

SEPTEMBER 2023 FREE COMPLIANCE NEWSLETTER

FEDERAL AND STATE REGULATORS RELEASE UPDATES TO THE BSA/AML EXAMINATION MANUAL

Every so often, the regulators will update their examination manuals. The FFIEC has recently made several updates to the BSA/AML exam manual. There is a note in the update that says that *“the updates should not be interpreted as new instructions or increased focus on certain areas; instead, they offer further transparency into the examination process and support risk-focused examination work.”* For those of you that work in BSA, you can find details on the new updates [HERE](#). You can find the full BSA/AML manual [HERE](#).

CFPB SUES USASF SERVICING FOR ILLEGALLY DISABLING VEHICLES AND FOR IMPROPER DOUBLE-BILLING PRACTICES

We do not often include these types of cases that most banks and credit unions would never be involved in, but this one is special. Some of the things this organization was doing, we did not even know could be done. If anything, this is a short and interesting read, but there are a few lessons and takeaway reminders to be learned. The CFPB recently filed suit against USASF Servicing for a host of practices that harmed individuals with auto loans. These practices include wrongfully disabling borrowers’ vehicles, improperly repossessing vehicles, double-billing borrowers for insurance premiums, and failing to return millions of dollars in refunds to consumers. You can read the full complaint [HERE](#). The summary is that the CFPB alleges that USASF:

- **Illegally disabled cars:** Many auto lenders require that cars are installed with devices using GPS technology that allow the lender or servicer to prevent a borrower from starting a car. These devices are known as “kill switches” or “starter interrupters.” USASF incorrectly disabled vehicles at least 7,500 times and caused these devices to play warning tones in vehicles over 71,000 times during periods when the consumer was not in default or was in communication with USASF about upcoming payments. USASF remotely disabled vehicles at least 1,500 times after explicitly promising consumers it would not do so.
- **Failed to refund premiums to consumers:** USASF offered consumers Guaranteed Asset Protection, which covers some of the difference (or gap) between the amount a borrower owes on their auto loan and what the car insurance will pay if the vehicle is stolen, damaged, or totaled. When consumers paid off their loans early or USASF repossessed a car and charged off an account, consumers were entitled to refunds of any Guaranteed Asset Protection premiums paid in advance for periods where they would no longer have coverage. USASF failed to obtain millions of dollars in refunds from the Guaranteed Asset Protection administrator.
- **Double-billed consumers and misapplied payments:** When consumers were enrolled in collateral-protection coverage by a USASF affiliate, they were also charged for that same coverage by USASF. Approximately 34,000 consumers were double-charged for the insurance each billing cycle, in some cases for over a year, costing consumers millions of dollars. USASF also wrongfully applied consumers’ extra loan payments first to late fees or collateral-protection insurance instead of accrued interest. This misapplication of payments caused consumers to pay over a million dollars in interest and fees that they would not have paid if USASF had correctly applied their payments.
- **Wrongfully repossessed vehicles:** USASF illegally repossessed the vehicles of some consumers who never qualified for repossession or had taken action to stop the repossession. In some instances, USASF sold the vehicles that it had wrongfully repossessed.

FAIR LENDING PODCAST

Tory had the pleasure of joining former NCUA Executive Director Mark Treichel on his Podcast *With Flying Colors*. They talked all about fair lending and how any organization can build prevention into their fair lending program. It was a great discussion, and you can listen to the recording on Mark's website [HERE](#). You can also download it wherever you listen to your favorite podcasts. If you are a Fair Lending Expert (FLE) certification holder, you can listen to the podcast and submit it for 1 hour of continuing education credit.

NEW EQUAL HOUSING LENDER POSTERS ARE NOW AVAILABLE

If you are an FDIC-supervised institution, you likely know that the name of Consumer Response Center in Kansas City has changed along with the website to send in consumer complaints. As a result, the Equal Housing Lender posters need to be updated. We have been patiently waiting for the FDIC to make them available, and it sounds like you can now order them through FDICconnect. To see the FDIC's Financial Institution Letter on this, you can find it [HERE](#). To have a direct link to FDICconnect and order the posters, you can click [HERE](#). You will need an FDICconnect account to order them if you do not have one already. As a friendly reminder: §110.25 requires that FHA posters must be 11 inches by 14 inches. If you print them on standard printer paper (8.5 X 11), they will not meet regulatory requirements.

CFPB PENALIZES FREEDOM MORTGAGE AND REALTY CONNECT FOR ILLEGAL KICKBACKS

The CFPB took action against Freedom Mortgage Corporation (Freedom) for providing illegal incentives to real estate brokers and agents in exchange for mortgage loan referrals. Freedom provided real estate agents and brokers with numerous incentives — including cash payments, paid subscription services, and catered parties — with the understanding they would refer prospective homebuyers to Freedom for mortgage loans. This conduct violated RESPA and its implementing Regulation X. The CFPB is ordering Freedom to cease its illegal activities and pay \$1.75 million into the CFPB's victim relief fund. The CFPB separately issued an order against a real estate brokerage firm, Realty Connect USA Long Island for accepting numerous illegal kickbacks from Freedom. Realty Connect will pay a \$200,000 penalty and cease its unlawful conduct.

The specific violations include:

- Paying referrals through illegal marketing service agreements
- Offering premium subscription services free of charge
- Hosting and subsidizing events and providing gifts.

You can read the order against Freedom [HERE](#) and the order against Realty Connect [HERE](#).

AGENCIES TO HOST ROUNDTABLE ON SPECIAL PURPOSE CREDIT PROGRAMS

Four federal agencies will host a roundtable discussion September 12, 2023, at 3:00 p.m. EDT regarding the availability of special purpose credit programs (SPCP) to help meet the credit needs of eligible individuals. The event will be open to the public via livestream. HUD, OCC, CFPB, and the Federal Housing Finance Agency will all be making comments at the event. Information about how to participate via livestream is available [HERE](#). It does not appear that you need to sign up in advance. You may need to set a calendar reminder and go to the webpage at the time of the event.