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FTC Issues New Rule on Mortgage Scammers

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As the economic crisis continues for many homeowners, the Federal Trade Commission has taken actions to protect homeowners from mortgage relief scams. Most of the new requirements took effect on December 29, 2010, and all of the new requirements can be applied to affiliate marketers, who immediately need to be aware of the rule.

The Mortgage Assistance Relief Services (MARS) Rule was approved by the FTC to protect distressed homeowners from mortgage relief scams. Some companies falsely claim that, for a fee, they will negotiate with a mortgage lender to obtain relief from foreclosure. In the case of bogus operations, this is a scam, and the FTC has brought dozens of cases against them.

The rule prohibits mortgage relief companies from making false or misleading claims, including claims about the likelihood that consumers will gain the relief that they seek, the consumer's payment and other mortgage obligations, and the amount of money the consumer will save by using the company's services. These prohibitions went into effect on December 29 and thus are now effective.

The key aspect of the rule is the prohibition on providers of mortgage foreclosure rescue and loan modification services from collecting fees until homeowners have a written offer from their lender or servicer that they decide is acceptable.

Under the "advance fee ban," mortgage relief companies can't collect any fees until they have given the homeowner a written offer from the lender or servicer on their home loan that the consumer decides is acceptable, as well as a written document from the lender or servicer describing what new aspects would be part of the mortgage if the consumer accepts the offer.

That advance fee ban will be effective later this month, on January 31, 2011.

Under the rule, any entity that provides substantial assistance or support to a mortgage assistance relief provider can be held liable, as long as the entity knows that the provider of assistance is violating the rule. This can easily apply to affiliate marketers, since "substantial assistance" can include lead generation, telemarketing, payment processing, back-end handling of consumer files, and customer referrals, according to the FTC.

So affiliates need to be aware of this rule and not to run afoul of it, even unintentionally.

FTC Beat is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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