

The Federal Trade Commission (FTC) recently issued a Final Rule aimed at protecting struggling homeowners from mortgage relief scams. The new rule outlaws advance fees and false claims, while also requiring clear and accurate disclosures from companies providing such services.

The FTC recently announced the Mortgage Assistance Relief Services (MARS) Rule to protect distressed homeowners from mortgage relief scams that have preyed on homeowners during the recent mortgage crisis. Scammers and bogus companies have falsely claimed that, for a fee, they will negotiate with a homeowner's mortgage lender or servicer to obtain a loan modification, short sale, or other foreclosure relief. A number of these operations pretend to either be non-profits or affiliated with the government and government housing assistance programs. Instead of offering relief to distressed homeowners, these bogus operations too often rob homeowners of the remaining equity in their homes or charge an up-front fee yet perform no meaningful service for the homeowner. The MARS Rule seeks to protect homeowners from these unfair and deceptive practices.

The new rule provides as follows:

- Advance fees are prohibited. Mortgage relief companies may not collect any fees until they have provided consumers with a written offer from the lender or mortgage servicer that the consumer decides is acceptable, along with a written document from the lender or servicer describing the key changes to the mortgage loan that would result if the consumer accepts the offer. Mortgage relief companies must also remind consumers of their right to reject the offer without any charge being incurred.
- Mortgage relief companies must disclose that they are not associated with the government and that their services have not been approved by the government or the consumer's lender.
- Companies must inform consumers that the lender may not agree to change the consumer's loan.
- Companies must tell consumers that if they stop paying their mortgage, they could risk losing their home and hurting their credit rating.
- Mortgage relief companies must disclose the amount of any fee they would charge and also must explain in their communications that consumers can stop doing business with the company at any time, can accept or

reject any offer the company obtains from the mortgage lender or servicer, and, if they reject the offer, that they do not have to pay the company's fee.

- Mortgage relief companies are prohibited from making any false or misleading claims about their services, their performance record, the cost of services, and the availability or cost of any alternative services.

The MARS Rule is codified at 16 C.F.R. Part 322. All provisions of the rule except the advance-fee ban became effective December 29, 2010. The advance-fee ban was effective January 31, 2011.