2-34 - Advertising

Several Federal laws govern the advertising of consumer credit. In addition, state regulators may have more strict interpretation.

Mortgage Acts and Practices

"Mortgage Acts and Practices" Rule written by the FTC has been rolled up into the general advertising requirements, and is re-stated within Truth-in-Lending as part of the overall requirements for advertising.

The act does not require the disclosure of lending terms in an advertisement, but an advertisement may not mislead consumers by promoting the most advantageous terms of a loan while failing to mention other terms that are less attractive. For example, an advertisement cannot offer consumers a loan with "low monthly payments" without also stating the number of payments, the interest rate (expressed as an APR), down payment, monthly payments, and other terms related to the cost of the loan. These are referred to as "triggers".

An advertisement – which is "any offer to extend credit" that states in interest rate must also state an "annual percentage rate", using the term "APR". The APR must have the same prominence as the contract interest rate advertised.

Our policy requires that we review all commercial messages, regardless of form or delivery message, against a rubric which we designed to capture all regulatory and ethical requirements.

Unfair, Deceptive and Abusive Acts and Practices (UDAAP)

UDAAP also concerns advertisements, and our targeting and content must work to avoid or eliminate entirely any of the acts and practices which might violate the principles addressed within UDAAP rules.

Advertising Approval Checklist

Originators, marketers and compliance managers must use the Advertising Approval Checklist to approve any form of outgoing commercial message. The approval advertisement must be forwarded to compliance, with a copy of the checklist attached, to make a permanent copy of the message for record-keeping. Digital advertisements must be recorded in digital format. We must retain advertisements, whether digital or paper, in accordance with our general document retention policy.

Advertising Checklist

Type of Ad -Circle: Print, Direct Mail, broadcast media (radio/television), outdoor media (billboards), telephone response machines Indoor signs, corporate website, social media	
OK - N/A	
Company Identification * Must Match License Exactly	
	Company Name
	Address
	Telephone Number
	When possible provide direct link to NMLS website (ie website, social media, electronic media)
	FDIC/Licensing Information (NMLS Company and /or Loan Originator)
Discrimination - Is there discouragement or limit to	
	Racial Group (race, creed, color)
	Ethnic Groups (national origin
	Religious Groups
	Gender (including sexual orientation)
	Age
	Military status
	Marital status or familial status.
	Disability
Fair Housing	
	Related to Housing or Loans for Dwellings
	Equal Housing Lender Logo? Or Statement
Compliance	
	Is the ad misleading or inaccurate?
	Is the word “free” or similar words correctly?
	“Contact an employee for further information about fees and terms” statement
	Is the loan product being advertised directed at consumers for personal, family or household purposes?
	If a rate is stated, is it stated as an "annual percentage rate" using that term?
	If a simple interest rate is also stated, is the corresponding "annual percentage rate" (APR) shown?
	Is any other rate of finance charge used?
Trigger Terms	
	Down payment amount or percentage in seller financing transactions
	Repayment terms for full loan term, including balloon payment
	“Annual percentage rate” or “APR”
	Variable rate disclosure if the rate can increase after close
	Radio/television ads: list the "big four" above or include the annual percentage rate and toll-free number to obtain additional information
Rates	
	Is a simple interest rate is shown AND more than one rate applies over the term of the loan? If so, you need clearly and conspicuously (does not apply to envelope, banner ad or pop-up ad):

	Simple annual rate. If variable, add index and margin (reasonably current) – equal prominence/close proximity to rate that triggered the disclosure
	Period of time each simple annual rate applies– equal prominence/close proximity to rate that triggered the disclosure
	Annual percentage rate– equal or greater prominence/close proximity to rate that triggered the disclosure
Payments	
	Is payment info included? If yes then clearly and conspicuously (N/A for envelope, banner ad or pop-up ad):
	Amount of each payment over the term of the loan. If variable, determine payment by adding index and margin (reasonably current) – equal prominence/close proximity to payment that triggered the disclosure
	Period of time for each payment – equal prominence/close proximity to payment that triggered the disclosure
	Is this a first lien loan? If yes, disclose that payments do not include amounts for taxes and insurance (if applicable) and that the actual payments will be greater
Principal Dwelling	
	Is the ad for a principal dwelling secured loan AND that the loan may exceed the fair market value of the dwelling? If so, need both clearly and conspicuously:
	Interest above the fair market value is not tax deductible for Federal taxes
	Consult a tax advisor for more information
Misleading advertising of fixed rates and payment	
	Is the word “fixed” used in ads for variable rate or stepped rate transactions? If yes:
	Each use of “fixed” has the time period for the fixed rate or payment in equal prominence/close proximity
	Disclose that the rate may vary or payment may increase after the “fixed” period
	If you used the word “fixed” in an ad solely for a variable rate transaction:
	Adjustable rate mortgage, variable rate mortgage, or ARM must appear before “fixed” and be at least as conspicuous
	If you used the word “fixed” in an ad for both a variable rate non-variable rate transaction (e.g., stepped rate):
	Adjustable rate mortgage, variable rate mortgage, or ARM must be with equal prominence as any “fixed” or similar term
	Each use of “fixed” has the time period for the fixed rate or payment in equal prominence/close proximity
Misleading comparisons	
	Are payments or rates advertised for a period less than the full loan term? If yes, you need:
	Rates and Payment information above
	If variable rate, equal prominence/close proximity – subject to change and when the first change will happen
Misrepresentations about government endorsement	
	Does the ad claim that the product is part of a government loan program or similar when that is not true?
	For a dwelling-secured loan, are any of the prohibited acts in the ad?
Misleading use of the current lender’s name	
	Are you using the name of the consumer’s current lender? If so, you need:

	Your (creditor) name with equal prominence
	Clear and conspicuous statement of no relationship with current lender
	Misleading claims of debt elimination. Does the ad claim that the loan will eliminate debt (waiver, forgiveness) with another lender?
	Misleading use of the term counselor. Does the ad use the term “counselor” in referring to anyone offering mortgage loans?
	Misleading foreign language advertisements. Does the ad provide some triggers or required disclosures only in a foreign language and other disclosures only in English?
Reverse Mortgages	
	Counseling required included
HELOCS	
	Is the loan product being advertised directed at consumers for personal, family or household purposes?
	Are any trigger terms used? If yes:
	Certain Finance charges (minimum, fixed, transaction, activity or other fee)
	Periodic rate expressed as an annual percentage rate
	Membership or participation fee
	Is this an ad to finance the purchase of goods or services that states a periodic payment amount? If yes:
	Total of all payments and time period based on the payment amount in equal prominence to the stated payment amount.
Promotional Rates	
	Are promotional rates (introductory rates) used (non home secured)? If so, need these clear and conspicuous in a prominent location closely proximate to first listing of the rate:
	When the promotional rate ends
	The APR that applies after the end of the promotional period
	Period of time promotional rate or payment applies
	Amounts and time periods of payments
	For radio or television can alternatively provide toll free number for consumers to get costs
Deferred Interest	
	Is deferred interest used? If so:
	If “no interest” or similar term is used “if paid in full” also needed before disclosing deferred interest period
	Terms of the deferred interest
	Interest will be charged from the transaction date if not paid in full by end of deferred period
Additional disclosures for a trigger term	
	Any loan fee that is a % of the limit
	Estimate of any other fees for opening the plan ($ amount or range)
	Annual percentage rate
	APR ceiling
	If an initial rate not based on index/margin, need these with equal prominence and in close proximity:
	Time initial rate is in effect
	Reasonably current APR based on index/margin

	If a minimum periodic payment is mentioned AND a balloon payment MAY be possible based on making only the minimum payment, state that fact with equal prominence /close proximity to the payment.
	If a minimum periodic payment is mentioned AND a balloon payment WILL occur based on making only the minimum payment, state that fact with equal prominence/close proximity to the payment amount AND the amount and timing of the balloon payment
Loan Exceeds fair market value of the dwelling	
	Interest above the fair market value is not tax deductible for Federal taxes
	Consult a tax advisor for more information
Misleading Terms	
	Does the ad refrain from using misleading terms such as “free money?”
	Are promotional rates and payments used? If yes you need these, clear and conspicuous, equal prominence, close proximity:

2-34-1 Trigger Terms And Additional Disclosures

Any of the following terms in an advertisement require additional information

If	Then
1. The amount of the down payment, expressed either as a percentage or as a dollar amount. 2. The amount of any payment expressed either as a percentage or as a dollar amount. 3. The number of payments. 4. The period of repayment (the total time required to repay). 5. The amount of any finance charge.	(i) The amount or percentage of the down payment. (ii) The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment. (iii) The “annual percentage rate,” using that term, and, if the rate may be increased after consummation, that fact.

2-34-3 Reporting a Notice of Advertising Related Findings to HUD-FHA

If Company Name receives a notice, sanction or citation relating to its advertising practices, which remains unresolved, from any state or federal regulator, agency (including HUD/FHA or OIG) or investor, Company Name reports that finding as a “Notice of Material Event” to HUD-FHA, through its Quality Control process.

We must continue to report status on such violations as record evolves.