and policy development related to the types of financial services these statutes and regulations cover. Finally, the Commission provides the public with numerous business and consumer education materials about these types of financial services to promote business compliance with the law and to help consumers protect themselves from those who do not. This letter provides information regarding some of the FTC's law enforcement, research and policy development, educational, and other activities related to financial services.

Your letter also asks for specific data regarding compliance examinations, including the extent of compliance, number of entities examined, and compliance challenges experienced by entities subject to the FTC's jurisdiction. The Commission does not conduct compliance examinations or collect compliance-related data concerning the non-bank entities within its jurisdiction. As a result, this letter does not provide information on compliance examinations.

³ The Commission also recently issued a rule regarding mortgage assistance relief services, *see infra* note 20, and a rule regarding mortgage acts and practices, *see infra* note 25.

⁴ The FTC has authority to enforce ECOA and its implementing Regulation B as to entities for which Congress has not committed enforcement to some other government agency. *See* 15 U.S.C. § 1691c(c); *see also infra* Part V.

⁵ *See* FTC, Press Release, *FTC Returns \$1.5 Million to Consumers from Mortgage Lender Charged With Illegally Discriminating Against Hispanic Borrowers*, Apr. 22, 2011, available at <http://www.ftc.gov/opa/2011/04/goldenempire.shtm>. A claims administrator for the FTC mailed over 3,100 checks to consumers.

⁶ See FTC, GETTING CREDIT WHEN YOU'RE OVER 62, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre09.pdf>; FTC, MORTGAGE DISCRIMINATION: A GUIDE TO UNDERSTANDING YOUR RIGHTS & TAKING ACTION, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea08.shtm>; FTC A GU8.0000 T0 582.0 TD (C)Tj 7.3200 0.0000 TD (R)Tj 5.2800 0.

¹⁰ In *FTC v. Leanspa, LLC*, No. 3:11-cv-01715 (D. Conn. filed Nov. 7, 2011) (*ex parte* temporary restraining order and asset freeze entered Nov. 14, 2011) (stipulated preliminary injunction order entered Nov. 22, 2011), available at www.ftc.gov/opa/2011/12/leanspa.htm, the FTC and the State of Connecticut jointly brought this action to stop an operation that allegedly used fake news websites to promote their products with deceptive claims, causing millio

¹⁶ See FTC, BUYING, GIVING, AND USING GIFT CARDS, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/at010.shtm>; *see also* FTC, COMO COMPRAR, OBSEQUIAR Y UTILIZAR LAS TARJETAS DE REGALO, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/salt010.shtm>.

The Board issued a final rule in March

republished the MARS Rule as an interim final rule: Regulation O, 12 C.F.R. Part 1015. *See* 76 Fed. Reg 78130 (Dec. 16, 2011).

FTC v. Residential Relief Found., I

from a redress fund that the FTC established to remedy the defendants' violation of prior court order in an FTC action against Mr. D'Antonio and his firm.

²⁴ See *FTC v. Data Med. Capital, Inc.*, No. 8:99-cv-01266 (C.D. Cal. Apr. 8, 2010) (\$11.4 million contempt judgment entered), available at <http://www.ftc.gov/os/caselist/x000001/100408dmcjudgement.pdf>.

²⁵ See Mortgage Acts and Practices – Advertising, Final Rule, 76 Fed. Reg. 43826 (July 22, 2011), available at <http://www.ftc.gov/opa/2011/07/mortgageadssh.htm>. The vote to issue the Rule was 5-0. Commissioner Ramirez, joined by Chairman Leibowitz and Commissioner Brill, issued a concurring statement addressing communications about mortgages to consumers whose native language is not English, *see id.*, 76 Fed. Reg. at 43846; *see also infra* note 40. Commissioner Rosch issued a response to the concurring statement, *see* 76 Fed. Reg. at 43847. The MAP Rule was issued pursuant to Section 626 of the 2009 Omnibus Appropriations Act, as amended by Section 511 of the Credit CARD Act.

²⁶ On July 21, 2011, the Commission's rulemaking authority under the Omnibus Appropriations Act of 2009 was transferred to the CFPB, although the FTC retains the authority to enforce the MAP Rule. *See* 75 Fed. Reg. 57252, 57253 (Sept. 20, 2010). The CFPB has republished the MAP Rule as an interim final rule: Regulation N, 12 C.F.R. Part 1014. *See* 76 Fed. Reg. 78130 (Dec. 16, 2011).

²⁷ *See* FTC, REVERSE MORTGAGES- MONEY MATTERS FROM THE FEDERAL TRADE COMMISSION, available at <http://www.ftc.gov/bcp/edu/microsites/moneymatters/your-home-reverse-mortgages.shtml>; FTC, BUYING A NEW CAR, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/autos/aut11.shtml>; FTC, AUTO SERVICE CONTRACTS, available at <http://www.ftc.gov/bcp/edu/pubs/consumers/autos/aut02.shtml>.

help businesses and consumers comply with the MARS Rule,²⁸ and it issued a “Acts for Consumers” advisory on mortgage assistance relief scams to help consumers recognize these scams and exercise their rights under the MARS Rule.²⁹ The Commission further issued a “Consumer Alert” to warn consumers about scams offering to reduce interest rates on their credit cards and to remind them of their rights under the Fair Credit Billing Act to dispute any unauthorized charges billed to their credit cards.³⁰

V. Future FTC Activities and the Dodd-Frank Act

A. Dodd-Frank Act and FTC Authority

The Dodd-Frank Act, signed into law on July 21, 2010,³¹ has substantially restructured the financial services law enforcement and regulatory system, including making important changes to ECOA, EFA, CL

²⁸ See FTC, MORTGAGE ASSISTANCE RELIEF SERVICES RULE: A COMPLIANCE GUIDE FOR BUSINESS, available at <http://business.ftc.gov/documents/bus76-mortgage-assistance-relief-services-rule>; FTC, MORTGAGE ASSISTANCE RELIEF SERVICES RULE: A COMPLIANCE GUIDE FOR LAWYERS, available at <http://business.ftc.gov/documents/bus77-mortgage-assistance-relief-services-rule-lawyers>.

²⁹ See FTC, MORTGAGE ASSISTANCE RELIEF SCAMS: ANOTHER POTENTIAL STRESS FOR HOMEOWNERS IN DISTRESS, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre42.shtm>.

³⁰ See FTC, CREDIT CARD INTEREST RATE REDUCTION SCAMS, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt178.shtm>.

³¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act” or “Act”), Pub.L. 111-203, 124 Stat 1376 (July 21, 2010).

³² For example, Section 1100 of the Dodd-Frank Act specified the designated transfer date (which is July 21, 2011, *see supra* notes 20 and 26, as the effective date for raising the TILA and CLA exemption amount for leases and non-mortgage, non-student loan credit from \$25,000 to \$50,000. On Jan. 1, 2012, these figures increase to \$51,800. *Id*; *see also* Consumer Lending, Final Rule, Staff Commentary, 76 Fed Reg. 35721 (June 20 2011), and Truth in Lending, Final Rule, Staff Commentary, 76 Fed Reg. 35722 (June 20 2011), both available at <http://www.federalreserve.gov/newsevents/press/bcreg/20110613b.htm>.

³³ See 75 Fed. Reg. 57252 (Sept. 20, 2010), available at <http://edocket.access.gpo.gov/2010/2010-23487.htm>.

using the notice and comment rulemaking procedures in Section 553 of the Administrative Procedure Act rather than the more extensive procedures in Section 18 of the FTC Act. In 2011, the FTC conducted outreach activities and held three public roundtables reviewing a wide range of motor vehicle dealer practices to assess possible new initiatives, including whether to use its new r

³⁸ The FTC held a series of roundtable events around the country to gather information on consumer protection issues that may arise in the sale, lease, or financing of motor vehicles. The roundtables focused on issues such as dealer-assisted financing of automobiles; the experiences of consumers (including military servicemembers) when buying, selling, and leasing motor vehicles; the role of financial literacy in consumers' understanding of that process; fair lending; and what, if any, initiatives the Commission should consider to address those issues. The Commission also has sought public comment on these issues. *See generally* <http://www.ftc.gov/bcp/workshops/motorvehicles/>.

³⁹ *See* Dodd-Frank Act, *supra* note 31, §§ 1084, 1085, and 1100A.

⁴⁰ *See, e.g.*, Dodd-Frank Act, *supra* note 31, § 1098. In addition, in connection with the Commission's vote to issue the MAP Rule, the Commission notes the concurring statement of Commissioner Ramirez, in which Chairman Leibowitz and Commissioner Brill joined, and the response to the concurring statement by Commissioner Rosch, *see supra* note 25 regarding the issue of making mortgage disclosures understandable to consumers whose native language is not English, including whether those disclosures should be provided to non-English speakers in languages other than English.