

Notice to OMBA and OMLA Registrants, Exempt Mortgage Bankers, State-Chartered Credit Unions and their Exempt Credit Union Service Organizations to Review Advertising and Recordkeeping Practices

The Federal Trade Commission (“FTC”) issued a final rule on July 22, 2011, that will apply to any entity over which the FTC has jurisdiction. This includes, but is not limited to, OMBA and OMLA registrants who originate or collect mortgage credit products, mortgage bankers that hold valid letters of exemption, and state-chartered credit unions as well as their credit union service organizations holding valid letters of exemption.

The new rule prohibits any misrepresentation in any commercial communication regarding any term of any mortgage credit product and imposes new recordkeeping requirements. The rule applies to mortgage credit products secured by either real property or a dwelling, and includes mortgage credit products secured by mobile homes, trailers and manufactured homes if used as a residence. Persons subject to the rule must keep legible electronic or hard copies of its commercial communications, including but not limited to, sales scripts, training materials, marketing materials, documents evidencing that all mortgage credit products advertised were available to consumers, and documents evidencing all additional products or services that may be offered along with mortgage credit products. The rule becomes effective on August 19, 2011.

The Division urges all entities that it regulates or examines to review their advertising and recordkeeping practices to comply with these new requirements. A complete discussion of the rule and the rule itself can be found in the Federal Register at the following link: <http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi>.