



Another Shot Across the Bow for Deceptive Advertising

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Recently, the Consumer Financial Protection Bureau (the "Bureau") and Federal Trade Commission (the "FTC") held a [press conference](#) to announce their coordinated effort to protect consumers from misleading advertising. The Bureau and FTC jointly announced that warning letters were sent to more than 30 companies, including lenders, mortgage brokers, real estate agents, home builders and lead generators, notifying them that their advertisements may have violated the [Mortgage Acts and Practices – Advertising Rule](#) (Regulation N or the "MAP-AD Rule"). Of particular concern, the Bureau noted that many of the potentially misleading advertisements seemed to be directed at military service members, veterans, or older Americans.

Increased Coordination Between the FTC and the Bureau

Earlier this year, the agencies entered into a [Memorandum of Understanding](#) ("MOU"), as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act, to coordinate their efforts to enforce consumer financial laws, avoid duplicative activities, and promote information sharing. The MOU broadly outlines the agencies' agreement to coordinate their actions concerning: 1) supervisory and examination information; 2) law enforcement; 3) rulemaking and agency initiatives; and 4) consumer complaints. The stated goal of the MOU is to protect consumers while ensuring a vibrant marketplace for Consumer Financial Products or Services, to prevent duplication of efforts, and to provide consistency in terms of regulation.

MAP Rule Compliance

With many of its past functions moved to the Bureau, the FTC retained joint enforcement over the MAP-AD Rule. The MAP-AD Rule prohibits material misrepresentations in any commercial communication, including advertising materials and statements, regarding any mortgage credit product. The MAP-AD Rule also contains record keeping requirements for persons subject to the rule. Mortgage advertisers who violate the MAP-AD Rule could be subject to civil penalties, as well as enforcement actions by the Bureau, the FTC or other regulators.

Clear Message to Avoid Implying Company is Connected to the Government in Advertising

If your financial services company is subject to the MAP-AD Rule, the Bureau and FTC make it clear that financial service companies should not confuse consumers by implying an association with a government agency. For example, the Bureau and FTC stated that advertisers should avoid the use



of official looking seals or logos that imply some kind of government status, approval or affiliation. Specifically, the agencies admonished advertisers to avoid using logos, names, or acronyms similar to those used by the United States Department of Housing and Urban Development, Department of Veterans Affairs, Department of Defense or Federal Housing Administration (see also [HUD Mortgagee Letter 2011-17](#)). The agencies further stated that companies should not use the term, "Government Loan Department," in its return address. Financial companies should also not use a web address that includes reference to or uses the initials of a federal agency.

Be diligent in your review of your advertising materials. The Bureau has previously provided guidance for appropriate advertising through Guidance Bulletins (see e.g. [CFPB Bulletin 2012-06](#)), Consent Orders (see e.g. [Stipulation and Consent Order with Capital One Bank](#)), and the Bureau's Supervision and Examination Manual. If you are a mortgage lender, either forward or reverse, take the time to fully understand the requirements of the MAP-AD Rule and also familiarize yourself with the [guidance and mock advertisements provided by the FTC](#).

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