



IDAHO

DEPARTMENT OF FINANCE

C.L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

November 12, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex T)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

RE: Mortgage Acts and Practices – Advertising Rulemaking
Rule No. R011013

Dear Commission Secretary:

The Idaho Department of Finance (Department) appreciates the opportunity to comment on Federal Trade Commission (FTC) proposed rulemaking R011013, Mortgage Acts and Practices – Advertising Rule. The Department is the primary regulator of state-chartered credit unions and banks in the state of Idaho. The Department also regulates Idaho mortgage loan brokers, lenders and originators, collection agencies, payday lenders, title lenders, securities sellers, and escrow companies. The Department applauds the FTC's efforts to reign in abusive mortgage advertising practices. Like consumers in other states, Idaho consumers have been the victims of misleading and deceptive mortgage advertising disseminated by unscrupulous individuals and businesses. To protect Idaho consumers and maintain public confidence in the mortgage industry, the Department has taken enforcement action against those in the mortgage industry who have used misleading and deceptive advertising. The Department has this authority under the Idaho Credit Code, Idaho Code § 28-41-101, *et seq.* Idaho state-chartered credit unions must comply with the Idaho Credit Code.

In its notice of proposed rulemaking, the FTC has requested comment on the question of whether state-chartered credit unions should be excluded from the coverage of the proposed advertising rule. (Notice of Proposed Rulemaking, Rule No. R011013, at pg. 48.) As the primary regulator of state-chartered credit unions in Idaho, the Department strongly believes that the FTC should exclude state-chartered credit unions from coverage by the proposed rule, and respectfully requests consideration of this position.

Others who submitted comments have noted that state-chartered credit unions are currently subject to a broad and comprehensive regulatory framework which prohibits deceptive mortgage advertising. Unlike many individuals and businesses which have been the sources of deceptive mortgage advertising, state-chartered credit unions are heavily regulated and their activities are regularly monitored by their primary regulators. The same is true of depository institutions

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which have a federal agency as a primary regulator. Even though the latter are similarly situated, those institutions are exempt from the coverage by the proposed rule.

We are unaware of any evidence which indicates state-chartered credit unions have been a source of deceptive mortgage advertising. We appreciate the FTC's reference in the notice of proposed rulemaking to enforcement actions it has taken against businesses and industries which have targeted consumers with deceptive mortgage advertising. It does not appear that the FTC has been compelled to bring a deceptive mortgage advertising enforcement action against a credit union.

We respect the FTC's position that the proposed mortgage advertising rules are not inconsistent with existing laws governing the activity. Nevertheless, adding regulatory burden to an industry which has not been the source of the prohibited conduct serves no useful purpose. Doing so would increase the compliance costs incurred by state-chartered credit unions while providing no corresponding benefit to consumers. The action would also result in disparate treatment of state-chartered credit unions as compared to their federally-chartered counterparts. No compelling government interest warrants this result.

I thank you in advance for your consideration of the Department's position on the proposed Mortgage Acts and Practices Advertising Rule.

Sincerely,

Gavin M. Gee, Director
Idaho Department of Finance



cc: National Association of State Credit Union Supervisors
Idaho Credit Union League