

**PREPARED STATEMENT OF  
THE FEDERAL TRADE COMMISSION**

**on**

***“Consumer Credit and Debt:***

***The Role of the Federal Trade Commission in Protecting the Public”***

**Before the**

**HOUSE COMMITTEE ON ENERGY AND COMMERCE  
SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION  
UNITED STATES HOUSE OF REPRESENTATIVES**

**Washington, D.C.  
March 24, 2009**

## **I. Introduction**

Chairman Rush, Ranking Member Radanovich, and members of the Subcommittee, I am Jon Leibowitz, 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 protect consumers from predatory lending practices and other illegal acts and practices relating to financial services.

The Commission protects consumers from harmful acts and practices at every stage of the credit life-cycle, from when credit is first advertised to when debts are collected. At the early stages of the cycle, the FTC protects consumers from the unfair, deceptive, or otherwise unlawful acts and practices of brokers, lenders, and others who advertise or offer credit. The agency also protects consumers at the middle stages of the credit life-cycle from the unlawful conduct of creditors and servicers who collect payments from consumers who are current on their debts. At the later stages of the cycle, the Commission protects consumers who are delinquent or in default on their debts from the unlawful acts and practices of debt collectors, credit repair companies, debt settlement firms, and mortgage foreclosure scam artists.

The FTC believes that its past efforts have provided important protections to American consumers throughout the credit life-cycle. The agency, however, also recognizes that it must do more. To allow the FTC to perform a greater and more effective role in protecting consumers, the Commission recommends that Congress:

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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 are my own, however, and do not necessarily reflect the views of the Commission or any other Commissioner.

- Permit the FTC to employ notice and comment rulemaking procedures to establish rules pursuant to the FTC Act that set forth unfair or deceptive acts and practices relating to all financial services.
- Authorize the FTC to obtain civil penalties for unfair or deceptive acts and practices relating to all financial services and authorize the FTC to bring suit in its own right in federal court to obtain civil penalties.
- Provide additional resources to assist the FTC in increasing its law enforcement activities related to financial services and expanding its critical research on the efficacy of mortgage disclosures and other topics.
- Ensure that, because of the Commission's unequaled and comprehensive focus on consumer protection, its independence from providers of financial services, and its emphasis on vigorous law enforcement, the FTC is considered as it moves forward in determining how to modify federal oversight of consumer financial services.

This testimony will provide an overview of the FTC's consumer protection authority related to financial services, describe how the Commission has used its consumer protection tools on behalf of consumers throughout the credit life-cycle, and recommend changes in the law to enable the FTC to do more to protect consumers. To be effective in doing more to protect consumers, the Commission will need more resources.

## **II. Overview of FTC Authority**

Although many federal agencies have authority over financial services, the FTC is the only federal agency whose sole objective with respect to financial services is to protect consumers. The Commission has law enforcement authority over a wide range of acts and practices related to financial services. The agency enforces Section 5 of the Federal Trade

Commission Act,<sup>2</sup> which prohibits unfair or deceptive acts or practices in or affecting commerce.

The FTC also has the authority to promulgate rules to prohibit deceptive or unfair practices.<sup>3</sup>

The Commission also enforces a number of other consumer protection statutes that govern financial services providers, including the Truth in Lending Act (“TILA”),<sup>4</sup> the Home Ownership and Equity Protection Act (“HOEPA”),<sup>5</sup> the Consumer Leasing Act (“CLA”),<sup>6</sup> the Fair Debt Collection Practices Act (“FDCPA”),<sup>7</sup> the Fair Credit Reporting Act (“FCRA”),<sup>8</sup> the

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<sup>2</sup> 15 U.S.C. § 45(a).

<sup>3</sup> 15 U.S.C. § 57a(a)(1)(B); rulemaking procedures are set forth at 15 U.S.C. § 57a(b). The Commission has used this authority to issue two rules to prevent and prohibit unfair practices concerning consumer credit: the Holder in Due Course Rule, 40 Fed. Reg. 53,506 (Nov. 18, 1975) (codified at 16 C.F.R. § 433), and the Credit Practices Rule, 49 Fed. Reg. 7740 (March 1, 1984) (codified at 16 C.F.R. § 444).

<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 TILA.

<sup>6</sup> 15 U.S.C. §§ 1667-1667f (requiring disclosures, limiting balloon payments, and regulating advertising in connection with consumer lease transactions).

<sup>7</sup> 15 U.S.C. §§ 1692-1692p (prohibiting abusive, deceptive, and unfair debt collection practices by third-party debt collectors).

<sup>8</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).

Equal Credit Opportunity Act (“ECOA”),<sup>9</sup> the Credit Repair Organizations Act (“CROA”),<sup>10</sup> the Electronic Funds Transfer Act (“EFTA”),<sup>11</sup> and the privacy provisions of the Gramm-Leach-Bliley Act (“GLB Act”).<sup>12</sup>

Under the TILA, CLA, ECOA, and EFTA, the Federal Reserve Board (“Federal Reserve”), not the FTC, has the authority to promulgate implementing rules that the FTC enforces for entities within its jurisdiction. Under the GLB Act and the FCRA (including the FACT Act),<sup>13</sup> the FTC has limited authority to promulgate and enforce implementing regulations.<sup>14</sup>

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<sup>9</sup> 15 U.S.C. §§ 1691-1691f (prohibiting creditor practices that discriminate on the basis of race, religion, national origin, sex, marital status, age, receipt of public assistance, and the exercise of certain legal rights).

<sup>10</sup> 15 U.S.C. §§ 1679-1679j (requiring disclosures and establishing other requirements in connection with credit repair organizations, including prohibiting charging fees until services are completed)

<sup>11</sup> 15 U.S.C. §§ 1693-1693r (establishing basic rights and responsibilities of institutions and consumers in connection with electronic fund transfer services).

<sup>12</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>13</sup> Pub. L. No. 108-159, 117 Stat. 1953 (2003).

<sup>14</sup> For a description of the FTC’s activities related to the GLB Act, FCRA, and FACT Act, and the protection of the privacy and security of consumer’s financial information, *see* Prepared Statement of the Federal Trade Commission on Protecting the Privacy of the Social Security Number From Identity Theft before the Subcommittee On Social Security of the Committee On Ways and Means, United States House of Representatives (June 21, 2007), *available at* <http://www.ftc.gov/os/testimony/P065409socsectest.pdf>; Prepared Statement of the Federal Trade Commission on Credit Reports: Consumers’ Ability To Dispute And Change Inaccurate Information before the Committee On Financial Services of the United States House of Representatives (June 19, 2007), *available at*

Although the Commission has broad authority related to financial products and services, many financial service providers are exempt from the FTC's jurisdiction. Banks, thrifts, and federal credit unions are specifically exempt from the Commission's jurisdiction.<sup>15</sup> The FTC's jurisdiction reaches only to non-bank financial companies, including non-bank mortgage companies, mortgage brokers, and finance companies. Similarly, under the FDCPA and CROA, the Commission has jurisdiction over non-bank entities, including debt collectors and credit repair organizations, respectively.<sup>16</sup>

### **III. Existing Role: FTC's Protection of Consumers During the Credit Life-Cycle**

As a law enforcement agency, the FTC brings significant cases, cooperates with other law enforcers, and facilitates industry initiatives with a law enforcement component. In addition to law enforcement, the Commission uses consumer and business education, as well as research and policy development, to protect consumers of financial services. This section discusses the FTC's activities in the various stages of the consumer credit life-cycle.

#### **A. Consumers Seeking Credit**

##### **1. Advertising and Marketing**

The credit life-cycle begins when a consumer initially shops for a mortgage, credit card, auto loan, payday loan, or any other form of credit. The FTC has brought numerous enforcement actions challenging deceptive or illegal marketing by lenders, brokers, or other advertisers of

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<http://www.ftc.gov/os/2007/06/070619credittestimony.pdf>.

<sup>15</sup> See 15 U.S.C. § 45(a)(2).

<sup>16</sup> See 15 U.S.C. § 1692a(4), (6); 15 U.S.C. § 1679b(4).

consumer credit in violation of the FTC Act or the TILA.<sup>17</sup>

In mortgage advertising, the Commission has brought actions against mortgage lenders or brokers for deceptive marketing of loan costs<sup>18</sup> or other 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> Most recently, the Commission announced settlements with three mortgage lenders charged with advertising low interest rates and low monthly payments, but allegedly failing to adequately disclose that the low rates and payment amounts would increase substantially after a limited period of time.<sup>21</sup>

As to credit cards, the Commission has jurisdiction over very few entities that issue credit cards. Banks, savings associations, and credit unions issue the vast majority of credit cards, with national banks alone being responsible for approximately 75% of credit cards issued.<sup>22</sup> The FTC,

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<sup>17</sup> See, e.g., *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); *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. 2000).

<sup>18</sup> See, e.g., *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. 2000).

<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> See, e.g., *In the Matter of American Nationwide Mortgage Company, Inc.*, FTC Dkt. No. C-4249 (Feb. 17, 2009); *In the Matter of Shiva Venture Group, Inc.*, FTC Dkt. No. C-4250 (Feb. 17, 2009); *In the Matter of Michael Gendrolis*, FTC Dkt. No. C-4248 (Feb. 17, 2009).

<sup>22</sup> See Testimony of Julie L. Williams, Chief Counsel and First Senior Deputy Comptroller, Office of the Comptroller of the Currency, Before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services of the U.S. House of Representatives (Apr. 17, 2008) at 1, available at

however, has brought enforcement actions against credit card marketers and advertisers that fall under its jurisdiction. In June 2008, the FTC sued a credit card marketing company, CompuCredit Corporation, for allegedly deceptively marketing its credit cards to subprime consumers nationwide,<sup>23</sup> primarily through solicitations that misrepresented the amount of available credit and failed to adequately disclose the cost of that credit.<sup>24</sup> Last December, CompuCredit agreed to settle this case for an estimated \$114 million in credits as redress to consumers.<sup>25</sup>

Payday loans are another source of consumer credit, and the Commission has taken action to protect consumers from the illegal conduct of payday lenders. Specifically, the FTC has challenged companies for failing to disclose the Annual Percentage Rates (“APR”) for payday loans, which failure makes it harder for consumers to comparison shop for credit. For example, in the last year, the Commission has brought actions against three payday lenders<sup>26</sup> and two

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<http://www.occ.treas.gov/ftp/release/2008-45b.pdf>.

<sup>23</sup> Although the credit cards were issued by various FDIC-regulated banks, CompuCredit created, designed, and distributed the credit card marketing materials that the Commission alleged were deceptive. The Commission worked closely on this case with the FDIC, which brought a parallel action challenging this deceptive conduct.

<sup>24</sup> *FTC v. CompuCredit Corp. and Jefferson Capital Systems, LLC*, No. 1:08-CV-1976-BBM-RGV (N.D. Ga. 2008).

<sup>25</sup> See Press Release, Federal Trade Commission, Subprime Credit Card Marketer to Provide At Least \$114 Million in Consumer Redress to Settle FTC Charges of Deceptive Conduct (Dec. 19, 2008), available at <http://www2.ftc.gov/opa/2008/12/compucredit.shtm>.

<sup>26</sup> *In the Matter of CashPro*, Docket No. C-4220 (Fed. Trade Comm’n June 6, 2008) (final consent order); *In the Matter of American Cash Market, Inc.*, Docket No. C-4221 (Fed. Trade Comm’n June 6, 2008) (final consent order); *In the Matter of Anderson Payday Loans*, Docket No. C-4222 (Fed. Trade Comm’n June 6, 2008) (final consent order), available at



payday loan lead generators.<sup>27</sup>

Similarly, the FTC has taken enforcement actions against payday loan lenders under the FTC Act, the TILA, and Regulation Z.<sup>28</sup> For example, in November 2008, the FTC and the State of Nevada charged ten related Internet payday lenders and their principals, based mainly in the United Kingdom, with violations of federal and state law.<sup>29</sup> The complaint alleged that the defendants called applicants in the United States and told them that they qualified for a loan, typically in an amount around \$200, that would have to be repaid by their next payday, with a fee ranging from \$35 to \$80. The defendants purportedly told consumers that they would receive written disclosures about the loans following the call, but consumers never received them. In addition, the complaint alleged that they failed to disclose in writing to consumers key terms of their loans, including the APR, the payment schedule, the amount financed, the total number of payments, and any late payment fees. This litigation is ongoing.

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<http://www.ftc.gov/opa/2008/02/amercash.shtm>.

<sup>27</sup> *In the Matter of We Give Loans, Inc.*, Docket No. C-4232 (Sept. 5, 2008) (final consent order); *In the Matter of Aliyah Associates, LLC d/b/a American Advance*, Docket No. C-4229 (Sept. 5, 2008) (final consent order), available at <http://www.ftc.gov/opa/2008/06/wegiveloans.shtm>.

<sup>28</sup> The FTC also challenges similar practices in non-payday loan financing cases. For example, the Commission settled charges that BlueHippo Funding, LLC violated, among other things, the FTC Act and the TILA in advertising and offering financing of high-end electronics to consumers with poor credit. *FTC v. BlueHippo Funding, LLC*, No. 1:08-cv-1819 (S.D.N.Y. Apr. 10, 2008) (stipulated permanent injunction entered), available at <http://www2.ftc.gov/opa/2008/02/bluehippo.shtm>. The settlement agreement requires, among other things, that the defendants pay between \$3.5 million and \$5 million for consumer redress.

<sup>29</sup> *FTC and State of Nevada v. Cash Today, Ltd.*, No. 3:08-cv-00590 (D. Nev. Nov. 6, 2008) (complaint filed), available at <http://www1.ftc.gov/opa/2008/11/cashtoday.shtm>.

Finally, as discussed in our recent testimony before this Subcommittee,<sup>30</sup> the Commission has brought law enforcement actions<sup>31</sup> against deceptive advertising of car loans and deceptive lending under its Section 5 authority.<sup>32</sup> The FTC has challenged car manufacturers, dealerships, and advertising agencies that allegedly made bold claims of low costs or terms that omitted or buried key costs, or that misrepresented the terms available to consumers.<sup>33</sup>

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<sup>30</sup> Prepared Statement of the Federal Trade Commission on Consumer Protection In the Used and Subprime Car Market before the House Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection (Mar. 5, 2009), *available at* <http://www.ftc.gov/os/2009/03/P064808usedcarstestimony.pdf>.

<sup>31</sup> In addition to its enforcement work, the Commission creates and distributes consumer education materials to inform consumers about what information to gather when shopping for a used car or for loans on cars and what steps to take to protect themselves regarding debt, including guidance on auto repossessions. *See* Federal Trade Commission, Hurricane Recovery: Automobiles, *available at* [http://www.ftc.gov/bcp/edu/microsites/recovery/hurricane/consumer\\_info.html#auto](http://www.ftc.gov/bcp/edu/microsites/recovery/hurricane/consumer_info.html#auto); Federal Trade Commission, Buying a Used Car (June 2008), *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/autos/aut03.pdf>; Federal Trade Commission, Understanding Vehicle Financing (March 2007), *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/autos/aut04.pdf>. Numerous consumer education publications for consumers are posted on the FTC website on a page labeled “In Debt” and are available in print from a variety of sources. *See* <http://www.ftc.gov/bcp/menus/consumer/credit/debt.shtm>. *See also* Federal Trade Commission, Vehicle Repossession: Understanding the Rules of the Road (Nov. 2008), *available at* <http://www.ftc.gov/bcp/edu/pubs/consumer/autos/aut14.pdf>.

<sup>32</sup> The Commission brought 29 cases challenging deception in the advertising of finance or lease terms for cars between 1990 and 2000. *See* Prepared Statement, *supra* note 30. These cases were resolved by consent agreements.

<sup>33</sup> The Commission has also obtained civil penalties for violations of certain lease or credit advertising orders. *See United States v. Mazda Motor of America, Inc.*, No. SACV- 99-1213 AHS (C.D. Cal. Oct. 7, 1999) (consent decree); *United States v. Suntrup Buick-Pontiac-GMC Truck, Inc.*, No. 4:99CV01746CEJ (E.D. Mo. Nov. 22, 1999) (consent decree).

## 2. Fair Lending

Another significant focus of FTC law enforcement in the mortgage lending area is discrimination.<sup>34</sup> Since the Equal Credit Opportunity Act was enacted, the Commission has brought over three dozen cases alleging that large subprime lenders, major nonmortgage creditors, and smaller finance companies violated that statute.<sup>35</sup> The FTC has challenged the failure to comply with the ECOA's adverse action notice requirement. The Commission also has challenged the failure to comply with record-keeping requirements that help law enforcers determine whether creditors have complied with the law and to take law enforcement action against those who have not.<sup>36</sup>

Most of the FTC's lending discrimination cases in the past have involved the unlawful denial of credit, but recently the FTC's enforcement has focused on discrimination in the pricing

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<sup>34</sup> See Prepared Statement of the Federal Trade Commission on Home Mortgage Disclosure Act Data and FTC Lending Enforcement before House Committee on Financial Services, Subcommittee on Oversight and Investigations (July 25, 2007), *available at* <http://www.ftc.gov/os/testimony/P064806hdma.pdf>. Additionally, for more than a decade, the FTC has been a member of the Interagency Task Force on Fair Lending, a joint undertaking with DOJ, HUD, and the federal banking regulatory agencies. For additional details, see *id.* at 3-4.

<sup>35</sup> Pursuant to ECOA, a violation of ECOA is deemed to be a violation of the FTC Act, and the FTC is authorized to enforce compliance with ECOA as if it were a violation of an FTC Trade Regulation Rule. 15 U.S.C. § 1691c(c) (violations of a trade regulation rule are subject to civil penalties of up to \$16,000 per violation). The FTC Act does not authorize the FTC to collect civil penalties in its own right. Thus, where the Commission seeks civil penalties for alleged ECOA violations, it refers the case to the DOJ, and if DOJ declines to litigate the matter, the FTC may then file an action to obtain civil penalties. In cases where the Commission seeks equitable relief and does not seek civil penalties, it files the case by its own attorneys in federal district court. *See generally*, 15 U.S.C. § 56(a).

<sup>36</sup> For a list of cases, please see Prepared Statement, *supra* note 34, at 9-11.

of mortgage loans. In December 2008, the FTC reached a settlement with Gateway Funding Diversified Mortgage Services, L.P., and its general partner, Gateway Funding Inc. (“Gateway”). The Commission alleged that Gateway violated the ECOA by charging African-American and Hispanic consumers higher prices for mortgage loans than non-Hispanic white consumers. The settlement bars Gateway from discriminatory lending practices and requires it to implement a fair lending training program, a comprehensive data integrity program designed to ensure accuracy and completeness of loan data, and a fair lending monitoring program that includes a system for performing periodic analyses to monitor for disparities in loan prices. The settlement imposed a judgment of \$2.9 million, all but \$200,000 of which was suspended based on inability to pay. The FTC is using this money to redress African-American and Hispanic consumers who were harmed by Gateway’s practices.<sup>37</sup>

## **B. Consumers Repaying on Debts - Mortgage Servicing**

In the mortgage market, servicers collect payments for lenders and other owners of loans. The FTC has challenged deceptive and unfair practices in the servicing of mortgage loans, addressing core issues such as failing to post payments upon receipt, charging unauthorized fees, and engaging in deceptive or abusive collection tactics. For example, in September 2008, the

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<sup>37</sup> The FTC also investigated Homecomings Financial, LLC (“Homecomings”), a wholesale mortgage lender that originated the vast majority of its loans through independent brokers. The FTC staff’s analyses showed that, on average, Homecomings charged African-American and Hispanic borrowers substantially more than similarly-situated non-Hispanic whites, and the price differences could not be explained by any legitimate underwriting or credit characteristics. The FTC staff closed its investigation in January 2009 because Homecomings ceased originating mortgage loans and stated it has no intention of resuming mortgage lending. See <http://www.ftc.gov/os/closings/090122homecomingfinancialclosingletter.pdf>.

FTC settled charges that EMC Mortgage Corporation and its parent, The Bear Stearns Companies, LLC, violated Section 5 of the FTC Act and the FDCPA, among other laws, in servicing consumers' mortgage loans, including debts that were in default when EMC obtained them.<sup>38</sup> The EMC settlement required the defendants to pay \$28 million in consumer redress, and the Commission has sent checks to over 86,000 consumers. The settlement also barred the defendants from future law violations, and imposed new restrictions on their business practices. In particular, it required EMC to establish and maintain a comprehensive data integrity program to ensure the accuracy and completeness of data and other information about consumers' loan accounts before servicing those accounts.

With the downturn in the economy and the increased number of consumers in financial distress, the FTC has increased its efforts to provide mortgage borrowers with tools to protect themselves. For example, the FTC distributes consumer education materials on mortgage servicing, what consumers should do if they are having trouble making mortgage payments, and how consumers can manage their mortgage if their lender closes or files for bankruptcy.<sup>39</sup> The

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<sup>38</sup> *FTC v. EMC Mortgage Corp.*, No. 4:08-cv-338 (E.D. Tex. Sept. 9, 2008). See Press Release, Federal Trade Commission, Bear Stearns and EMC Mortgage to Pay \$28 Million to Settle FTC Charges of Unlawful Mortgage Servicing and Debt Collection Practices (Sept. 9, 2008), available at <http://www2.ftc.gov/opa/2008/09/emc.shtm>. Among other practices, the complaint alleged that the defendants: (1) misrepresented the amounts consumers owed; (2) assessed and collected unauthorized fees; and (3) misrepresented that they had a reasonable basis to substantiate their representations about consumers' mortgage loan debts. The complaint further alleged the defendants made harassing collection calls; falsely represented the character, amount, or legal status of consumers' debts; and used false representations and deceptive means to collect on mortgage loans.

<sup>39</sup> See <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea10.shtm>; <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea04.shtm>;

Commission also uses innovative approaches to reach out to consumers in other ways. This January, the FTC included a bookmark, “Numbers to Know & Places to Go,” with contacts for more information about assistance with financial services, along with the redress checks it distributed as part of the agency’s settlement with EMC.

### **C. Consumers in Financial Distress**

The final stage of the consumer credit life-cycle occurs when consumers are in debt and struggling to make payments. With the recent downturn in the economy, more consumers find themselves in such difficult financial circumstances. The Commission has an active program to protect consumers in financial distress.

#### **1. Debt Collection**

The Commission is the primary governmental enforcer of the FDCPA. The FDCPA prohibits third party debt collectors from engaging in abusive, deceptive, and unfair debt collection practices. Section 5 of the FTC Act also prohibits creditors from engaging in unfair or deceptive acts and practices in collecting their own debts. The FTC receives more complaints about debt collection than any other industry.<sup>40</sup> The consumer complaints describe demands for payments that are not owed or larger than owed, harassment, false threats of legal or other action, impermissible calls to the consumer’s place of employment, revealing debts to third parties, and

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<http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea12.shtm>.

<sup>40</sup> See FEDERAL TRADE COMMISSION ANNUAL REPORT 2009: FAIR DEBT COLLECTION PRACTICES ACT at 4, available at <http://www.ftc.gov/os/2009/02/P094804fdcpareport.pdf>.

other law violations.

Since 1999, the FTC has brought 21 lawsuits for illegal debt collection practices. In these cases, the Commission has obtained strong permanent injunctive and equitable relief, including substantial monetary judgments and bans on some defendants collecting debts.<sup>41</sup> In addition, the FTC has held more individuals who control the companies' practices, rather than just companies, liable for unlawful debt collection practices. For example, in November 2008, Academy Collection Service, Inc., and its owner, Keith Dickstein, agreed to pay \$2.25 million in civil penalties to settle charges that they violated the FDCPA and Section 5 of the FTC Act.<sup>42</sup> This is the largest civil penalty that the Commission has ever obtained in an FDCPA case.

## **2. Mortgage Loan Modification and Foreclosure Rescue Scams**

With the rapid increase in mortgage delinquencies and foreclosures, the FTC has intensified its efforts to protect consumers from mortgage loan modification and foreclosure rescue scams.<sup>43</sup> In a little over a year, the Commission has brought eight cases targeting

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<sup>41</sup> See, e.g., *FTC v. Check Investors, Inc.*, 2005 U.S. Dist. LEXIS 37199 (D.N.J. July 18, 2005) (ban on debt collection and \$10.2 million judgment), *aff'd*, 503 F.3d 159 (3d Cir. 2007), *petition for reh'g denied*, Nos. 05-3558, 05-3957 (3d Cir. Feb. 6, 2008).

<sup>42</sup> *United States v. Acad. Collection Serv., Inc.*, No. 2:08-CV-1576 (D. Nev. Nov. 18, 2008). See Press Release, Federal Trade Commission, Nationwide Debt Collector Will Pay \$2.25 Million to Settle FTC Charges (Nov. 21, 2008), *available at* <http://www.ftc.gov/opa/2008/11/academy.shtm>.

<sup>43</sup> On February 13, 2008, the FTC testified before the Senate Special Committee on Aging about foreclosure rescue fraud. A more comprehensive statement of the Commission's efforts to combat foreclosure rescue fraud is set forth in the FTC's testimony for that hearing, *available at* <http://www.ftc.gov/os/testimony/P064814foreclosure.pdf>.

mortgage foreclosure rescue scams, including two cases the FTC is announcing today.<sup>44</sup> In the cases announced today, the Commission alleges that the defendants misrepresented to delinquent borrowers that they would obtain mortgage loan modifications and prevent foreclosure and that, if unsuccessful, they would provide refunds to consumers. In addition, the defendants allegedly misrepresented that they were part of the legitimate Hope Now Alliance of housing counselors and mortgage servicers - using similar sounding names and representing to consumers that they were part of the Alliance. The court issued temporary restraining orders enjoining the deceptive practices and imposing an asset freeze pending a preliminary injunction hearing. In other cases, the Commission alleged that the defendants promise to stop foreclosure in exchange for an up-front consumer payment, ranging from \$500 to \$1,200. After a consumer makes the payment, the defendants allegedly do little or nothing to stop the foreclosure. Such a fraud not only tricks consumers out of funds desperately needed for expenses but may also lead them to forgo realistic options to avoid foreclosure, such as getting help from a non-profit housing counselor.

In tandem with its law enforcement actions, the Commission recently has initiated a stepped-up outreach initiative on mortgage loan modification and foreclosure rescue fraud. The FTC is involved in federal, state, and local task forces in several regions where foreclosures are

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<sup>44</sup> *FTC v. Hope Now Modifications*, No. 1:09-cv-01204-JBS-JS (D.N.J. filed March 17, 2009); *FTC v. New Hope Property LLC*, No. 1:09-cv-01203-JBS-JS (D.N.J. filed March 17, 2009); *FTC v. National Foreclosure Relief, Inc.*, No. SACV09-117 (C.D. Cal. Feb. 2, 2009); *FTC v. United Home Savers, LLP*, No. 8:08-cv-01735-VMC-TBM (M.D. Fla. Sept. 3, 2008); *FTC v. Foreclosure Solutions, LLC, and Timothy A. Buckley*, No. 1:08-cv-01075 (N.D. Ohio April 28, 2008); *FTC v. Mortgage Foreclosure Solutions, Inc.*, No. 8:08-cv-388-T-23EAJ (M.D. Fla. Feb. 26, 2008); *FTC v. National Hometeam Solutions, Inc.*, No. 4:08-cv-067 (E.D. Tex. Feb. 26, 2008); *FTC v. Safe Harbour Foundation*, No. 08 C 1185 (N.D. Ill. Feb. 25, 2008).



most prevalent both to coordinate enforcement and develop consumer outreach strategies. In addition, to warn consumers about the red flags for scams and inform them about the legitimate resources available to them, the Commission has undertaken a variety of other outreach initiatives. The FTC submitted a series of radio public service announcements, in English and Spanish, to stations in cities hardest hit by mortgage foreclosures. The Commission also distributed an article adapted from its mortgage foreclosure scam consumer education brochure to a national syndicated news service, which in turn, sent it to more than 10,000 community newspapers across the nation for inclusion in their publications.

### **3. Debt Settlement**

With historically high levels of consumer credit card debt, many consumers are looking for ways to manage or reduce their debt. For decades, credit card debt relief was almost exclusively the province of non-profit credit counseling agencies (“CCAs”). Beginning in the mid-1960s, creditor banks initiated the current model of non-profit credit counseling to reduce personal bankruptcy filings. Under this model, CCAs work with consumers and creditors to negotiate a repayment plan of primarily credit card debt (a “debt management plan” or “DMP”) and also assist the consumer in developing a manageable budget and educational tools to avoid debt problems in the future. If the consumer cannot afford a repayment plan, the credit counselor explores other options, including referral to a bankruptcy attorney.

The historic levels of consumer debt necessarily have affected the services CCAs can

provide.<sup>45</sup> The increased demand for debt relief options resulted in the recent growth of *for-profit* debt settlement companies. The term “debt settlement” refers to services for-profit companies market promising to obtain lump sum settlements of consumers’ unsecured debt – primarily, credit card debt. These companies typically promise that they will negotiate with creditors to obtain settlements in amounts less than the full balance owed by the consumer. The for-profit debt settlement business model typically encourages consumers, even those who are current on their payments, to not pay their credit card debt to encourage creditors to accept less than full payment of principal as a form of loss mitigation. Unlike CCAs, debt settlement companies do not consolidate credit card debt or arrange a monthly payment plan to pay off the debt over a period of years. Rather, the goal of debt settlement is to save enough cash, while not paying creditors, so that the creditors will offer to take a fraction of the balance owed as settlement in lieu of the full debt.

Since 2001, the Commission has brought 14 cases against both sham non-profit CCAs and for-profit debt settlement companies.<sup>46</sup> In these cases, defendants allegedly deceive consumers who are seeking workout options for credit card debt into paying large upfront fees for debt relief services which are never provided. Other claims made by these entities include

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<sup>45</sup> See Federal Trade Commission, Debt Settlement Workshop (Sept. 25, 2008), Transcript at 6 (remarks of Lydia B. Parnes, then-Director of the Bureau of Consumer Protection), *available at* [http://www.ftc.gov/bcp/workshops/debt settlement/OfficialTranscript.pdf](http://www.ftc.gov/bcp/workshops/debt%20settlement/OfficialTranscript.pdf).

<sup>46</sup> For a list of cases, see Prepared Statement of the Federal Trade Commission on Consumer Protection and the Credit Crisis before the Senate Committee on Commerce, Science, and Transportation (Feb. 26, 2009), *available at* <http://www.ftc.gov/os/2009/02/P084800creditorcrisis.pdf>.

allegedly deceptive promises that debt collectors will stop trying to collect from consumers enrolled in their programs and that stopping payments to creditors under their programs will not hurt consumers' creditworthiness.

In early February 2009, the Commission brought a contempt action against an alleged sham non-profit credit counseling company and its principal for violations of a 2008 federal court order.<sup>47</sup> The defendants, Express Consolidation and Randall Leshin, misrepresented their non-profit status, charged hidden fees, and misled consumers about the benefits of enrolling in a debt management plan, according to the Commission's underlying action.<sup>48</sup> The 2008 order prohibited them from continuing to engage in their illegal conduct and from operating in states where they were not qualified to do business. Nevertheless, the defendants continued to do business in states where they were unqualified and to collect fees from consumers who had cancelled their debt management plans. On February 17, 2009, the court found the defendants in contempt based on this conduct. The Commission currently is seeking an order reimbursing consumers for any fees collected in violation of the 2008 order.

#### **4. Credit Repair**

Another consumer protection challenge exacerbated by the economic downturn is the effect of delinquencies, bankruptcy, or other negative credit information on consumers' credit reports. Fraudulent credit repair companies falsely promise to be able to remove for a fee

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<sup>47</sup> *FTC v. Randall L. Leshin d/b/a Express Consolidation*, No. 0:06-CV-61851-WJZ (S.D. Fla. 2008).

<sup>48</sup> *FTC v. Express Consolidation*, No. 06-CV-61851 (S.D. Fla. Dec.11, 2006).

accurate, negative information from consumers' credit reports. This false promise may particularly appeal to consumers with poor credit histories who are seeking a job, a car loan, or a mortgage.

The Commission has acted aggressively against such "credit repair" scams. Since 1999, the FTC has brought 42 cases against defendants that allegedly misrepresented the credit-related services they would provide. Most recently, in October 2008, the Commission and 24 state agencies announced a crackdown on 33 credit repair operations – entities that deceptively claimed they could remove negative information from consumers' credit reports, even if that information was accurate and timely.<sup>49</sup> The law enforcement sweep included ten FTC actions charging companies with violating the FTC Act and the CROA by making false and misleading statements, such as claiming they could substantially improve consumers' credit reports by removing accurate, negative information from credit reports. The agency also alleged that the defendants violated the CROA by charging an advance fee for credit repair services. The sweep included 26 state actions alleging violations of state laws and the CROA. Our partnerships with state authorities have increased significantly the reach of the Commission's law enforcement efforts to promote broader compliance with the law.

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<sup>49</sup> See Press Release, FTC's Operation "Clean Sweep" Targets "Credit Repair" Companies, *available at* <http://www.ftc.gov/opa/2008/10/cleansweep.shtm>.

#### **IV. Future Role: Enhancing FTC Consumer Protection Efforts**

##### **A. FTC’s Ongoing Evolution to Protect Consumers More Effectively**

The Commission is evolving to provide enhanced protection for consumers of financial products and services. The FTC recognizes that consumers need more help as soon as possible, especially those who are heavily in debt and in financial distress. The Commission therefore intends to move expeditiously to use newly granted authority to issue rules concerning mortgage loans and to use all of its traditional tools – law enforcement, consumer education, and research and policy development – to protect consumers better.

##### **1. Issuing New Rules**

One challenge that the FTC has confronted in using rulemaking to address consumer protection problems, including those related to financial services, has been the procedural requirements that the FTC Act imposes on such rulemakings. The FTC has been required to use the burdensome and time-consuming procedures of Section 18 of the FTC Act (“Magnuson-Moss procedures”) to promulgate such rules.<sup>50</sup> FTC rulemakings pursuant to Magnuson-Moss procedures typically have required from three to ten years to complete.<sup>51</sup>

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<sup>50</sup> Section 18, for example, includes requirements that the FTC must publish an advance notice of proposed rulemaking and seek public comment before publishing its notice of proposed rulemaking; it must provide an opportunity for a hearing before a presiding officer at which interested persons are accorded certain cross-examination rights; and, where there are numerous interested parties, the FTC must determine which have similar interests, have each group of persons with similar interests choose a representative, and make further determinations about representation for those interests in the cross-examination process. 15 U.S.C. § 57a(b).

<sup>51</sup> For example, the proceeding to promulgate the FTC’s Credit Practices Rule, 16 C.F.R. Part 444, using Magnuson-Moss procedures took almost ten years. In contrast, the proceeding to promulgate the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310, using APA

The 2009 Omnibus Appropriations Act enacted earlier this month directed the Commission to commence within ninety days a rulemaking proceeding to prohibit unfair and deceptive acts and practices with respect to mortgage loans.<sup>52</sup> This new legislation allows the FTC to use the relatively streamlined notice and comment rulemaking procedures under Section 553 of the Administrative Procedure Act (“APA”)<sup>53</sup> in promulgating these rules,<sup>54</sup> rather than Magnuson-Moss procedures. The Commission anticipates that its rulemaking will address mortgage servicing practices and scams involving mortgage loan modification and foreclosure rescue, as well as other mortgage lending issues. As Congress clearly intended when it passed this legislation, any rules that the agency issues would cover only entities that are within the FTC’s jurisdiction.<sup>55</sup> In other words, any such rules would not cover the acts and practices of banks, thrifts, and federal credit unions. The Commission appreciates this new authority and believes that it will be instrumental in increasing the protection that the agency can provide to mortgage borrowers.

The FTC also believes that it could do more to assist consumers if it could use APA notice and comment procedures to promulgate rules for those entities under the Commission’s jurisdiction for unfair and deceptive acts and practices related to financial services other than

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procedures took one year.

<sup>52</sup> See Omnibus Appropriations Act, 2009, Pub. L. 111-8, \_\_\_ Stat. \_\_\_ § 626 (2009 Omnibus Appropriations Act). H.R. 1105 was signed by President Obama on Mar. 11, 2009.

<sup>53</sup> 5 U.S.C. § 553.

<sup>54</sup> Section 626(a) of the 2009 Omnibus Appropriations Act.

<sup>55</sup> 155 Cong. Rec. 52816-52817 (2009).

mortgage loans. The Commission therefore recommends that Congress amend the law to allow the FTC to use APA notice and comment rulemaking procedures to curb unfair acts and practices related to financial services. Doing so would ensure that FTC rulemaking for financial services is consistent with the procedures permitted under recent legislation for mortgage loans and consistent with the rulemaking procedures that most federal agencies use.<sup>56</sup>

## **2. Tough Enforcement of Existing and New Laws**

As an agency with broad jurisdiction, the Commission has the flexibility to focus its law enforcement efforts and shift its resources to combat the most pressing problems that consumers confront. Given the current state of the economy and consumers' financial situation, the FTC has increased its emphasis on protecting consumers who are delinquent or in default on their debts from unlawful acts and practices. The FTC's future law enforcement efforts will continue to focus on protecting consumers in financial distress from illegal harmful practices.

In addition to its new authority to issue and enforce new mortgage rules pursuant to the 2009 Omnibus Appropriations Act, the FTC will soon be able to enforce new mortgage rules that the Federal Reserve Board issued last year. In July 2008, the Federal Reserve Board issued final rules pursuant to TILA and HOEPA that prohibit a variety of unfair, deceptive, and abusive

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<sup>56</sup> For example, *under the FTC Act itself*, the Federal Reserve Board, the Office of Thrift Supervision, and the National Credit Union Administration may use APA notice and comment rulemaking to promulgate such rules for banks, thrifts, and federal credit unions, respectively. *See* 15 U.S.C. § 57a(f). The FTC, by contrast, must use the onerous and time-consuming Magnuson-Moss rulemaking procedures to address the exact same unfair and deceptive acts and practices by financial entities within the Commission's jurisdiction.

home mortgage advertising, lending, appraisal, and servicing practices.<sup>57</sup> As discussed above, the FTC has the authority to enforce rules implementing TILA and HOEPA for non-bank financial companies, such as nonbank mortgage companies, mortgage brokers, and finance companies. The 2009 Omnibus Appropriations Act enhanced the Commission's ability to enforce many of these new rules by providing that a violation of those rules generally shall be treated as a violation of an FTC trade regulation rule,<sup>58</sup> thus allowing the FTC to obtain civil penalties against those within the Commission's jurisdiction who violate these rules. Once the Federal Reserve Board's new TILA and HOEPA rules take effect in October 2009,<sup>59</sup> the Commission will actively enforce them.

Although the Commission's new authority under the 2009 Omnibus Appropriations Act will enhance FTC law enforcement, the FTC believes that it could be even more effective if the law were changed to permit the agency to obtain civil penalties for all unfair and deceptive acts and practices related to financial products and services and to bring suit in federal court in its own right to obtain civil penalties. The FTC does not have the authority to seek civil penalties for violations of some of the laws that it enforces – most notably, the agency cannot obtain penalties against those who engage in unfair or deceptive acts and practices in violation of the

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<sup>57</sup> See Truth in Lending, Final Rule, 73 Fed. Reg. 44,522 (July 30, 2008), *available at* <http://edocket.access.gpo.gov/2008/pdf/E8-16500.pdf>.

<sup>58</sup> Section 626(c) of the 2009 Omnibus Appropriations Act.

<sup>59</sup> The exception is the escrow rule, which is effective on two phased-in dates in 2010.



FTC Act.<sup>60</sup> Equitable monetary remedies, such as redress and disgorgement, may not be appropriate or sufficient in certain cases, and the availability of civil penalties against the wrongdoers would likely achieve greater deterrence. Changing the law to permit the agency to obtain civil penalties for unfair or deceptive acts or practices related to financial services thus would increase deterrence of would-be violators and protect consumers more effectively.<sup>61</sup>

In addition, even if civil penalties are available, the FTC may not bring an action in federal court seeking penalties without first referring it to the Department of Justice (DOJ) to file on behalf of the Commission.<sup>62</sup> Changing the process that is required to obtain penalties where they are available would make FTC law enforcement more effective. Giving the FTC independent litigating authority when it seeks civil penalties would allow the Commission – the agency with the greatest expertise in enforcing the FTC Act – to litigate some of its own civil penalty cases, while retaining the option of referring appropriate matters to DOJ.<sup>63</sup> Conferring

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<sup>60</sup> Currently, the FTC may seek civil penalties against any entity that knowingly violates a trade regulation rule promulgated by the FTC or that violates an FTC cease and desist order. *See* 15 U.S.C. §§ 45(l) and (m)(1)(A). In addition, recognizing the importance of civil penalties, Congress has specifically authorized the FTC to seek civil penalties for violations of certain statutes, *e.g.*, the FDCPA.

<sup>61</sup> If the Commission brings an action in federal court to obtain injunctive relief, the agency should be able to obtain civil penalties in the same action.

<sup>62</sup> 15 U.S.C. § 56.

<sup>63</sup> Other independent federal agencies, such as the Securities and Exchange Commission and the Commodity Futures Trading Commission, are able to maximize the benefits of their own expertise by independently bringing administrative or judicial actions for civil penalties.

this authority on the Commission also would increase efficiency.<sup>64</sup> The Commission therefore believes that the FTC Act should be amended to expand the agency's independent litigating authority to allow the FTC to bring actions for civil penalties in federal court "in its own name by any of its attorneys," without mandating that DOJ have the option to litigate on the FTC's behalf, as is currently required.

### **3. Research and Policy Development**

As is clear from recent experience, markets for financial services are complex and dynamic, changing in response to developments in the economy, technology, the law, and many other factors. To remain an effective protector of and advocate for consumers of financial services, the FTC recognizes that the government must continually increase its knowledge of changing practices, evaluate its efforts, and modify its approach as needed.

The Commission has made the development and testing of disclosures (especially mortgage disclosures) a key priority in its research relating to financial services. Current statutory and regulatory schemes related to financial services include a host of requirements mandating that information be disclosed to consumers. Some have questioned whether these disclosures provide consumers with the information they need to properly understand the

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<sup>64</sup> Currently, if DOJ declines to participate in the name of the United States or otherwise fails to act within 45 days on such a referral, the Commission may file the case in its own name. This process requires extra time and delay, even under the best of circumstances. Moreover, once DOJ accepts a referral, the FTC normally assigns one or more of its staff attorneys, at DOJ's request, to assist in litigating the case. Despite excellent relations and coordination, the use of personnel at two agencies inevitably creates delay and inefficiencies. This is particularly true in cases where the FTC is simply referring to DOJ a civil penalty settlement to be filed in federal court.

products they are purchasing, and suggested that current disclosure requirements are inadequate in light of the advent and expansion of new financial services, such as alternative mortgages.

The Commission has a long history of conducting empirical tests of the efficacy of disclosures in a wide variety of commercial contexts.<sup>65</sup> Most recently, in 2007, the FTC's Bureau of Economics published a seminal research report concluding that the current mortgage disclosure requirements do not work and that alternative disclosures should be considered and tested.<sup>66</sup> (A copy of the prototype mortgage disclosure document that the FTC staff tested is attached to this testimony). As policymakers assess the utility of disclosures for financial services, the FTC has an opportunity to play a pivotal role in the debate. The Commission has the experience needed to conduct reliable studies of disclosures and report the results of these

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<sup>65</sup> For example, the FTC staff released a study showing that broker compensation disclosures that the Department of Housing and Urban Development had proposed confused consumers, leading many of them to choose loans that were more expensive. *See* Federal Trade Commission, Bureau of Economics Staff Report, *The Effect of Mortgage Broker Compensation Disclosures on Consumers and Competition: A Controlled Experiment* (February 2004). Another example is seminal empirical research conducted by FTC staff on rent-to-own transactions, including evaluating consumer disclosure requirements. *See* Federal Trade Commission, Bureau of Economics Staff Report, *Survey of Rent-to-Own Customers* (April 2000).

<sup>66</sup> *See* Federal Trade Commission, Bureau of Economics Staff Report, *Improving Consumer Mortgage Disclosures: An Empirical Assessment of Current and Prototype Disclosure Forms* (June 2007), available at <http://www.ftc.gov/os/2007/06/P025505mortgagedisclosurereport.pdf>. In this empirical study, the FTC staff tested currently required mortgage cost disclosure documents, as well as developed and tested a prototype mortgage cost disclosure document. The FTC staff study concluded that the current document "failed to convey key mortgage costs to many consumers," while the prototype document "significantly improved consumer recognition of mortgage costs, demonstrating that better disclosures are feasible." *Id.* at ES-1 and ES-5. Following up on this research, in 2008 the FTC's Bureau of Economics convened a conference to evaluate how mortgage disclosures could be improved. *See* Federal Trade Commission, "May 15, 2008 Mortgage Disclosure Conference," available at <http://www2.ftc.gov/opa/2008/05/mortgage.shtm>.

studies to policymakers and the public. The FTC intends to focus more attention on and devote more resources to its vital empirical work on how to make disclosures effective so that the agency can foster the development of sound consumer protection policy.

In addition to conducting empirical research, the Commission engages in other policy development to identify and promote effective policies related to financial services. For example, in late 2007, the Commission hosted a two-day workshop, entitled “Collecting Consumer Debts: The Challenges of Change,” to explore changes in the debt collection industry and examine their impact on consumers and businesses since the FDCPA was enacted in 1977. The FTC released its debt collection workshop report last month.<sup>67</sup> The Commission concluded that debt collection law needs reform and modernization to reflect changes in consumer debt, the debt collection industry, and technology. The Report discusses these changes and sets forth the modifications to the law the FTC believes are needed to provide better consumer protection without unduly burdening debt collection.

Among other changes, the Report recommends that Congress amend the FDCPA to allow the FTC to issue implementing rules. The Commission believes that granting the agency such rulemaking authority would help the debt collection regulatory scheme keep pace with changes in technology and industry practices that create a risk of harm to consumers. The FTC hopes that its Report is a catalyst for change in the debt collection regulatory system.

In addition, in September 2008, the Commission convened a public workshop to examine

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<sup>67</sup> Federal Trade Commission, “*Collecting Consumer Debts: The Challenges of Change, A Report by the Federal Trade Commission*,” (Feb, 26, 2009).

the debt settlement industry, including the role of creditors, and the consumer protection issues that the for-profit business model raises. The Commission is considering what initiatives, in addition to continued aggressive enforcement, are needed to further protect consumers from deceptive and unfair practices by purported debt relief companies.

## **B. FTC's Future Role in Consumer Financial Services Regulation**

The Commission recognizes that the government must do more to protect consumers of financial services. Several bills have been introduced and proposals offered under which there would be changes in federal oversight of financial services.<sup>68</sup> There are differences in these bills and proposals, and there are numerous challenging issues that would have to be resolved to implement these concepts.

As these discussions about consumer financial services regulation continue, the Commission urges this Committee and the Congress to consider how best to utilize the Commission's unparalleled expertise in consumer protection. For many decades, consumer protection has been the FTC's central mission. The Commission has extensive experience enforcing consumer credit laws and a wide variety of other consumer protection laws, including working successfully with state law enforcers and regulators. The FTC is recognized as a leader in developing and distributing consumer and business education materials on a wide range of

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<sup>68</sup> See, e.g., Financial Product Safety Commission Act of 2009, S. 566, 111<sup>th</sup> Cong. (1<sup>st</sup> Sess. 2009); Consumer Credit Safety Commission Act of 2008, S. 3629, 110<sup>th</sup> Cong. (2d Sess. 2008); Consumer Credit Safety Commission Act of 2008, H.R. 7258, 110<sup>th</sup> Cong. (2d Sess. 2008); Cong. Oversight Panel, "Special Report on Regulatory Reform: Modernizing the American Financial Regulatory System: Recommendations for Improving Oversight, Protecting Consumers, and Ensuring Stability," (Jan. 2009), at 34; U.S. Department of the Treasury, "Blueprint for a Modernized Financial Regulatory Structure," (Mar. 2008).

financial services topics. The agency has conducted critical research and policy development in the financial services sector, including seminal research on mortgage and other disclosure issues. Because of its unequalled and comprehensive focus on consumer protection, its independence from providers of financial services, and its emphasis on vigorous law enforcement, we ask Congress to ensure that the FTC is considered as it moves forward in determining how to modify federal oversight of consumer financial services.

## **V. Conclusion**

The Commission is committed to protecting consumers throughout the credit life-cycle, especially from the predatory practices that target the many American consumers who struggle with mortgage, credit card, and other debt. The agency has used its traditional consumer protection tools of law enforcement, broad-based research and policy development, and consumer and business outreach to provide important protections for consumers of financial services. However, the Commission must do more. To enable the FTC to perform a greater and more effective role protecting consumers, it recommends changes in the law and resources to enhance its authority to promulgate needed rules, prosecute cases against law violators, and conduct critical research. If given more authority, the Commission certainly will use it to protect consumers.

The Commission appreciates the opportunity to appear before you today to discuss the FTC's work and your consideration of its views on moving forward. We look forward to working with the Committee and this Subcommittee on these critical issues.