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comprehensibility of the disclosures mandated by the Rule, and the unintended consequences that might result from application of the advance fee ban, in the context of a real estate professional assisting a consumer in negotiating or obtaining a short sale.

Until further notice, the Commission will forbear from taking any enforcement action for violation of the MARS Rule with the exception of the Rule's prohibition against misrepresentations in Section 322.3(b) against a real estate professional who provides "any service, plan, or program, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer [in] . . . [n]egotiating, [o]btaining or [a]rranging . . . [a] short sale of a dwelling." This forbearance of enforcement will only apply to real estate brokers (and real estate agents under their direction and control) who are:

- (1) licensed and maintain good standing pursuant to any applicable state law requirements;
- (2) in compliance with state laws governing the practices of real estate professionals; and
- (3) assisting or attempting to assist a consumer in negotiating, obtaining or arranging a short sale of a dwelling in the course of securing the sale of the consumer's home.

The Commission emphasizes, however, that it will continue to enforce Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce, and Section 322.3(b) of the Rule against real estate professionals who assist consumers in negotiating or obtaining short sales. In addition, the Commission will continue to enforce the MARS Rule (as well as Section 5 of the FTC Act) against real estate professionals to the extent that they are providing other forms of mortgage assistance relief services. The Commission will closely monitor this industry and will bring enforcement actions, as appropriate and consistent with this statement, against real estate professionals who engage in unfair or deceptive acts or practices.

This forbearance of enforcement applies only to real estate brokers (and real estate agents under their direction and control) who assist consumers in negotiating or obtaining short sales and meet the above criteria. The Commission will continue to enforce the MARS Rule as to all other providers of mortgage assistance relief services. Additionally, on July 21, 2011, the Commission's rulemaking authority with respect to the MARS Rule will transfer to the

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<sup>9</sup> 16 C.F.R. § 322.2(i)(6)(i).

<sup>10</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, §§ 1061-1062; 124 Stat. 1376, 2035-40 (2010); Dep't of the Treasury, Bureau of Consumer Financial Protection; Designated Transfer Date 75 FR 57252, 57253 (Sept. 20, 2010).