

FTC Issues Annual Financial Acts Enforcement Report to Federal Reserve

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On February 10, 2012, the Federal Trade Commission issued its annual financial acts enforcement report to the Federal Reserve Board. The [report](#) highlights the Commission's enforcement and compliance activity in 2011 regarding the following consumer protection laws: the Equal Credit Opportunity Act; the Electronic Funds Transfer Act; the Consumer Leasing Act; and the Truth in Lending Act. This information will be used by the Federal Reserve in preparing its 2011 Annual Report to Congress. Key provisions are summarized below.

Regulation B (Equal Credit Opportunity Act) In April 2011, the Commission returned approximately \$1.5 million to Hispanic consumers allegedly injured by the discriminatory practices of Golden Empire Mortgage, Inc. The mortgage company had allegedly violated the Equal Credit Opportunity Act, Regulation B, and other laws by unjustifiably charging Hispanic consumers higher prices for mortgage loans than similarly situated non-Hispanic white consumers. In addition to payment for consumer redress, the settlement bars the company from engaging in discriminatory and otherwise noncompliant credit transactions.

Regulation E (Electronic Fund Transfer Act) Seven cases in 2011 involved the Electronic Funds Transfer Act (EFTA) and Regulation E issues. Five of those arose in the context of negative option plans. Under these plans, consumers agree to receive goods and services from a company for a trial period at no charge or at a reduced price. The company obtains, sometimes deceptively, the consumer's credit or debit card information during this initial transaction. If the account is not cancelled by the end of the trial period, the consumer incurs automatic charges for the continued shipment of goods or provision of services. The EFTA and Regulation E prohibit these recurring charges without the consumer's written authorization for preauthorized electronic fund transfers. The Commission litigated two of these cases and settled a third last year.

Regulation Z (Truth in Lending Act) In 2011, the Commission aggressively prosecuted those companies engaged in forensic mortgage loan audit scams. Mortgage assistance relief providers offer to review or audit the mortgage documents of distressed homeowners to identify violations of the Truth in Lending Act (TILA) and other laws. The companies falsely claim that identifying such violations will give the consumers leverage over their lenders and servicers so as to avoid foreclosure. Two of these fraudulent operations were shut down by the Commission's enforcement efforts and resulted in settlement judgments of over \$11 million. In addition, the Commission issued a new rule last July, called the Mortgage Acts and Practices - Advertising Rule, that bans deceptive claims about consumer mortgages in advertising or other types of commercial communications. The rule lists nineteen examples of prohibited deceptive claims, including misrepresentations about the existence, nature, or amount of fees or costs to the consumer associated with the mortgage. The

rule went into effect on August 19, 2011.

Future Activities and the Dodd-Frank Act The Commission reiterated its commitment to coordinated law enforcement and rulemaking efforts with the Consumer Financial Protection Bureau (CFPB), as outlined in the agencies' Memorandum of Understanding and discussed further [here](#). In addition, the Commission identified the following enforcement priorities for 2012:

- **Payment Cards.** The implementation of new requirements and regulations for payment card networks and certain non-bank entities.
- **Motor Vehicles.** The issuance of rules prohibiting unfair and deceptive acts and practices in connection with motor vehicle dealers. The Commission held three public roundtables last year to assess possible new initiatives in this area.
- **Mortgage Disclosures.** The possible development with the CFPB of streamlined mortgage disclosures and a new mortgage shopping form.

All affected companies and businesses are strongly advised to review the full report and submit any comments directly to the Federal Trade Commission.

This blog post was written by [Christie G. Thompson](#).