



Office of the Secretary

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

January 27, 2012

Sandra F. Braunstein, Director
Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Ms. Braunstein:

This letter responds to your request for information concerning the Federal Trade Commission's ("Commission" or "FTC") enforcement activities related to compliance with Regulation B (Equal Credit Opportunity); Regulation E (Electronic Fund Transfer); Regulation M (Consumer Leasing); Regulation P (Privacy of Consumer Financial Information); Regulation Z (Truth in Lending); Regulation AA (Unfair or Deceptive Acts or Practices Rule); Regulation CC (Expedited Fund Availability); and Regulation DD (Truth in Savings) (collectively "the Regulations"). You request this information for use in preparing the Federal Reserve Board's 2011 Annual Report to Congress. Specifically, you ask for information concerning the FTC's administration and enforcement of the Regulations, as well as compliance with the Regulations among entities within the FTC's jurisdiction. The Commission is pleased to provide you with this information.¹

I. FTC Role in Administering and Enforcing the Regulations

Your letter asks for information relating to the Commission's administration and enforcement of the Regulations. The FTC does not have enforcement or other authority with regard to Regulations P, AA, CC, and DD. Consequently, in this response the Commission only provides information concerning its activities regarding Regulations B, E, M,² and Z.

¹ A copy of this report is being provided to the Consumer Financial Protection Bureau ("CFPB"), in connection with its responsibility for various aspects of the aforementioned regulations as of July 21, 2011.

² In 2011, the Commission did not initiate any enforcement actions alleging violations of the Consumer Leasing Act ("CLA") and Regulation M. Information regarding other consumer leasing issues is addressed below, *see infra* Part V.

The FTC's primary focus in the financial services area is bringing law enforcement actions against those who violate statutes and regulations (including Regulations B, E, M, and Z).³ In addition to its law enforcement activities, the FTC engages in research and policy development related to the types of financial services these statutes and regulations cover. Finally, the Commission provides the public with numerous business and consumer education materials about these types of financial services to promote business compliance with the law and to help consumers protect themselves from those who do not. This letter provides information regarding some of the FTC's law enforcement, research and policy development, educational, and other activities related to financial services.

Your letter also asks for specific data regarding compliance examinations, including the extent of compliance, number of entities examined, and compliance challenges experienced by entities subject to the FTC's jurisdiction. The Commission does not conduct compliance examinations or collect compliance-related data concerning the non-bank entities within its jurisdiction. As a result, this letter does not provide information on compliance examinations.

II. Regulation B (Equal Credit Opportunity Act)

The FTC enforces the Equal Credit Opportunity Act ("ECOA") and its implementing Regulation B as to most entities other than banks, thrifts, and federal credit unions.⁴

A. Fair Lending: Enforcement Actions

In April 2011, the Commission returned approximately \$1.5 million to Hispanic consumers allegedly injured by the discriminatory practices of Golden Empire Mortgage, Inc.⁵ The refund checks stem from the Commission's previously settled case against the mortgage company and its owner, Howard D. Koostra. The Commission's complaint alleged that the defendants violated ECOA, Regulation B, and the FTC Act by illegally charging Hispanic consumers higher prices for mortgage loans than similarly situated non-Hispanic white consumers where credit characteristics or underwriting risk could not explain these price differences. The order imposed a \$5.5 million judgment that was suspended when the defendants paid \$1.5 million for consumer redress. Among other things, the order also barred defendants from discriminating on the basis of national origin in credit transactions, or otherwise failing to comply with ECOA and Regulation B.

³ The Commission also recently issued a rule regarding mortgage assistance relief services, *see infra* note 20, and a rule regarding mortgage acts and practices, *see infra* note 25.

⁴ The FTC has authority to enforce ECOA and its implementing Regulation B as to entities for which Congress has not committed enforcement to some other government agency. *See* 15 U.S.C. § 1691c(c); *see also infra* Part V.

⁵ *See* FTC, Press Release, *FTC Returns \$1.5 Million to Consumers from Mortgage Lender Charged With Illegally Discriminating Against Hispanic Borrowers*, Apr. 22, 2011, available at <http://www.ftc.gov/opa/2011/04/goldenempire.shtm>. A claims administrator for the FTC mailed over 3,100 checks to consumers.

B. Fair Lending: Consumer and Business Education

The Commission continued its long-standing efforts to educate consumers concerning their rights under the fair lending laws. In 2011, the FTC updated its brochures on “Getting Credit When You’re Over 62,” “Mortgage Discrimination,” and “Prescreened Offers of Credit and Insurance,” so that these materials reflect the current state of the law.⁶ The Commission makes these and other consumer education materials available to the public through the FTC’s website.⁷

III. Regulation E (Electronic Fund Transfer Act)

The FTC enforces the Electronic Fund Transfer Act (“EFTA”) and its implementing Regulation E with regard to most non-bank entities.⁸ In 2011, seven new or ongoing Commission cases involved EFTA and Regulation E issues. The Commission also engaged in research and policy development as well as educational initiatives involving EFTA and Regulation E.

A. Electronic Fund Transfers: Enforcement Actions

Five of the Commission’s cases alleging violations of EFTA and Regulation E arose in the context of negative option plans.⁹ Under such a plan, a consumer agrees to receive various goods or services from a company for a trial period at no charge or at a reduced price. The company also obtains, sometimes through misrepresentations, the consumer’s credit card or debit card number. If the consumer does not cancel before the end of the trial period, the shipments of goods or the provision of services continue, and the consumer incurs recurring charges. EFTA and Regulation E prohibit companies from debiting consumers’ bank accounts on a recurring basis without obtaining proper written authorization for preauthorized electronic fund transfers and without providing the consumer with a copy of the written authorization.

Of the five cases, the Commission filed and litigated two new cases alleging that a company violated EFTA and Regulation E through unauthorized recurrent debiting of bank

⁶ See FTC, GETTING CREDIT WHEN YOU’RE OVER 62, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre09.pdf>; FTC, MORTGAGE DISCRIMINATION: A GUIDE TO UNDERSTANDING YOUR RIGHTS & TAKING ACTION, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea08.shtm>; FTC, PRESCREENED OFFERS OF CREDIT AND INSURANCE, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre17.shtm>.

⁷ See <http://www.ftc.gov/bcp/consumer.shtm>.

⁸ 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); *see also infra* Part V.

⁹ Negative options plans can involve the use of debit cards, credit cards, or both. EFTA and Regulation E apply to debit cards; the Truth in Lending Act and Regulation Z apply to credit cards.

accounts,¹⁰ and settled another of these cases the FTC had filed in 2009.¹¹ Litigation continued in two other such cases that the Commission filed before 2011.¹²

Also in 2011, the Commission continued its litigation of two other cases involving electronic fund transfers. In the first case, the FTC filed a complaint against a payday lender for allegedly violating EFTA and Regulation E by conditioning the extension of credit to consumers on mandatory preauthorized electronic fund transfers.¹³ In the second case, the Commission continued litigation in connection with a 2010 contempt order against Blue Hippo Funding, a consumer electronics retailer, for violating a 2008 court order settling charges that the company had, among other things, violated EFTA and Regulation E by extending credit to consumers and conditioning that credit on mandatory preauthorized transfers. In 2011, the Commission filed and litigated an appeal of the damage award in the 2010 contempt order, seeking over \$14 million to compensate consumers.¹⁴

B. Electronic Fund Transfers: Research and Policy Development

In March 2011, the FTC hosted a week-long International Consumer Protection Forum in an ongoing effort to combat cross-border fraud and promote global consumer protection.¹⁵ Officials from nine Latin American countries participated in the “Consumer University” training session to discuss consumer protection issues, including payment systems, cross-border dispute resolution, and enforcement strategies. Electronic fund transfers were part of these discussions.

¹⁰ In *FTC v. Leanspa, LLC*, No. 3:11-cv-01715 (D. Conn. filed Nov. 7, 2011) (*ex parte* temporary restraining order and asset freeze entered Nov. 14, 2011) (stipulated preliminary injunction order entered Nov. 22, 2011), available at www.ftc.gov/opa/2011/12/leanspa.shtm, the FTC and the State of Connecticut jointly brought this action to stop an operation that allegedly used fake news websites to promote their products with deceptive claims, causing millions of dollars of unauthorized credit and debit card charges. In *FTC v. Willms*, No. 2:11-cv-00828 (W.D. Wash. filed Sept. 2, 2011) (amended complaint) (preliminary injunction entered Sept. 13, 2011), available at <http://www.ftc.gov/opa/2011/09/jessewillms.shtm>, the court entered a preliminary injunction, which applies to all defendants, and an asset freeze, which applies to defendants Jesse Willms and ten companies he controls and directs.

¹¹ *FTC v. Grant Connect, LLC*, 2:09-cv-01349 (D. Nev. Oct. 25, 2011) (\$29.8 million judgment and permanent injunction entered against all defendants except Johnnie Smith and the Vantex defendants), available at <http://www.ftc.gov/opa/2011/11/grantconnect.shtm>. The court earlier entered stipulated final orders and judgments for \$29.9 million (partially suspended) against defendant Johnnie Smith (D. Nev. June 10, 2011) and the Vantex defendants (D. Nev. Sept. 1, 2011).

¹² *FTC v. Johnson*, No. 2:10-cv-02203 (D. Nev. Feb. 10, 2011) (preliminary injunction order entered); *FTC v. Central Coast Nutraceuticals, Inc.*, No. 10C-4931 (N.D. Ill. Sept. 21, 2010) (stipulated preliminary injunction entered).

¹³ *FTC v. Payday Fin., LLC*, No. 11-3017 (D.S.D. Sept. 7, 2011) (stipulated preliminary injunction entered), available at <http://www.ftc.gov/opa/2011/09/payday.shtm>.

¹⁴ *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).

¹⁵ See FTC, Press Release, *FTC Hosts International Consumer Protection Forum*, Mar. 28, 2011, available at <http://www.ftc.gov/opa/2011/03/conuniversity.shtm>.

C. Electronic Fund Transfers: Consumer and Business Education

In February 2011, the FTC issued updated English and Spanish-language versions of its publications on gift cards.¹⁶ The publications provide consumers with advice about using gift cards to pay for goods and services, and include information about the federal gift card rules that took effect in 2010.¹⁷ The Board issued these amendments to Regulation E to implement the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (“Credit CARD Act”).¹⁸ The Credit CARD Act amended EFTA to make it applicable, in part, to store gift cards.

IV. Regulation Z (Truth in Lending Act)

The FTC enforces the Truth in Lending Act (“TILA”) and its implementing Regulation Z with regard to most non-bank entities.¹⁹ In 2011, the Commission engaged in law enforcement, rulemaking, research and policy development, and consumer and business education relating to the topics covered by Regulation Z, including the advertisement, extension, and certain other aspects of consumer credit.

A. Enforcement Actions

During the past year, the Commission continued its law enforcement activities against defendants engaged in forensic mortgage loan audit scams.²⁰ In these scams, mortgage

¹⁶ See FTC, BUYING, GIVING, AND USING GIFT CARDS, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt010.shtm>; see also FTC, COMO COMPRAR, OBSEQUIAR Y UTILIZAR LAS TARJETAS DE REGALO, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/salt010.shtm>.

¹⁷ The Board issued a final rule in March 2010 to restrict the fees and expiration dates that may apply to gift cards, and to require that gift card terms and conditions be clearly stated. See 75 Fed. Reg. 16580 (Apr. 1, 2010), available at <http://www.federalreserve.gov/newsevents/press/bcreg/20100323a.htm>. In October 2010, the Board issued a final rule delaying until January 31, 2011 the effective date for certain disclosure requirements applicable to store gift cards produced before April 1, 2010, provided certain conditions are met. See 75 Fed. Reg. 66644 (Oct. 29, 2010), available at <http://www.federalreserve.gov/newsevents/press/bcreg/20101019b.htm>.

¹⁸ Pub. L. No. 111-24, 123 Stat. 1734 (May 22, 2009).

¹⁹ The FTC has authority to enforce TILA and Regulation Z as to entities for which Congress has not assigned enforcement to some other government agency. 15 U.S.C. § 1607(c); see also *infra* Part V.

²⁰ Forensic mortgage loan audit scams are one type of mortgage assistance relief service scam. The Commission has brought more than 35 cases against 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. 75092 (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 MARS Rule was issued 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. 57252, 57253 (Sept. 20, 2010). The CFPB has

assistance relief providers offer, for a substantial fee, to review, or “audit,” the mortgage documents of distressed homeowners to identify violations of TILA, Regulation Z, and other federal laws. The defendants falsely claim that identifying such violations will give the consumers leverage over their lenders and servicers to persuade them to modify or cancel loans so that consumers can avoid foreclosure.

In October 2011, the Commission permanently shut down two mortgage assistance relief operations run by the Residential Relief Foundation (“Residential Relief”) and related companies. The Commission alleged that these entities failed to provide promised debt relief services, including forensic loan audits. Residential Relief allegedly misrepresented that it was an attorney-based mortgage modification company that would, for a fee, provide homeowners with a forensic audit to uncover law violations – including, for example, those under TILA. To resolve the Commission’s allegations, the firms and their principal owners agreed to a settlement with judgments totaling over \$11 million and a provision banning them from participating in the mortgage assistance relief business.²¹

In a second matter, litigation continued in a case charging The Debt Advocacy Center and related defendants with falsely claiming that, as a result of the forensic loan audits they performed, consumers would obtain completed short sales or loan modifications that would decrease substantially their mortgage payments.²²

In a third matter, beginning in February 2011, a claims administrator for the FTC mailed over 1400 checks to consumers defrauded by Bryan D’Antonio and related companies, operators of a mortgage loan modification and foreclosure rescue service.²³ Among other things, the Commission charged that they falsely represented that they provided forensic analyses of consumers’ mortgages for law violations that the consumers could leverage in negotiations with lenders to obtain modifications of their mortgage terms. The amounts the FTC distributed were

republished the MARS Rule as an interim final rule: Regulation O, 12 C.F.R. Part 1015. *See* 76 Fed. Reg. 78130 (Dec. 16, 2011).

²¹ *FTC v. Residential Relief Found., Inc.*, No. 1:10-cv-03214 (D. Md. Sept. 28, 2011) (two stipulated final orders for permanent injunction entered), *available at* <http://www.ftc.gov/opa/2011/10/resrelief.shtm>. The settlement includes: 1) a judgment of \$509,306 against the Mitigation America defendants in which the court-appointed receiver was directed to liquidate that corporate defendant, the individual defendant was required to pay \$5,000, and the remainder was suspended due to his inability to pay; and 2) a judgment of over \$10.5 million against the Residential Relief defendants in which the court-appointed receiver was directed to liquidate the corporate defendants (and attempt to recover an amount estimated to be \$1 million), the individual defendants agreed to turn over their frozen assets, and the remainder was suspended due to their inability to pay.

²² *FTC v. The Debt Advocacy Center, LLC*, No. 09-cv-2712 (N.D. Ohio filed May 14, 2010) (amended complaint), *available at* <http://www.ftc.gov/opa/2010/11/mortgage.shtm>.

²³ *See* FTC, Press Release, *FTC Mails Redress Checks to Victims of Foreclosure Rescue Scam*, Feb. 28, 2011, *available at* <http://www.ftc.gov/opa/2011/02/medicaldata.shtm>.

from a redress fund that the FTC established to remedy the defendants' violation of a prior court order in an FTC action against Mr. D'Antonio and his former company.²⁴

B. Rulemaking, Research, and Policy Development

Regulation Z sets forth disclosure and other requirements for mortgage advertising. To supplement existing consumer protections and the Commission's and the states' enforcement tools, the FTC issued a new rule in July 2011 that bans deceptive claims about consumer mortgages in advertising or other types of commercial communications, the Mortgage Acts and Practices - Advertising ("MAP") Rule.²⁵ The MAP Rule applies to all entities within the FTC's jurisdiction that advertise mortgages (mortgage lenders, brokers, and servicers; real estate agents and brokers; advertising agencies; home builders; lead generators; rate aggregators; and others). The Rule is designed to protect consumers from deceptive claims about mortgages and to create a level playing field for legitimate businesses to compete in the mortgage marketplace. 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 variability of interest, payments, or other terms of the mortgage; the type of mortgage offered; and the source of an advertisement or other commercial communication. The MAP Rule took effect on August 19, 2011.²⁶

C. Consumer and Business Education

In 2011, the Commission continued its efforts to educate consumers and businesses about issues related to the consumer credit transactions to which Regulation Z applies. The Commission issued updated versions of its publications "Reverse Mortgages," "Buying A New Car," and "Auto Service Contracts."²⁷ Also, the Commission released separate publications to

²⁴ See *FTC v. Data Med. Capital, Inc.*, No. 8:99-cv-01266 (C.D. Cal. Apr. 8, 2010) (\$11.4 million contempt judgment entered), available at <http://www.ftc.gov/os/caselist/x000001/100408dmcjudgment.pdf>.

²⁵ See Mortgage Acts and Practices – Advertising, Final Rule, 76 Fed. Reg. 43826 (July 22, 2011), available at <http://www.ftc.gov/opa/2011/07/mortgageads.shtml>. The vote to issue the Rule was 5-0. Commissioner Ramirez, joined by Chairman Leibowitz and Commissioner Brill, issued a concurring statement addressing communications about mortgages to consumers whose native language is not English, *see id.*, 76 Fed. Reg. at 43846; *see also infra* note 40. Commissioner Rosch issued a response to the concurring statement, *see* 76 Fed. Reg. at 43847. The MAP Rule was issued pursuant to Section 626 of the 2009 Omnibus Appropriations Act, as amended by Section 511 of the Credit CARD Act.

²⁶ 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 the authority to enforce the MAP Rule. *See* 75 Fed. Reg. 57252, 57253 (Sept. 20, 2010). The CFPB has republished the MAP Rule as an interim final rule: Regulation N, 12 C.F.R. Part 1014. *See* 76 Fed. Reg. 78130 (Dec. 16, 2011).

²⁷ *See* FTC, REVERSE MORTGAGES - MONEY MATTERS FROM THE FEDERAL TRADE COMMISSION, available at <http://www.ftc.gov/bcp/edu/microsites/moneymatters/your-home-reverse-mortgages.shtml>; FTC, BUYING A NEW CAR, available at <http://www.ftc.gov/bcp/edu/pubs/consumer/autos/aut11.shtml>; FTC, AUTO SERVICE CONTRACTS, available at <http://www.ftc.gov/bcp/edu/pubs/consumers/autos/aut02.shtml>.

help businesses and lawyers comply with the MARS Rule,²⁸ and it issued a “Facts for Consumers” advisory on mortgage assistance relief scams to help consumers recognize these scams and exercise their rights under the MARS Rule.²⁹ The Commission further issued a “Consumer Alert” to warn consumers about scams offering to reduce interest rates on their credit cards and to remind them of their rights under the Fair Credit Billing Act to dispute any unauthorized charges billed to their credit cards.³⁰

V. Future FTC Activities and the Dodd-Frank Act

A. Dodd-Frank Act and FTC Authority

The Dodd-Frank Act, signed into law on July 21, 2010,³¹ has substantially restructured the financial services law enforcement and regulatory system, including making important changes to ECOA, EFTA, CLA and TILA, and other consumer laws. Many of these changes took effect on the Designated Transfer Date of July 21, 2011,³² the date on which the consumer financial protection functions of the federal banking agencies, as well as certain regulatory functions of the FTC, were transferred to the CFPB.³³

Under the Dodd-Frank Act, the FTC retained its authority to enforce Regulations B, E, M, and Z. In addition, the Dodd-Frank Act gave the Commission the authority to enforce any CFPB rules applicable to entities within the FTC’s jurisdiction, which include most providers of financial services that are not banks, thrifts, and federal credit unions. To implement the Dodd-Frank Act, the Commission and the CFPB entered into a memorandum of understanding to set

²⁸ See FTC, MORTGAGE ASSISTANCE RELIEF SERVICES RULE: A COMPLIANCE GUIDE FOR BUSINESS, *available at* <http://business.ftc.gov/documents/bus76-mortgage-assistance-relief-services-rule>; FTC, MORTGAGE ASSISTANCE RELIEF SERVICES RULE: A COMPLIANCE GUIDE FOR LAWYERS, *available at* <http://business.ftc.gov/documents/bus77-mortgage-assistance-relief-services-rule-lawyers>.

²⁹ See FTC, MORTGAGE ASSISTANCE RELIEF SCAMS: ANOTHER POTENTIAL STRESS FOR HOMEOWNERS IN DISTRESS, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre42.shtm>.

³⁰ See FTC, CREDIT CARD INTEREST RATE REDUCTION SCAMS, *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt178.shtm>.

³¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act” or “Act”), Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010).

³² For example, Section 1100 of the Dodd-Frank Act specified the designated transfer date (which is July 21, 2011, *see supra* notes 20 and 26), as the effective date for raising the TILA and CLA exemption amount for leases and non-mortgage, non-student loan credit from \$25,000 to \$50,000. On Jan. 1, 2012, these figures increase to \$51,800. *Id*; *see also* Consumer Leasing, Final Rule, Staff Commentary, 76 Fed. Reg. 35721 (June 20, 2011), and Truth in Lending, Final Rule, Staff Commentary, 76 Fed. Reg. 35722 (June 20, 2011), both *available at* <http://www.federalreserve.gov/newsevents/press/bcreg/20110613b.htm>.

³³ See 75 Fed. Reg. 57252 (Sept. 20, 2010), *available at* <http://edocket.access.gpo.gov/2010/2010-23487.htm>.

forth a framework for coordinating certain law enforcement, rulemaking, and other activities.³⁴ The Commission is committed to continuing its vigorous enforcement of Regulations B, E, M, and Z, and intends to do the same with any rules the CFPB issues.

B. Payment Cards

The Dodd-Frank Act assigned the FTC new enforcement authority for payment cards through adding new Section 920 to EFTA. Among other things, the provision restricts practices related to debit and credit card transactions.³⁵ For example, this provision addresses business-to-business relationships and interactions between merchants, networks, issuers, and acquirers in the payment card transaction process, and, among other things, restricts certain debit card interchange fees.

In July 2011, the Board issued new final and interim regulations, through new Regulation II, implementing the debit card interchange fee and routing provisions of the Dodd-Frank Act.³⁶ The FTC has responsibility for enforcing the new requirements and regulations for payment card networks and certain other non-bank entities, such as non-federally chartered credit unions. These new rules took effect on October 1, 2011. The Commission released a Business Center publication, in both English and Spanish, announcing these new rules on electronic payments.³⁷ The Commission is continuing to monitor and take appropriate action to promote compliance with these new rules.

C. Motor Vehicles

Section 1029 of the Dodd-Frank Act gave the Commission increased authority over motor vehicle dealers. As of July 21, 2011, the Commission acquired the authority to issue rules prohibiting unfair and deceptive acts and practices in connection with motor vehicle dealers,

³⁴ 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.gov/opa/2012/01/ftccfpb.shtml>; see also Dodd-Frank Act, *supra* note 31, § 1024.

³⁵ Dodd-Frank Act, *supra* note 31, § 1098.

³⁶ See Debit Card Interchange Fees and Routing, Final Rule, 76 Fed. Reg. 43394 (July 20, 2011), and Interim Final Rule, 76 Fed. Reg. 43478 (July 20, 2011), available at <http://www.federalreserve.gov/newsevents/press/bcreg/20110629a.htm>.

³⁷ See FTC, NEW RULES ON ELECTRONIC PAYMENTS LOWER COSTS FOR RETAILERS, available at <http://business.ftc.gov/documents/bus78-new-rules-electronic-payments-lower-costs-retailers>; see also FTC, NUEVAS REGLAS APLICABLES A LOS PAGOS ELECTRONICOS BAJAN LOS COSTOS DE LOS COMERCIANTES MINORISTAS, available at <http://business.ftc.gov/documents/bus78-neuvas-reglas-aplicables-a-ls-pagos-electronicos>.

The publication informs businesses that accept credit or debit card payment about the requirements in the new rules on interchange fees for debit card transactions, minimum dollar amounts for credit card purchases, and the networks available on a debit card for routing transactions. The FTC's "Business Center Blog" also posted a notice about the new rules. "Businesses: New Rules for Electronic Payments Take Effect October 1st," FTC Bureau of Consumer Protection Business Center Blog, <http://www.business.ftc.gov/blog/2011/09/businesses-new-rules-electronic-payments-take-effect-october-1st>.

using the notice and comment rulemaking procedures in Section 553 of the Administrative Procedure Act rather than the more extensive procedures in Section 18 of the FTC Act. In 2011, the FTC conducted outreach activities and held three public roundtables reviewing a wide range of motor vehicle dealer practices to assess possible new initiatives, including whether to use its new rulemaking authority to address those practices.³⁸

The Commission has been coordinating with the Board's staff on automobile finance issues. Under the Dodd-Frank Act, the Board retains rulemaking authority under Regulations B, E, M, and Z, for certain motor vehicle dealers.³⁹ Additionally, as mandated by Section 1029 of the Dodd-Frank Act, the FTC is working with the Board and the CFPB's Office of Service Member Affairs to address motor vehicle issues related to military service members.

D. Mortgage Disclosures

Finally, pursuant to the Dodd-Frank Act, the Commission staff has been coordinating with the CFPB regarding the possible development of a new mortgage shopping form and streamlined mortgage disclosures, including those that may relate to TILA and the Real Estate Settlement Procedures Act.⁴⁰

* * * *

The FTC trusts that the information discussed above responds satisfactorily to your inquiry and will be useful in preparing the Board's Annual Report to Congress. Should you need additional assistance, please contact Jessica Rich, Associate Director, Division of Financial Practices, at (202) 326-3224.

By direction of the Commission.

Donald S. Clark
Secretary

³⁸ The FTC held a series of roundtable events around the country to gather information on consumer protection issues that may arise in the sale, lease, or financing of motor vehicles. The roundtables focused on issues such as dealer-assisted financing of automobiles; the experiences of consumers (including military servicemembers) when buying, selling, and leasing motor vehicles; the role of financial literacy in consumers' understanding of that process; fair lending; and what, if any, initiatives the Commission should consider to address those issues. The Commission also has sought public comment on these issues. *See generally* <http://www.ftc.gov/bcp/workshops/motorvehicles/>.

³⁹ *See* Dodd-Frank Act, *supra* note 31, §§ 1084, 1085, and 1100A.

⁴⁰ *See, e.g.*, Dodd-Frank Act, *supra* note 31, § 1098. In addition, in connection with the Commission's vote to issue the MAP Rule, the Commission notes the concurring statement of Commissioner Ramirez, in which Chairman Leibowitz and Commissioner Brill joined, and the response to the concurring statement by Commissioner Rosch, *see supra* note 25, regarding the issue of making mortgage disclosures understandable to consumers whose native language is not English, including whether those disclosures should be provided to non-English speakers in languages other than English.