

Wiley Consumer Protection Download (September 17, 2024)

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Welcome to Wiley's update on recent developments and what's next in consumer protection at the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC). In this newsletter, we analyze recent regulatory announcements, recap select enforcement actions, and preview upcoming deadlines and events. We also include links to our articles, blogs, and webinars with more analysis in these areas. We understand that keeping on top of the rapidly evolving regulatory landscape is more important than ever for businesses seeking to offer new and groundbreaking technologies. Please reach out if there are other topics you'd like to see us cover or for any additional information.

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Regulatory Announcements

FTC Sends Warning Letters to Adoption Intermediaries About Potentially Misleading Prospective Adoptive Parents.

On **September 10**, the FTC sent warning letters to 31 adoption intermediaries noting that they "may be violating the FTC Act or the Consumer Review Fairness Act." According to the letters, FTC staff "is also concerned that adoption intermediaries may be making claims that fail to disclose information important to consumers." The FTC expressed additional concerns "about representations made to prospective adoptive parents about high placement rates (sometimes

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called 'success rates') and short placement times for completing a successful adoption." According to the agency, before making such a claim, "the adoption intermediary must possess adequate substantiation that its claimed success rate is accurate and its placement time is representative of what prospective adoptive parents achieve." Finally, the FTC noted that some adoption intermediaries may be violating the Consumer Review Fairness Act by including "standardized contract provisions that threaten or penalize people for posting honest reviews."

FTC Sends Annual Letter to CFPB on Debt Collection Activities. On **September 5**, the FTC announced that it had sent its annual letter to the CFPB summarizing its efforts to protect consumers in the debt collection area, as required by the Dodd-Frank Wall Street Reform and the Consumer Protection Act. The letter highlights various FTC actions taken under the Fair Debt Collection Practices Act (FDCPA) and the FTC Act, including: completing two trials against two debt collection providers that the FTC charged with allegedly targeting small businesses with threats about purported debts; preventing a for-profit college from collecting on student loan debt that the FTC alleges resulted from unlawful financing practices; filing complaints against two companies for their subscription-related practices; finalizing the Combating Auto Retail Scams (CARS) Rule (which has been paused pending a litigation challenge) and filing a complaint against a car dealership group for allegedly charging certain fees without disclosure or authorization; and providing FTC Act and FDCPA educational materials, in English and Spanish for consumers and small businesses.

CFPB Issues Annual Report on Debt Collection Focused on Medical and Rental Debts. On **September 5**, the CFPB issued its annual report on debt collection, which highlights allegedly unlawful medical and rental debt collection practices. The CFPB's report found that complaints about medical debt collections comprised 11% of all CFPB collections complaints. Those complaints included allegations that medical debt collectors attempted to collect bills that had been already paid or bills eligible for financial assistance, and pursued patients for bills arising from medical payment products. The CFPB also received 1,700 rental debt complaints from August 2023 to December 2023.

FTC Staff Issues Report on Income Disclosures by MLM Companies. On **September 4**, FTC staff issued a report detailing the findings from a review of income disclosure statements from 70 different multi-level marketing (MLM) companies. The FTC staff's review included publicly available disclosure statements on company websites as of February 2023. FTC staff highlighted a number of issues that staff found with the income disclosure statements, including omitting key information when calculating earning amounts by apparently not including participants with little to no earnings, and displaying information about expenses faced by participants.

FTC Releases Data Showing Increased Consumer Losses from Bitcoin ATM Scams. On **September 3**, the FTC released new data showing a large increase in the amount of money that consumers reported losing to scams involving Bitcoin ATMs. According to the FTC, "Bitcoin ATMs are machines that look like a traditional ATM and are often found at convenience stores, gas stations and other high-traffic areas. Instead of distributing cash, they accept cash in exchange for cryptocurrency." According to the FTC, fraudsters encourage consumers to deposit cash into Bitcoin ATM machines to "protect" their savings, but when consumers scan the Quick Response (QR) code provided by the scammer at the machine, their cash is

deposited into the scammer's account. According to the FTC's new data, reported losses resulting from Bitcoin ATM scams exceeded \$65 million during the first half of 2024. The majority of reported scams result from either government impersonation, business impersonation, or tech support scams.

Select Enforcement Actions

CFPB Sues Card Services Company and Its Owner for Allegedly Deceptive Marketing Practices. On **September 13**, the CFPB filed a complaint in the U.S. District Court for the Western District of Pennsylvania against a card services company and its owner for alleged violations of the Consumer Financial Protection Act, the Truth in Lending Act, and Regulation Z. The CFPB alleges that the company misrepresented how its credit card services could be used and failed to provide consumers quick refunds and easy cancellation methods as advertised. The CFPB seek monetary and injunctive relief.

CFPB Settles with a Student Loan Servicer for Allegedly Deceptive Business Practices. On **September 12**, the CFPB filed a stipulated order in the U.S. District Court for the Middle District of Pennsylvania against a student loan servicer for alleged violations of the Consumer Financial Protection Act, FDCPA, and Fair Credit Reporting Act (FCRA). In the 2017 complaint, the CFPB alleged that the company misapplied loan payments, resulting in erroneous late fees and interest accrual, among other allegations of misrepresenting loan repayment processes. The company agreed to pay a \$20 million civil penalty and \$100 million in redress in addition to injunctive relief.

CFPB Settles with a National Bank for Allegedly Inaccurate Reporting. On **September 11**, the CFPB filed a consent order and stipulation against a national bank for alleged violations of the Consumer Financial Protection Act and the FCRA. The CFPB alleges that the company did not remedy inaccurate credit and account information reported to consumer reports and failed to implement policies to investigate consumer reporting disputes. The company has agreed to pay \$7.76 million in redress and a \$20 million civil penalty in addition to injunctive relief.

Upcoming Comment Deadlines and Events

FTC to Hold September Open Commission Meeting. The FTC will hold a virtual Open Commission Meeting on **September 19 at 11 a.m. (EDT)**. During the meeting, the FTC will hear staff presentations on: (1) findings arising from 6(b) Orders issued in 2020 to study how social media and video streaming services' data practices impact consumers; and (2) the FTC's Final Rule on the Use of Consumer Reviews and Testimonials.

CFPB and Other Agencies Seek Comment on Proposed Rule to Standardize Data Submissions. Comments are due **October 21** on the CFPB's proposed rule seeking comment on establishing data standards "to promote interoperability of financial regulatory data across these agencies." The other participating agencies include the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Federal Housing Finance Agency, Commodity Futures Trading Commission, Securities and Exchange Commission, and the Department of the Treasury. The agencies are proposing the rule as required by the Financial Data Transparency Act of

2022.

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