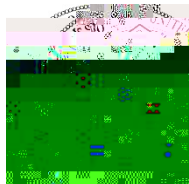


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580



Office of the Secretary

May 9, 2013

Patrice Alexander Ficklin, Assistant Director
Fair Lending & Equal Opportunity

Paul Sanford, Assistant Director
Supervision Examinations

¹ The Equal Credit Opportunity Act (ECOA) is at 15 U.S.C. § 1691 *et seq.*; the CFPB's Regulation B is at 12 C.F.R. Part 1002; *see also* the Board of Governors of the Federal Reserve System (Board)'s Regulation B, 12 C.F.R. Part 202. The Electronic Fund Transfer Act (EFTA) is at 15 U.S.C. § 1693 *et seq.*; the CFPB's Regulation E is at 12 C.F.R. Part 1005; *see also* the Board's Regulation E, 12 C.F.R. Part 205. The Consumer Leasing Act (CLA) is at 15 U.S.C. § 1667 *et seq.*; the CFPB's Regulation M is at 12 C.F.R. Part 1013; *see also* the Board's Regulation M, 12 C.F.R. Part 213. The Truth in Lending Act (TILA) is at 15 U.S.C. § 1601 *et seq.*; the CFPB's Regulation Z is at 12 C.F.R. Part 1026; *see also* the Board's Regulation Z, 12 C.F.R. Part 226. The Commission's understanding is that your request encompasses the CLA, an amendment to the TILA.

² A copy of this letter is being provided to the Board's Division of Consumer and Community Affairs, in connection with its responsibility for some aspects of the Regulations after the transfer date of July 21, 2011. Among other things, the Board retained responsibility for a copy of the Commission's 2011 letter that was provided to the CFPB and Board I

forwarded to the CFPB with this current letter, pursuant to the CFPB's request.

³ See FTC, Press Release, *Federal Trade Commission, Consumer Financial Protection Bureau Pledge to Work Together to Protect Consumers*, Jan. 23, 2012, available at [http://www.ftc](http://www.ftc.gov)

⁸ *FTC v. BlueHippo Funding, LLC*, No. 1:08-cv-1819 (S.D.N.Y. July 27, 2010) (contempt order entered), *appeal docketed*, No. 11-374 (2d Cir. Feb. 1, 2011) (argued Feb. 23, 2012). The court's decision is pending.

⁹ *FTC v. Hope for Car Owners, LLC*, No. 2:12-cv-00778 (E.D. Cal. Mar. 27, 2012); *FTC v. NAFSO VLM, Inc.*, No. 2:12-cv-00781 (E.D. Cal. Mar. 27, 2012) (preliminary injunction entered Apr. 20, 2012). Both matters are available at <http://www.ftc.gov/opa/2012/04/autoloans.shtm>.

¹⁰ *FTC v. Hope for Car Owners, LLC*, No. 2:12-cv-00778 (E.D. Cal. Nov. 30, 2012) (stipulated final order), available at <http://www.ftc.gov/opa/2012/12/hopeforcarowners.shtm>.

¹¹ The defendants' representations pertain to, among other things, consumers' original terms of the loan or financing, which are found on the contract and disclosures.

¹² The full amount of the judgment will become due if it is later determined that the financial information the defendant provided to the FT

2011). Among other things, the Commission, CFPB and states can seek civil penalties for violations of the MAP-Ad Rule.

¹⁴ See FTC, Press Release, *FTC Warns Mortgage Advertisers that Their Ads May Violate Federal Law*, Nov. 19, 2012, available at <http://www.ftc.gov/opa/2012/11/mortgageadvertise.shtm>.

¹⁵ See CFPB, Press Release, *Consumer Financial Protection Bureau Warns Companies Against Misleading Consumers with False Mortgage Advertisements*, Nov. 19, 2012, available at <http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-warns-companies-against-misleading-consumers-with-false-mortgage-advertisements>.

¹⁶ Forensic mortgage loan audit scams are one type of mortgage assistance relief service scam, and can include representations pertaining to review of the consumer's loan documents for compliance with federal laws, such as disclosures or other rights under TILA. The Commission has brought more than 40 cases against all types of mortgage assistance relief service scams. To combat such scams, the Commission also promulgated the Mortgage Assistance Relief Services ("MARS") Rule. See MARS, Final Rule, 75 Fed. Reg. 75,092 (Dec. 1, 2010), available at <http://www.ftc.gov/opa/2011/02/mars.shtm>. On Jan. 31, 2011, the rule's advance fee ban took effect. See FTC, Press Release, *FTC's Mortgage Assistance Relief Services Advance Fee Ban Takes Effect*, Feb. 10, 2011, available at <http://www.ftc.gov/opa/2011/02/mars.shtm>. The FTC issued the MARS Rule pursuant to Section 626 of the 2009 Omnibus Appropriations Act, Pub. L. No. 111-8, § 626, 123 Stat. 524 (Mar. 11, 2009), as amended by Section 511 of the Credit CARD Act. 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 authority to enforce the MARS Rule. See 75 Fed. Reg. 57,252, 57,253 (Sept. 20, 2010). The CFPB republished the MARS Rule as an interim final rule: Regulation O, 12 C.F.R. Part 1015. See 76 Fed. Reg. 78,130 (Dec. 16, 2011).

¹⁷ *FTC v. The Debt Advocacy Center, LLC*, No. 09-cv-2712 (N.D. Ohio Mar. 7, 2012) (second amended complaint) (stipulated permanent injunction orders entered as to certain defendants on June 6, 2012 and as to other defendants on March 27, 2012).

²⁰ See FTC, Press Release, *FTC Staff Submits Comment to CFPB on Mortgage Disclosure Forms*, Oct. 2, 2012, available at http://www.ftc.gov/opa/2012/10/cfpb_mortgage.shtm.

²¹ See FTC, *Paper, Plastic ... or Mobile? An FTC Workshop on Mobile Payments*, <http://www.ftc.gov/bcp/workshops/mobilepayments>, and FTC, Press Release, *FTC to Host Workshop on Mobile Payments and Their Impact on Consumers*, Jan. 26, 2012, available at <http://www.ftc.gov/opa/2012/01/mobilepayments.shtm>; see also <http://www.ftc.gov/bcp/workshops/mobilepayments/> (including webcast and transcript).

²⁶ See AUTO LOAN MODIFICATION SCAMS, *available at*
<http://www.consumer.ftc.gov/articles/0255-auto-loan-modification-scams>.

²⁷ The FTC released the publication in English and Spanish. *See, e.g.* FTC, ONLINE PAYDAY LENDERS,
avai

III. Regulation M (Consumer Leasing Act)

The FTC enforces CLA and its implementing Regulation M as to most entities other than banks, thrifts, and federal credit unions.³²

A. Consumer Leasing: Enforcement Actions

As noted above, in 2012, the FTC filed administrative complaints and reached settlements with five automobile dealers that allegedly made deceptive claims that they would pay off the remaining balance on consumers' trade-ins, no matter what they owed.³³ The

³² The FTC has authority to enforce CLA and Regulation M as to entities for which Congress has not committed enforcement to some other government agency. *See* 15 U.S.C. § 1607(c).

³³ *See supra* note 5 and accompanying text.

³⁴ *In re Key Hyundai of Manchester, LLC*, F.T.C. Docket No. C-4358 (May 4, 2012), available at <http://www.ftc.gov/os/caselist/1123204/index.shtm>; *In re Billion Auto, Inc.*, F.T.C. Docket No. C-4356 (May 1, 2012), available at <http://www.ftc.gov/os/caselist/1123209/index.shtm>.

³⁵ *See* UNDERSTANDING VEHICLE FINANCING, *supra* note 29.

³⁶ The FTC has authority to enforce EFTA and Regulation E as to entities for which Congress has not assigned enforcement responsibility to some other government agency. *See* 15 U.S.C. § 1693o(c).

³⁷ Negative options plans can involve the use of debit cards, credit cards, or both. EFTA and Regulation E apply

⁴¹ *FTC v. AMG Services, Inc.*, No. 2:12-cv-00536 (D. Nev. filed Apr. 2, 2012), available at <http://www.ftc.gov/opa/2012/04/amg.shtm>. See also *supra* note 7 and accompanying text.

⁴² *FTC v. Nelson Gamble & Assoc. LLC*, No. 12-1503 (C.D. Cal. Sept. 10, 2012) (complaint filed; *ex parte* temporary restraining order and asset freeze entered) (stipulated preliminary injunction order entered Oct. 15

⁴⁷ See *Federal Trade Commission Report on Activities Related to Section 1075 of the Dodd-Frank Act* (Dec. 24, 2012), available at <http://www.ftc.gov/opa/2012/12/dodd-frankreport.shtm>.

See FTC, Press Relea

⁵² See ONLINE PAYDAY LENDERS, *supra* note 27.

⁵³ FTC, ELECTRONIC BANKING, *available at* <http://www.consumer.ftc.gov/articles/0218-electronic-banking>.

⁵⁴ See, e.g., FTC, NEW RULES ON ELECTRONIC PAYMENTS LOWER COSTS FOR RETAILERS, *available at* <http://business.ftc.gov/documents/bus78-new-rules-electronic-payments-lower-costs-for-retailers> 54

B. Fair Lending: Consumer and Business Education

The Commission has continued its long-standing efforts to educate consumers concerning their rights under the fair lending laws. In 2012, the FTC released a revised publication for Spanish-speaking consumers seeking credit or insurance.⁵⁶ The Commission makes these and other consumer education materials available to the public through the FTC's website.⁵⁷

* * * *

The FTC hopes that the information discussed above responds to your inquiry and will be useful in preparing the CFPB's Annual Report to Congress. Should you need additional assistance, please contact Jessica Rich, Associate Director

⁵⁶ FTC, COMO AFECTA EL PUNTAJE DE CREDITO EN EL PRECIO DEL CREDITO Y DEL SEGURO, *available at* <http://www.consumidor.ftc.gov/articulos/s0152-como-afecta-el-puntaje-de-credito-en-el-precio-del-credito-y-del-seguro>.

The FTC recently released a new website to better provide consumer resources and highlight information about current topics. The FTC also moved its pre-existing consumer publications to this site. *See generally* <http://www.consumer.ftc.gov>. For additional information about this material, see <http://www.consumer.ftc.gov/blog/welcome-ftcs-home-consumer-information>.

⁵⁷ *See* <http://www.ftc.gov/bcp/consumer.shtm>.