

PREPARED STATEMENT OF  
THE FEDERAL TRADE COMMISSION

on

CONSUMER PROTECTION IN FINANCIAL SERVICES

Before the

HOUSE COMMITTEE ON FINANCIAL SERVICES

Washington, D.C.

June 13, 2007

## I. INTRODUCTION

Chairman Frank, Ranking Member Bachus, and Members of the Committee, I am Deborah Platt Majoras, Chairman of the Federal Trade Commission (“FTC” or “Commission”).<sup>1</sup> I appreciate the opportunity to appear before you today to discuss the Commission’s efforts to combat unfair, deceptive, and other illegal practices in the consumer financial services industry. Financial issues affect all consumers – whether they are purchasing homes, trying to establish credit and improve their credit ratings, or managing rising debt. The FTC protects consumers at every stage of the consumer credit life cycle, from advertising and marketing of financial products to debt collection and “debt relief.” The Commission’s activities are focused on assisting consumers in obtaining the information they need to make informed financial decisions, and on protecting them from unlawful acts and practices that are likely to cause them harm.

Among other things, the FTC would like to emphasize the following points:

- The FTC uses three main tools to protect consumers of financial services from harm: law enforcement, consumer education, and policy research and development.
- The Commission’s recent law enforcement actions in the financial services marketplace have targeted deception and illegal practices in: (1) mortgage lending and servicing; (2) non-mortgage lending and leasing; (3) gift card sales; (4) advance fee loan scams; (5) debt collection practices; (6) credit and debt counseling services; and (7) credit reporting.
- The FTC has targeted deceptive or unfair practices in all stages of mortgage lending – from advertising and marketing through loan servicing. In the past decade, the Commission has brought 21 such actions, focusing in particular on the subprime market. As a result of these actions, courts collectively have ordered more than \$320 million to be returned to consumers. The Commission currently has several ongoing, non-public investigations of companies in the subprime lending industry.

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<sup>1</sup> The views expressed in this statement represent the views of the Commission. My oral presentation and responses to any questions you have are my own, however, and do not necessarily reflect the views of the Commission or any other Commissioner.

- Because law enforcement is most effective when government officials cooperate, we have worked together with other federal and state agencies in some of the financial services cases we have investigated and prosecuted. Currently, representatives of federal and state agencies are discussing how to improve complaint sharing among law enforcers.
- To empower consumers to avoid harm, the Commission has developed extensive consumer education programs addressing financial services, and we recently have expanded the reach of these efforts. In fiscal year 2006, the Commission distributed more than 4.1 million printed copies of financial education brochures, in both English and Spanish; “hits” on the FTC’s Web site for the same materials exceeded 6.2 million.
- The Commission engages in broad-based research and policy development concerning financial services to adapt its policies to protect consumers more effectively.
- Last year, following an FTC public workshop concerning nontraditional mortgage products, the Commission filed comments with the Federal Reserve Board emphasizing that consumers must obtain all of the relevant information needed to make an informed choice at each stage of the mortgage process, especially for nontraditional mortgage products.
- Today the FTC’s Bureau of Economics released a study that confirms the need to improve mortgage disclosures. The Commission would be pleased to work with the Federal Reserve Board and Department of Housing and Urban Development as they work on improving mortgage disclosures.
- The FTC will continue to develop policy responses on financial services issues; in October, the Commission will hold a public workshop to examine changes in the debt collection industry and their impact on consumers and competition.

This testimony will discuss in more detail (1) the Commission’s authority in the consumer financial services industry; (2) the FTC’s activities protecting consumers in that marketplace in recent years; and (3) the Commission’s cooperation with other regulators.

## **II. THE COMMISSION’S LEGAL AUTHORITY**

The Commission has wide-ranging responsibilities regarding consumer financial issues. The FTC targets many types of practices in the area, from fraud in which, for example, telemarketers collect fees for non-existent loans, to legitimate businesses failing to comply with specific statutory mandates, for example, failing to provide the disclosures required by the

Consumer Leasing Act.<sup>2</sup> The Commission’s enforcement actions have involved companies large and small in various regions of the country.

The Commission enforces Section 5 of the Federal Trade Commission Act (“FTC Act”), which broadly prohibits unfair or deceptive acts or practices in commerce.<sup>3</sup> The Commission also enforces statutes that address specific aspects of lending practices, including the Truth in Lending Act (“TILA”)<sup>4</sup> and the Home Ownership and Equity Protection Act (“HOEPA”).<sup>5</sup> Moreover, the Commission enforces a number of other consumer protection statutes that govern financial services providers, such as the Consumer Leasing Act, the Fair Debt Collection Practices Act (“FDCPA”),<sup>6</sup> the Fair Credit Reporting Act (“FCRA”),<sup>7</sup> the Equal Credit Opportunity Act,<sup>8</sup> the Credit Repair Organizations Act (“CROA”),<sup>9</sup> the Telemarketing and

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<sup>2</sup> 15 U.S.C. §§ 1667-1667f (requiring disclosures, limiting balloon payments, and regulating advertising in connection with consumer lease transactions).

<sup>3</sup> 15 U.S.C. § 45(a).

<sup>4</sup> 15 U.S.C. §§ 1601-1666j (requiring disclosures and establishing other requirements in connection with consumer credit transactions).

<sup>5</sup> 15 U.S.C. § 1639 (providing additional protections for consumers who enter into certain high-cost refinance mortgage loans). HOEPA is a part of the TILA.

<sup>6</sup> 15 U.S.C. §§ 1692-1692o (prohibiting abusive, deceptive, and unfair debt collection practices by third-party debt collectors).

<sup>7</sup> 15 U.S.C. §§ 1681-1681x (imposing standards for consumer reporting agencies and information furnishers in connection with the credit reporting system and placing restrictions on the use of credit reporting information). The Fair and Accurate Credit Transactions Act of 2003 amended the FCRA.

<sup>8</sup> 15 U.S.C. §§ 1691-1691f (prohibiting creditor practices that discriminate on the basis of race, color, religion, national origin, sex, marital status, age [provided the applicant has the capacity to contract], receipt of public assistance, and exercise of certain legal rights).

<sup>9</sup> 15 U.S.C. §§ 1679-1679j (requiring disclosures and prohibiting unfair or deceptive advertising and business practices by credit repair organizations).

Consumer Fraud and Abuse Prevention Act,<sup>10</sup> and the privacy provisions of the Gramm-Leach-Bliley Act (“GLB”).<sup>11</sup>

Several federal agencies have authority over entities in the financial services marketplace. The FTC Act and the other statutes that the FTC enforces specifically exempt banks, savings and loan institutions, and federal credit unions from the agency’s jurisdiction.<sup>12</sup> But, the Commission does have jurisdiction over nonbank financial companies, including nonbank mortgage companies, mortgage brokers, finance companies, and units of bank holding companies.<sup>13</sup> The FTC engages in aggressive law enforcement as to entities under its jurisdiction and collaborates with other agencies where practicable.

### **III. THE COMMISSION’S RECENT ACTIVITIES**

The Commission uses all of the tools at its disposal – law enforcement, consumer education, and policy research and development – to fulfill its mission of protecting consumers of financial services.

#### **A. Law Enforcement**

Many Commission law enforcement actions have targeted deception and other illegal practices in the financial services marketplace. The agency’s recent law enforcement activity has focused primarily on seven subjects: (1) mortgage lending and servicing; (2) non-mortgage lending and leasing; (3) gift card sales; (4) advance fee credit scams; (5) debt collection

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<sup>10</sup> 15 U.S.C. §§ 6101-6108 (protecting consumers from telemarketing fraud and abuse).

<sup>11</sup> 15 U.S.C. §§ 6801-6809 (imposing requirements on financial institutions with respect to annual privacy notices, procedures for providing customers an opt-out from having certain information shared with nonaffiliated third parties, and safeguarding customers’ personally identifiable information).

<sup>12</sup> *E.g.*, 15 U.S.C. § 5(a)(2).

<sup>13</sup> The Commission generally engages in law enforcement investigations but does not engage in regular examinations of entities within its jurisdiction.

practices; (6) credit and debt counseling services; and (7) credit reporting.<sup>14</sup>

## 1. Mortgage Lending and Servicing

In the last decade, the agency has brought 21 actions against companies in the mortgage lending industry, focusing in particular on the subprime market.<sup>15</sup> Several of these cases have resulted in large monetary judgments, with courts collectively ordering that more than \$320 million be returned to consumers. These enforcement actions have targeted deceptive or unfair practices in all stages of mortgage lending – from advertising and marketing through loan servicing – by mortgage lenders, brokers, and loan servicers.

In most of its mortgage lending cases, the Commission has challenged alleged deception in the advertising or marketing of subprime loans. For example, the FTC’s complaint against Associates First Capital Corporation and Associates Corporation of North America (“the Associates”) alleged that the defendants marketed subprime mortgage loans through false and misleading statements about loan costs.<sup>16</sup> The Associates represented that consumers would save

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<sup>14</sup> Other high priorities for the Commission in the financial area are financial privacy, data security, and identity theft. For a description of some of these recent cases, see FTC, *THE FTC IN 2007: A CHAMPION FOR CONSUMERS AND COMPETITION* (April 2007), available at <http://www.ftc.gov/os/2007/04/ChairmansReport2007.pdf> (pdf pages 29-30, 37).

<sup>15</sup> *FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. 2006); *FTC v. Ranney*, No. 04-1065 (D. Colo. 2004); *FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002); *United States v. Mercantile Mortgage Co.*, No. 02-5079 (N.D. Ill. 2002); *FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. 2001); *FTC v. First Alliance Mortgage Co.*, No. 00-964 (C.D. Cal. 2002); *United States v. Action Loan Co.*, No. 00-511 (W.D. Ky. 2000); *FTC v. NuWest, Inc.*, No. 00-1197 (W.D. Wash. 2000); *United States v. Delta Funding Corp.*, No. 00-1872 (E.D.N.Y. 2000); *FTC v. Barry Cooper Prop.*, No. 99-07782 (C.D. Cal. 1999); *FTC v. Capitol Mortgage Corp.*, No. 99-580 (D. Utah 1999); *FTC v. CLS Fin. Serv., Inc.*, No. 99-1215 (W.D. Wash. 1999); *FTC v. Granite Mortgage, LLC*, No. 99-289 (E.D. Ky. 1999); *FTC v. Interstate Res. Corp.*, No. 99-5988 (S.D.N.Y. 1999); *FTC v. LAP Fin. Serv., Inc.*, No. 99-496 (W.D. Ky. 1999); *FTC v. Wasatch Credit Corp.*, No. 99-579 (D. Utah 1999); *In re First Plus Fin. Group, Inc.*, FTC Docket No. C-3984 (2000); *In re Fleet Fin., Inc.*, FTC Docket No. C-3899 (1999); *FTC v. Capital City Mortgage Corp.*, No. 98-00237 (D.D.C. 1998).

<sup>16</sup> *FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. 2001).

money when consolidating their existing debts, but these “savings claims” did not take into account the loan fees and closing costs the company typically added to the consumers’ loan amounts. Further, the claims did not reveal that, for certain Associates loans, consumers would pay only interest and would still owe the entire principal amount in a “balloon” payment at the end of the loan term. The complaint also challenged as deceptive the Associates’ practice of including single-premium credit insurance in loans, without disclosing its inclusion to consumers. The defendants paid a record-setting \$215 million in consumer redress to settle the FTC complaint.<sup>17</sup>

With mortgage brokers now originating between 65-70% of mortgage loans,<sup>18</sup> the Commission has brought several recent enforcement actions against these entities for allegedly deceiving consumers about key loan terms, such as the existence of a prepayment penalty<sup>19</sup> or a large balloon payment due at the end of the loan.<sup>20</sup> Similarly, the Commission has charged brokers with falsely promising consumers low fixed payments and rates on their mortgage loans.<sup>21</sup> For example, in June 2004, the Commission sued Chase Financial Funding (“CFF”), a California mortgage broker, and its principals, in connection with sending unsolicited email and

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<sup>17</sup> *FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. Jan. 26, 2002) (Order Preliminarily Approving Stipulated Final Judgment and Order). Defendants paid an additional \$25 million to settle a concurrent class action.

<sup>18</sup> See NEW RESEARCH ABOUT MORTGAGE BROKERS PUBLISHED (July 28, 2005), and other data, available at [www.wholesaleaccess.com](http://www.wholesaleaccess.com).

<sup>19</sup> *FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

<sup>20</sup> *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

<sup>21</sup> *FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *FTC v. Ranney*, No. 04-1065 (D. Colo. 2004); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

direct mail promising a “3.5% fixed payment loan.”<sup>22</sup> The Commission alleged that CFF did not offer any such loan – in fact, if consumers chose to pay the advertised payment amounts, then their principal balances would increase, and after an introductory period, they would be forced to make higher monthly payments. The litigation in this matter is ongoing.

Most recently, in 2006, the Commission filed suit against a mortgage broker for allegedly deceiving Hispanic consumers who sought to refinance their homes by misrepresenting numerous key loan terms.<sup>23</sup> The alleged conduct was egregious because the lender conducted business with his clients almost entirely in Spanish, and then provided at closing loan documents in English containing the less favorable terms. To settle the suit, the broker paid \$10,000 in consumer redress and agreed to a permanent injunction prohibiting him from misrepresenting loan terms.<sup>24</sup>

The Commission also has challenged allegedly deceptive and unfair practices in the servicing of mortgage loans.<sup>25</sup> For example, in November 2003, the Commission, along with the Department of Housing and Urban Development (“HUD”), announced a settlement with Fairbanks Capital Corp. and its parent company. Fairbanks (now called Select Portfolio Servicing, Inc.) had been one of the country’s largest third-party subprime loan servicers – it did not originate any loans, but collected and processed payments on behalf of the holders of the mortgage notes. The Commission alleged that Fairbanks failed to post consumers’ payments

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<sup>22</sup> *FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004).

<sup>23</sup> *FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. 2006).

<sup>24</sup> *FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. Sept. 25, 2006) (Stipulated Final Judgment and Order of Permanent Injunction) (entering suspended judgment of \$240,000 and ordering payment of \$10,000 based on documented inability to pay full judgment amount).

<sup>25</sup> *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003); *FTC v. Capital City Mortgage Corp.*, No. 98-00237 (D.D.C. 1998).



upon receipt, charged unauthorized fees, used dishonest or abusive tactics to collect debts, and reported consumer payment information that it knew to be inaccurate to credit bureaus. To resolve these charges, Fairbanks and its former chief executive officer paid over \$40 million in consumer redress, agreed to halt the alleged illegal practices, and implemented significant changes to company business practices to prevent future violations.<sup>26</sup> The Commission is continuing to investigate companies in the mortgage lending industry, focusing in particular on the subprime market.<sup>27</sup>

## 2. Non-Mortgage Lending and Leasing

The FTC frequently has challenged the sales practices used in the personal (unsecured) loan industry. For instance, the Commission charged a regional subprime lending company, Stewart Finance, and its affiliates with making deceptive claims in selling small personal loans.<sup>28</sup> The complaint alleged that defendants engaged in deception to induce consumers to purchase expensive add-on products to obtain costly refinance loans, and to pay fees to participate in a “direct deposit” program. In January 2006, the court entered a stipulated judgment banning defendants from engaging in lending and related activities and imposing a \$10.5 million redress amount.<sup>29</sup>

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<sup>26</sup> *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. Nov. 21, 2003) (Order Preliminarily Approving Stipulated Final Judgment and Order as to Fairbanks Capital Corp. and Fairbanks Capital Holding Corp.); *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. Nov. 21, 2003) (Stipulated Final Judgment and Order as to Thomas D. Basmajian).

<sup>27</sup> Moreover, the Commission has initiated actions against several realtor groups operating Multiple Listing Services charging that they engaged in anticompetitive conduct that hampered consumers’ ability to obtain low-cost real estate brokerage services. *E.g.*, FTC Press Release, “FTC Charges Real Estate Groups with Anticompetitive Conduct in Limiting Consumers’ Choice in Real Estate Services” (Oct. 12, 2006).

<sup>28</sup> *FTC v. Stewart Finance Company Holdings, Inc.*, No. 03-2648 (N.D. Ga. 2003).

<sup>29</sup> *FTC v. Stewart Finance Company Holdings, Inc.*, No. 03-2648 (N.D. Ga. Jan. 10, 2006) (Stipulated Final Judgment and Order) (note that the FTC does not expect to collect the full amount of its

With respect to automobile leasing, the Commission has worked to halt the practice of omitting or burying key cost information in small and unreadable print in automobile lease advertisements.<sup>30</sup> The Consumer Leasing Act and its implementing Regulation M,<sup>31</sup> which govern lease transactions, require that advertisements for leasing plans that contain specific terms also state clearly and conspicuously certain additional terms of the offer. These terms include, among other things, the fact that the transaction advertised is a lease; the total amount of any payments such as a security deposit required at lease inception; and the number, amount and timing of scheduled payments. The agency's actions have resulted in significant improvements to national advertisements for automobile leases.

### 3. Gift Cards

The Commission also has brought cases against sellers of gift cards that carried concealed fees or expiration dates. Sales of gift cards have exploded in the marketplace in recent years and generated nearly \$28 billion in sales during the 2006 holiday season.<sup>32</sup> Some gift cards, however,

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judgment because the companies filed petitions for bankruptcy relief during the course of the litigation and owe substantial amounts to other creditors).

<sup>30</sup> See *In re R.N. Motors, Inc.*, FTC Docket No. C-3947 (Apr. 27, 2000); *In re Simmons Rockwell Ford Mercury, Inc.*, FTC Docket No. C-3950 (Apr. 27, 2000); *In re Chrysler Corp.*, FTC Docket No. C-3847 (Jan. 4, 1999); *In re Martin Advertising*, FTC Docket No. C-3846 (Jan. 4, 1999); *In re Bommarito Oldsmobile, Inc.*, FTC Docket No. C-3774 (Jan. 5, 1998); *In re Toyota Motor Sales, U.S.A., Inc.*, FTC Docket No. C-3776 (Jan. 5, 1998); *In re Beuckman Ford, Inc.*, FTC Docket No. C-3777 (Jan. 5, 1998); *In re Volkswagen of America, Inc.*, FTC Docket No. C-3778 (Jan. 5, 1998); *In re Suntrup Ford, Inc.*, FTC Docket No. C-3779 (Jan. 5, 1998); *In re Lou Fusz Automotive Network, Inc.*, FTC Docket No. C-3780 (Jan. 5, 1998).

<sup>31</sup> 15 U.S.C. § 1667-1667f; 12 C.F.R. § 213.

<sup>32</sup> Press Release, Nat'l Retail Fed'n, "Gift Card Spending Surpassed Expectations as Last-Minute Shoppers Looked for Quick, Easy Gifts" (Jan. 23, 2007); see also MONTGOMERY COUNTY, MARYLAND, DIVISION OF CONSUMER AFFAIRS, GIFT CARDS 2006: RETAIL CARDS CONTINUE TO IMPROVE (WITH PRODDING); BANK CARDS STILL HAVE PROBLEMS (Nov. 28, 2006), available at <http://www.montgomerycountymd.gov/content/ocp/giftcardreportfinal2006.pdf>; MONTGOMERY COUNTY, MARYLAND, DIVISION OF CONSUMER AFFAIRS, GIFT CARDS 2005: MANY GOOD RETAIL CARDS. ANY GOOD BANK CARDS? (Dec. 1, 2005), available at [http://www.montgomerycountymd.gov/content/ocp/consumer/gift\\_cards\\_report\\_2005.pdf](http://www.montgomerycountymd.gov/content/ocp/consumer/gift_cards_report_2005.pdf).

charged consumers “dormancy” fees – fees imposed against the cards during periods of non-use – or imposed expiration dates without sufficiently informing purchasers of these important limitations. The FTC recently settled separate cases against two such gift card retailers, Kmart Corporation and Darden Restaurants, Inc., alleging that they failed to disclose adequately to consumers the fees associated with their cards.<sup>33</sup> The settlements prohibit Kmart and Darden from marketing cards with dormancy fees or expiration dates without clearly and prominently disclosing their existence on the front of the gift cards, and disclosing certain material terms to consumers at the point of sale prior to purchase. The Commission further mandated that each company adopt a program to reimburse eligible consumers whose cards were previously charged fees.

#### 4. Advance Fee Credit Scams

The FTC has sued fraudulent marketers in over 60 cases since 1998 alleging that they charged advance fees but did not provide consumers with credit as promised.<sup>34</sup> In some cases, the defendants promised credit cards, and in other cases, the defendants promised unsecured loans. The Commission’s Telemarketing Sales Rule (“TSR”) explicitly prohibits telemarketers from requesting or receiving payment of any fee in advance of obtaining credit, if the telemarketer has represented a high likelihood of success in obtaining or arranging the extension

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<sup>33</sup> *In re Kmart Corp.*, FTC File No. 0623088 (Mar. 12, 2007) (proposed order); *In re Darden Restaurants, Inc.*, FTC Docket No. C-4189 (Apr. 3, 2007) (final order).

<sup>34</sup> *E.g.*, *FTC v. Remote Response Corp.*, No. 06-20168 (S.D. Fla. 2006); *FTC v. Centurion Fin. Benefits LLC*, No. 05-5542 (N.D. Ill. 2005); *FTC v. 3RBancorp*, No. 04-7177 (N.D. Ill. 2004); *FTC v. SunSpectrum Commc’ns Org., Inc.*, No. 03-8110 (S.D. Fla. 2003); *FTC v. Platinum Universal, LLC*, No. 03-61987 (S.D. Fla. 2003); *FTC v. Assail, Inc.*, No. 03-007 (W.D. Tex. 2003); *FTC v. Star Credit Servs., Inc.*, No. 02-4500 (E.D.N.Y. 2002); *FTC v. Capital Choice Consumer Credit, Inc.*, No. 02-21050 (S.D. Fla. 2002); *FTC v. Bay Area Business Council, Inc.*, No. 02-5762 (N.D. Ill. 2002); *FTC v. 1st Beneficial Credit Servs. LLC*, No. 02-1591 (N.D. Ohio 2002); *FTC v. Membership Servs., Inc.*, No. 01-1868 (S.D. Cal. 2001); *FTC v. American Consumer Membership Servs.*, No. 99-1206 (N.D.N.Y. 1999).

of credit.<sup>35</sup> The FTC moves expeditiously to stop practices that violate the TSR and the FTC Act and to obtain monetary relief for injured consumers.

## 5. Debt Collection

Protecting consumers from debt collection abuses is another critical part of the Commission's mission. The agency receives more complaints about third-party debt collectors than any other single industry, with nearly 70,000 complaints in 2006. Since 1998, the FTC has brought twenty lawsuits for illegal debt collection practices.<sup>36</sup> In these cases, the Commission has obtained tough permanent injunctive relief, such as banning some defendants from engaging in debt collection. The FTC also has obtained large amounts in monetary relief, including a record \$10.2 million judgment ordered in a recent case.<sup>37</sup>

The FTC continues to focus on preventing debt collectors from harming consumers. Just yesterday, the Commission filed a case under seal against defendants who collected purported debts from Spanish speaking consumers. Since 2006, the defendants often posed as third-party

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<sup>35</sup> 16 C.F.R. § 310.4(a)(4).

<sup>36</sup> *FTC v. Rawlins & Rivera, Inc.*, No. 07-146 (M.D. Fla. 2007); *United States v. Whitewing Fin.*, No. 06-2102 (S.D. Tex. 2006); *FTC v. Check Investors, Inc.*, No. 03-2115 (D.N.J. 2005), *appeal docketed*, Nos. 05-3558, 05-3957 (3rd Cir. Aug. 2, 2005); *United States v. Capital Acquisitions and Mgmt. Corp.*, No. 04-50147 (N.D. Ill. 2004); *FTC v. Capital Acquisitions and Mgmt. Corp.*, No. 04-7781 (N.D. Ill. 2004); *In re Applied Card Sys., Inc.*, FTC Docket No. C-4125 (Oct. 8, 2004); *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003); *FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. 2002); *United States v. DC Credit Servs., Inc.*, No. 02-5115 (C.D. Cal. 2002); *United States v. United Recovery Sys., Inc.*, No. 02-1410 (S.D. Tex. 2002); *United States v. North American Capital Corp.*, No. 00-0600 (W.D.N.Y. 2000); *United States v. National Fin. Sys., Inc.*, No. 99-7874 (E.D.N.Y. 1999); *Perimeter Credit, L.L.C.*, No. 99-0454 (N.D. Ga. 1999); *In re Federated Dep't Stores, Inc.*, FTC Docket No. C-3893 (Aug. 27, 1999); *FTC v. Capital City Mortgage Co.*, No. 98-00237 (D.D.C. 1998); *United States v. Nationwide Credit, Inc.*, No. 98-2920 (N.D. Ga. 1998); *United States v. Lundgren & Assocs., P.C.*, No. 98-1274 (E.D. Cal. 1998); *In re May Dep't Stores Co.*, FTC Docket No. C-3848 (Nov. 2, 1998); *In re General Elec. Capital Corp.*, FTC Docket No. C-3839 (Dec. 23, 1998).

<sup>37</sup> *FTC v. Check Investors, Inc.*, No. 03-2115 (D.N.J. 2005), *appeal docketed*, Nos. 05-3558, 05-3957 (3rd Cir. Aug. 2, 2005).

debt collectors and called consumers who previously purchased or merely inquired about a product and misrepresented that the consumers owed large outstanding amounts relating to that product. The defendants repeatedly called consumers, sometimes posing as attorneys and threatening out-of-state litigation, home foreclosure, and even incarceration. Numerous consumers acquiesced to the defendants' demands. The Commission is seeking injunctive relief, an asset freeze, appointment of a receiver, and consumer redress.

In addition, in February of this year, the Commission charged a collection agency, Rawlins & Rivera, Inc., and its principals with violating federal law by falsely threatening consumers with lawsuits, seizure of property, and arrest, and violating specific FDCPA provisions.<sup>38</sup> The court granted the FTC's request for a preliminary injunction,<sup>39</sup> and the litigation is continuing.

## **6. Credit and Debt Counseling**

The Commission has prosecuted over a dozen companies that allegedly purport to offer debt relief but misrepresent the cost or nature of the relief.<sup>40</sup> In its largest case, the FTC in 2003 sued AmeriDebt, Inc., a purported credit counseling organization. The Commission alleged that AmeriDebt deceived consumers with claims that it was a nonprofit organization that provided

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<sup>38</sup> *FTC v. Rawlins & Rivera, Inc.*, No. 07-146 (M.D. Fla. 2007).

<sup>39</sup> *FTC v. Rawlins & Rivera, Inc.*, No. 07-146 (M.D. Fla. Apr. 6, 2007) (Order Granting Motion for Preliminary Injunction).

<sup>40</sup> *FTC v. Debt-Set*, No. 07-558 (D. Colo. 2007); *FTC v. Select Personnel Mgmt., Inc.*, No. 07-0529 (N.D. Ill. 2007); *FTC v. Dennis Connelly*, No. 06-701 (C.D. Cal. 2006); *FTC v. Express Consolidation*, No. 06-61851 (S.D. Fla. 2006); *US v. Credit Found. of Am.*, No. 06-3654 (C.D. Cal. 2006); *FTC v. Debt Solutions, Inc.*, No. 06-0298 (W.D. Wash. 2006); *FTC v. Debt Mgmt. Found. Servs., Inc.*, No. 04-1674 (M.D. Fla. 2004); *FTC v. Integrated Credit Solutions, Inc.*, No. 06-00806 (M.D. Fla. 2006); *FTC v. National Consumer Council, Inc.*, No. 04-0474 (C.D. Cal. 2004); *FTC v. Better Budget Fin. Servs., Inc.*, No. 04-12326 (D. Mass. 2004); *FTC v. Innovative Sys. Tech., Inc., d/b/a Briggs & Baker*, No. 04-0728 (C.D. Cal. 2004); *FTC v. Jubilee Fin. Servs., Inc.*, No. 02-6468 (C.D. Cal. 2002).

bona fide debt counseling services, when in fact it funneled profits to affiliated for-profit entities and individuals.<sup>41</sup> The Commission also alleged that AmeriDebt deceived customers by claiming that it did not charge an up-front fee, when in fact AmeriDebt kept its clients' first payments as a fee, rather than disbursing the money to their creditors as promised. On the eve of trial, AmeriDebt's founder agreed to a \$35 million settlement.<sup>42</sup>

Similarly, the Commission has acted aggressively against "credit repair" scams, which have long been marketed as a quick and easy method to cleanse individual credit reports of negative information. The FTC has brought over 50 cases since 1998 against actors that allegedly have misrepresented the credit-related services they provide consumers.<sup>43</sup> For example, in February 2006, the Commission, along with federal and state law enforcement partners, announced a crackdown on 20 credit repair organizations.<sup>44</sup> As part of this effort, the FTC charged Bad Credit B Gone, LLC with violating the FTC Act and the CROA by claiming it could improve most consumers' credit reports by removing negative information that was accurate and

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<sup>41</sup> *FTC v. AmeriDebt, Inc.*, No. 03-3317 (D. Md. 2003).

<sup>42</sup> *See FTC v. AmeriDebt, Inc.*, No. 03-3317 (D. Md. Jan. 9, 2006) (Stipulated Final Judgment and Permanent Injunction as to DebtWorks, Inc. and Andris Pukke). Subsequently, the court-appointed receiver determined that primary defendant Andris Pukke had hidden assets from the FTC, and the court entered a judgment requiring him to turn over tens of millions of dollars' worth of additional assets. Because he resisted turning over his assets even after the court found him in contempt of court, the Court ordered his incarceration pending full cooperation, lasting almost a month.

<sup>43</sup> *E.g., FTC v. Sunshine Credit Repair, Inc.*, No. 05-20228 (S.D. Fla. 2005); *FTC v. Service Brokers Assoc., Inc.*, No. 05-60129 (S.D. Fla. 2005); *FTC v. ICR Services, Inc.*, No. 03-5532 (N.D. Ill. 2003); *FTC v. Cliff Cross, individually and d/b/a Build-It-Fast*, No. 99-018 (W.D. Tex. 2001); *FTC v. Patrick R. P.R.K. Enters.*, No. 99-562 (E.D.N.Y. 1999); *United States v. Cornerstone Wealth Corp.*, No. 98-0601 (N.D. Tex. 1998); *United States v. Jack Schrold*, No. 98-6212 (S.D. Fla. 1998); *FTC v. Midwest Mgmt. Assocs., Inc.*, No. 98-1218 (N.D. Ill. 1998).

<sup>44</sup> FTC Press Release, "Project Credit Despair" Snares 20 "Credit Repair" Scammers (Feb. 2, 2006), available at <http://www.ftc.gov/opa/2006/02/badcreditbgone.shtm>.

not obsolete.<sup>45</sup> The court ruled that defendants had violated the law and ordered them to pay more than \$322,000 in equitable monetary relief.<sup>46</sup>

## 7. Credit Reporting

The Commission has pursued an aggressive enforcement program to ensure compliance with the FCRA. The Commission has taken action against violations involving all three of the principal players in the credit reporting system – consumer reporting agencies (CRAs), furnishers of information to the CRAs, and consumer report users. For example, the Commission has brought cases in the past few years against the three major nationwide CRAs, obtaining nearly \$3 million in civil penalties.<sup>47</sup>

The Commission's action last year against ChoicePoint, Inc. is one of the most notable examples of the Commission's enforcement.<sup>48</sup> The FTC lawsuit alleged that ChoicePoint, Inc. violated the Fair Credit Reporting Act and the FTC Act by failing to screen prospective subscribers before selling them sensitive consumer information. Under the terms of a settlement,

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<sup>45</sup> *FTC v. Bad Credit B Gone, LLC*, No. 06-0254 (N.D. Ill. 2006).

<sup>46</sup> *FTC v. Bad Credit B Gone, LLC*, No. 06-0254 (N.D. Ill. Apr. 21, 2006) (Minute Entry Before Judge James F. Holderman: Plaintiff's Motion for Entry of Default Judgment Against Defendants Bad Credit B Gone, LLC and Joseph A. Graziola, III is Granted).

<sup>47</sup> In three such cases, the Commission alleged that Experian, Equifax, and TransUnion failed to maintain adequate personnel to respond to consumer telephone disputes about their credit reports. *FTC v. Equifax Credit Info. Services, Inc.*, No. 00-0087 (N.D. Ga. 2000); *FTC v. Experian Mktg. Info. Solutions, Inc.*, No. 00-0056 (N.D. Tex. 2000); *FTC v. TransUnion LLC*, No. 00-0235 (N.D. Ill. 2000). More recently, the Commission alleged that Equifax had violated its consent decree and obtained another order requiring it to pay \$250,000 in disgorgement. *United States v. Equifax Credit Info. Servs., Inc.*, No. 03-0087 (N.D. Ga. 2003). See also *United States v. Far West Credit, Inc.*, No. 06-00041 (D. Utah 2006) (CRA failed to use reasonable procedures to ensure accuracy).

<sup>48</sup> *United States v. ChoicePoint, Inc.*, No. 06-0198 (N.D. Ga. 2006).

ChoicePoint paid \$10 million in civil penalties and \$5 million in consumer redress.<sup>49</sup>

The Commission also has brought several recent cases against companies that allegedly furnished inaccurate information to CRAs. For example, the FTC alleged that a number of furnishers reported inaccurate dates for delinquent accounts, with the result that the adverse information remained on the consumers' reports for more than the seven-year limit provided under the FCRA.<sup>50</sup> Finally, the Commission has brought numerous cases against credit report users for failing to provide compliant "adverse action" notices to consumers as required by the FCRA. For example, in 2004 the Commission brought actions against two casinos that did not provide notices to job applicants whose employment was denied based in whole or in part on information contained in their credit reports.<sup>51</sup> And the Commission obtained nearly \$1.5 million in combined penalties from Sprint and AT&T to settle charges that they failed to notify certain applicants for telephone service that they took adverse actions based on the consumers' credit reports.<sup>52</sup>

## **B. Consumer Education**

In an effort to empower consumers to avoid harm, the FTC has developed extensive consumer education programs concerning financial services. The Commission has published more than fifty credit-related educational brochures for consumers; topics range from abusive

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<sup>49</sup> *United States v. ChoicePoint, Inc.*, No. 06-0198 (N.D. Ga. Feb. 15, 2006) (Stipulated Final Judgment and Order for Civil Penalties, Permanent Injunction, and Other Equitable Relief).

<sup>50</sup> *FTC v. NCO Group, Inc.*, No. 04-2041 (E.D. Pa. 2004); *United States v. DC Credit Services, Inc.*, No. 02-5115 (C.D. Cal. 2002); *United States v. Performance Capital Mgmt., Inc.*, No. 00-1047 (C.D. Cal. 2000).

<sup>51</sup> *United States v. Imperial Palace, Inc.*, No. 04-0963 (D. Nev. 2004).

<sup>52</sup> *United States v. AT&T Corp.*, No. 04-04411 (D.N.J. 2004); *United States v. Sprint Corp.*, No. 04-00361 (N.D. Fla. 2004).



lending practices to secured credit cards to fair debt collection. The FTC also has educated the public about consumer protection developments, such as the right to obtain free credit reports once per year since 2004-05; over 52 million consumers have obtained their free reports through the new system.

In fiscal year 2006, the FTC distributed more than 4.1 million printed copies of financial education brochures, including identity theft publications, in both English and Spanish; “hits” on the FTC’s Website for the same materials exceeded 6.2 million. And the FTC has focused on educating young people who have limited experience with credit, by conducting outreach on college campuses, at local districts’ college fairs, and in high schools nationwide. Here in the District of Columbia, the Commission works to educate high school students, providing presentations about the responsible use of credit. The FTC continues to participate in the governmental Financial Literacy and Education Commission, contributing its expertise to subcommittees that produced MyMoney.gov and “Taking Ownership of the Future: The National Strategy for Financial Literacy.”<sup>53</sup>

Moreover, the FTC distributes public service announcements and press kits, and Commission officials regularly conduct interviews on credit issues with representatives of local and national radio, television, and print media, in both English and Spanish. The agency also engages in other specialized outreach. For example, last September, in partnership with the Department of Justice’s (“DOJ”) U.S. Trustee Program, the FTC issued its “Consumer Credit Briefcase,” a mini-CD with downloadable publications on credit issues. The FTC sent copies of

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<sup>53</sup> In addition, each April, the FTC participates in Financial Literacy Month. Activities include presentations to students on the importance of responsible credit card use and safeguarding personal information, and exhibits at Financial Literacy Day on Capitol Hill, where agency representatives distribute free consumer education materials.

the CD to more than 300 U.S. Trustee-approved credit counseling organizations to share with clients.

### **C. Research and Policy Development**

The FTC engages in broad-based research and policy development work concerning financial services. Public workshops, in which we examine emerging issues, are valuable tools that we use to assist in policy development. Most recently, we held a public workshop regarding the role of identity authentication in preventing identity theft.<sup>54</sup>

In May 2006, the Commission sponsored a workshop in which government regulators, industry participants, consumer advocates and others explored the consumer protection issues raised by increased availability and use of nontraditional mortgage products.<sup>55</sup> The workshop focused primarily on the benefits and risks of two types of alternative mortgage products: interest-only (“I/O”) hybrid-rate loans<sup>56</sup> and payment option adjustable rate mortgages (“option ARMs”).<sup>57</sup>

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<sup>54</sup> See Public Workshop, Proof Positive: New Directions for ID Authentication, 72 Fed. Reg. 8381 (Feb. 26, 2007); see also <http://www.ftc.gov/bcp/workshops/proofpositive/index.shtml>. The transcript of this workshop is available at the Office of the Secretary to the Commission or at <http://www.ftc.gov/bcp/workshops/proofpositive/index.shtml>. See also Public Workshop, Rebate Debate (Apr. 27, 2007), information available at <http://www.ftc.gov/bcp/workshops/rebatedebate/index.shtml>; Public Workshop, Negative Options: An FTC Workshop Examining Negative Option Marketing (Jan. 25, 2007), information available at <http://www.ftc.gov/bcp/workshops/negativeoption/index.shtml>.

<sup>55</sup> See Protecting Consumers in the New Mortgage Marketplace, 71 Fed. Reg. 15,417 (Mar. 28, 2006); see also <http://www.ftc.gov/bcp/workshops/mortgage/index.html>. The transcript of this workshop is available at the Office of the Secretary to the Commission or at <http://www.ftc.gov/bcp/workshops/mortgage/transcript.pdf>.

<sup>56</sup> I/O loans provide for an initial loan period during which borrowers pay only the interest that is accruing on the loan balance; hybrid-rate I/O loans carry a fixed interest rate and payment for an introductory period, generally one to ten years, and then become variable-rate loans for the remainder of the loan’s term.

<sup>57</sup> Option ARMs generally offer borrowers the following choices about how much they will pay each month during the loan’s introductory period: (1) a minimum payment amount that is smaller

Using information learned at the alternative mortgages workshop, the FTC filed comments with the Federal Reserve Board (“Board”) regarding the “Home Equity Lending Market,”<sup>58</sup> in September 2006.<sup>59</sup> In its comment, the Commission noted that it can be difficult for consumers to obtain and compare information about the costs and terms of different mortgage products. Moreover, for more complex loans – such as nontraditional mortgages – consumers face further challenges in understanding all significant terms and costs. It is therefore critical that consumers obtain all of the relevant information needed to make an informed choice at each stage of the mortgage process. Obtaining this information at the loan closing may be too late for many consumers.<sup>60</sup> In the Commission’s law enforcement experience, even when presented, the mortgage disclosures mandated by TILA and RESPA are complex, difficult to understand, and laden with technical terms.

The Commission has just announced results of a study that confirms the need to improve mortgage disclosures.<sup>61</sup> Various parties have advanced proposals for improvements to federally required mortgage disclosures for many years; specifically, Congress directed the Board and

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than the amount of interest accruing on the principal; (2) the amount of interest accruing on the principal; or (3) the amount of principal and interest due to fully amortize the loan on a 15-year or 30-year payment schedule.

<sup>58</sup> 71 Fed. Reg. 26,513 (May 5, 2006).

<sup>59</sup> FTC, COMMENT TO FEDERAL RESERVE BOARD ON HOME EQUITY LENDING MARKET (Sept. 14, 2006), *available at* <http://www.ftc.gov/os/2006/09/docketop-1253commentfedreservehomeeqlenditextv.pdf>.

<sup>60</sup> For example, in refinancings, consumers receive certain TILA disclosures about the costs and terms of their loans “before” consummation – which usually occurs at closing. *See* 12 C.F.R. §§ 226.17(b), 226.18.

<sup>61</sup> FTC, BUREAU OF ECONOMICS STAFF REPORT, JAMES M. LACKO AND JANIS K. PAPPALARDO, IMPROVING CONSUMER MORTGAGE DISCLOSURES: AN EMPIRICAL ASSESSMENT OF CURRENT AND PROTOTYPE DISCLOSURE FORMS (June 2007).

HUD to simplify and improve disclosures and create a single disclosure form.<sup>62</sup> The Board and HUD provided to Congress formal recommendations for mortgage disclosure reform in 1998.<sup>63</sup>

Building on such prior work, the Commission's Bureau of Economics ("BE") conducted a study of mortgage lending disclosures that examines how consumers search for mortgages, how well consumers understand current mortgage cost disclosures and the terms of their own recently obtained loans, and whether better disclosures could improve consumer understanding of mortgage costs, consumer shopping for mortgage loans, and consumers' ability to avoid deceptive lending practices. The BE research included thirty-six in-depth interviews with recent mortgage customers, and quantitative testing with over 800 mortgage customers to explore their understanding of mortgage costs and terms disclosed in both current forms and a prototype disclosure form developed for the study. Through the study, BE found: (1) the current federally required disclosures fail to convey key mortgage costs to many consumers; (2) better disclosures can significantly improve consumer recognition of mortgage costs; (3) both prime and subprime borrowers failed to understand key loan terms when viewing the current disclosures, and both benefitted from improved disclosures; and (4) improved disclosures provided the greatest benefit for more complex loans, for which both prime and subprime borrowers had the most difficulty understanding loan terms. The study also suggests that, in actual market transactions, subprime borrowers may face even greater difficulties understanding their loan terms than found in the

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<sup>62</sup> Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104-208, 110 Stat. 3009), Section 2101.

<sup>63</sup> Joint Report to the Congress Concerning Reform to the Truth in Lending Act and the Real Estate Settlement Procedures Act (July 1998). Moreover, an earlier BE study addressed mortgage broker compensation disclosures. FTC, BUREAU OF ECONOMICS STAFF REPORT, JAMES M. LACKO AND JANIS K. PAPPALARDO, THE EFFECT OF MORTGAGE BROKER COMPENSATION DISCLOSURES ON CONSUMERS AND COMPETITION: A CONTROLLED EXPERIMENT (Feb. 2004), *available at* <http://www.ftc.gov/os/2004/01/030123mortgagefullrpt.pdf>.

study, and may benefit the most from improved disclosures. The study results are consistent with the FTC's view that consumer testing often is critical in the development and evaluation of consumer disclosures. The Commission would be pleased to work with the Board and HUD as they work on improving mortgage disclosures.

#### **IV. FTC COOPERATION WITH OTHER REGULATORS**

The FTC has coordinated regularly on financial practices matters with federal banking agencies, DOJ, and HUD. The FTC also has engaged in cooperative efforts with many state attorneys general and state banking departments to protect consumers.

##### **A. Joint Law Enforcement Actions**

The Commission historically has sought to work with other federal agencies, and with state law enforcement officials, on law enforcement activities. For instance, working primarily with HUD, the FTC secured the \$40 million settlement with mortgage servicer Fairbanks Capital Corp., discussed above.<sup>64</sup> In the *Fairbanks* case, as well as in other subprime mortgage lending cases, the FTC's cooperation with HUD enabled the agencies to bring strong cases combining allegations under the laws the FTC enforces – the FTC Act and TILA – with allegations under the Real Estate Settlement Procedures Act, which HUD enforces.<sup>65</sup> Moreover, the Commission has led numerous credit-related “sweeps” in which federal and state law enforcers target credit scams and announce cases together to leverage resources and enhance deterrence.<sup>66</sup>

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<sup>64</sup> *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003).

<sup>65</sup> *See United States v. Mercantile Mortgage Co.*, No. 02-5079 (N.D. Ill. 2002); *United States v. Delta Funding*, No. 00-1872 (E.D.N.Y. 2000); *see also United States v. Shawmut Mortgage*, No. 93-02453 (D. Conn. 1993).

<sup>66</sup> *See, e.g.*, FTC Press Release, “Project Credit Despair” Snares 20 “Credit Repair” Scammers (Feb. 2, 2006), available at <http://www.ftc.gov/opa/2006/02/badcreditbgone.shtm>; FTC Press Release, *FTC, States Give “No Credit” to Finance-Related Scams in Latest Joint Law Enforcement*

## **B. Coordination and Training**

A centerpiece of the FTC's law enforcement efforts to combat fraud is the Consumer Sentinel database. The database contains thousands of consumer complaints made directly to the FTC or made to other agency and institutional partners. It is available for use by other law enforcers, about 1700 of which have taken advantage of this resource. Recently the agency has begun discussions with numerous federal and state counterparts (such as the Office of the Comptroller of the Currency ("OCC") and the Conference of State Bank Supervisors) about how to better cooperate in sharing consumer complaints. Because each agency has jurisdiction over different types of entities, it is important that each consumer complaint reach the proper law enforcer. A working group composed of representatives of these various agencies currently is discussing how to improve the sharing of complaints. It also is exploring the possible development of a standard complaint form that could be used to facilitate information sharing among law enforcers.

The Commission and its staff also regularly lend their expertise in consumer protection to other agencies. On a regular basis, for example, Commission staff members speak at training conferences of the Federal Reserve Board and the Federal Deposit Insurance Corporation ("FDIC"), helping to educate examiners and others on the front lines about acts and practices that are unfair and deceptive. In 2006, the Commission held a debt collection workshop, bringing together state regulators and law enforcers to enhance cooperation in cracking down on debt collection abuses. As another example, in 2003 and 2004, the FTC and the American

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*Sweep* (Sept. 5, 2002), available at <http://www.ftc.gov/opa/2002/09/opnocredit.shtm>; FTC Press Release, *FTC Acts to Stop Fraudulent Credit Card Protection Offers* (Sept. 14, 1999), available at <http://www.ftc.gov/opa/1999/09/ccppress.shtm>.

Association of Residential Mortgage Regulators sponsored three law enforcement summits, through which federal, state, and local officials worked together to combat unfair and deceptive practices in the mortgage lending market.

### **C. Coordination on Regulatory and Policy Efforts**

For more than a decade, the FTC has been a member of the Interagency Task Force on Fair Lending, a joint undertaking with HUD, DOJ, and the banking regulatory agencies. The purpose of the task force is to work together to prevent lending discrimination and predatory lending. The Task Force has published a Policy Statement on Lending Discrimination,<sup>67</sup> and meets frequently to discuss fair lending policy and enforcement issues. Task Force members also share information about developments in the law and marketplace and trends in consumer complaints.

The FTC further has worked collaboratively with federal banking agencies to develop and update regulations to reflect statutory and marketplace changes. In the last several years, the agency has worked extensively on joint rulemakings under the Fair and Accurate Credit Transactions Act of 2003 (“FACTA”) and GLB. For example, under FACTA, the FTC has worked jointly with the Board, FDIC, OCC, Office of Thrift Supervision (“OTS”), and National Credit Union Administration to propose guidelines for financial institutions and creditors to identify patterns of activity that indicate possible identity theft.<sup>68</sup>

In addition, the FTC has worked for the past several years with the banking agencies and the Securities and Exchange Commission on an extensive consumer research project aiming to

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<sup>67</sup> See Notice of Approval and Adoption of “Policy Statement on Discrimination in Lending” and Solicitation of Comments Regarding its Application, 59 Fed. Reg. 18,266 (Apr. 15, 1994).

<sup>68</sup> See Joint Notice of Rulemaking, 71 Fed. Reg. 40,786 (July 18, 2006).

develop a model privacy notice for financial institutions that consumers can understand and use. The agencies hired a research firm to do consumer testing to develop a model notice and released a report detailing the research process and the model notice in March 2006.<sup>69</sup> Last fall, Congress enacted a law directing certain federal agencies to propose a model form that financial institutions can use as a legal safe harbor.<sup>70</sup> On March 29, the agencies published a notice of proposed rulemaking, proposing as the model form the privacy notice developed in the consumer research project.<sup>71</sup> The agencies expect to complete the project by the end of 2007.

Moreover, the Commission has provided comments and testimony to the Board regarding various issues relating to mortgage lending.<sup>72</sup> Indeed, the FTC and other federal agencies have collaborated several times to submit joint comments on key financial services issues.<sup>73</sup> The FTC

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<sup>69</sup> See Kleinmann Commc'n Group, Inc., Evolution of a Prototype Financial Privacy Notice, Inc. (Feb. 28, 2006), *available at* <http://www.ftc.gov/opa/2006/03/jointprprivacy.shtm>.

<sup>70</sup> See Financial Services Regulatory Relief Act of 2006, § 728, Pub. L. No. 109-351, 120 Stat. 1966 (Oct. 13, 2006).

<sup>71</sup> Interagency Proposal for Model Privacy Form Under the Gramm-Leach-Bliley Act and Notice of Proposed Rulemaking, 72 Fed. Reg. 14,940 (Mar. 29, 2007), *available at* <http://www.ftc.gov/opa/2007/03/jointrelease.shtm>.

<sup>72</sup> See, e.g., FTC Comment on Federal Reserve Board Notice Regarding the Home Equity Lending Market (Sept. 14, 2006), *available at* <http://www.ftc.gov/os/2006/09/docketop-1253commentfedreservehomeeqlenditextv.pdf>; FTC Comments on Proposed Amendments to Regulation Z, Implementing the Home Ownership and Equity Protection Act (Mar. 9, 2001), <http://www.ftc.gov/be/v010004.shtm>; Prepared Statement of the Federal Trade Commission before the Board of Governors of the Federal Reserve System on Predatory Lending Practices in the Home-Equity Lending Market (Sept. 7, 2000), *available at* <http://www.ftc.gov/os/2000/09/predatorylending.htm>.

<sup>73</sup> See Joint Comment of Dep't of the Treasury ("Treasury"), DOJ, HUD, OTS, OCC, the Small Business Administration ("SBA"), and the Office of Federal Housing Enterprise Oversight Regarding Regulation B (Nov. 29, 1999); Joint Comment of Treasury, DOJ, HUD, OCC, OTS, and SBA on Regulation B (June 2, 1998); Joint Comment of Treasury, DOJ, HUD, OCC, and OTS on Regulation C (June 2, 1998).



has submitted testimony before state legislatures on financial services issues as well.<sup>74</sup>

## V. CONCLUSION

Protecting consumers of financial services from harm is an important and growing priority for the Commission. The FTC will continue to target deceptive and unfair practices by actors in the financial marketplace and currently devotes significant resources and attention to deceptive mortgage advertising, mortgage servicing abuses, fair lending enforcement, unlawful debt collection, deceptive payment card marketing, and unlawful student loan practices.

Law enforcement works best when government officials work together. The Commission therefore is continually improving its coordination with its federal and state law enforcement counterparts. In particular, the agency currently is focusing on ways to more effectively share complaints and other relevant information.

The Commission's financial practices agenda extends beyond law enforcement to encompass research and policy development. Specifically, in light of the numerous and rising yearly complaints we receive about debt collectors, this year the Commission is undertaking a major initiative to examine the changes in that industry and explore their impact on consumers and businesses, including through a debt collection workshop in October 2007.

The Commission will continue to be a strong advocate for consumers on financial services issues. The FTC will implement its active, positive agenda to protect consumers in the financial services marketplace, and it will build on its pre-existing relationships with federal and state regulators. The Commission appreciates your consideration of its views.

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<sup>74</sup> See, e.g., Prepared Statement of the Federal Trade Commission before the California State Assembly Committee on Banking and Finance on Predatory Lending Practices in the Home-Equity Lending Market (Feb. 21, 2001), available at <http://www.ftc.gov/be/v010002.shtm>.