

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

To protect distressed homeowners from mortgage relief scams that have sprung up in recent years, the Federal Trade Commission (FTC) published the Mortgage Assistance Relief Services (MARS) final rule on December 1, 2010. The rule is now in effect. The rule had impacted real estate professionals who represent clients involved in a short sale transactions.

I am a real estate professional. What does this mean for my business?

While the intent of the MARS rule is to protect distressed homeowners from mortgage relief scams, it is written so broadly that it also required real estate brokers and agents acting in their licensed capacity to comply when they negotiate with the lender on the terms of a short sale.

NAR and the FTC discussed the difficulty real estate brokers and agents have in complying with the literal requirements of the MARS rule since it was not drafted with a real estate sales transaction in mind. On July 15, 2011, The Federal Trade Commission (FTC) announced that it will forbear from enforcing most provisions of its Mortgage Assistance Relief Services (MARS) Rule against real estate professionals who assist financially distressed consumers in obtaining short sales from their lenders or servicers.

NAR Policy:

NAR broadly supports efforts to ensure that MARS services truly benefit consumers but noted that the disclosure language required by the rule does not make sense in a real estate brokerage context. NAR asked the FTC to amend the rule or provide additional guidance for when a real estate broker is representing a consumer in a short sale transaction.

For more information, please visit [NAR's Mortgage Assistance Relief Services page](#).

Opposition Arguments:

Some believe that real estate agents and brokers do provide mortgage assistance relief counseling and, therefore, should be covered by the disclosure requirements under the MARS rule. NAR has convinced FTC (and now CFPB) that real estate professionals in the normal course of work on real estate transactions are not offering mortgage assistance relief services.

Legislative/Regulatory Status/Outlook

NAR discussed with the FTC the difficulty real estate brokers and agents have in complying with the literal requirements of the MARS rule since it was not drafted with a real estate sales transaction in mind. On July 15, 2011, The FTC announced that it will forbear from enforcing most provisions of its MARS Rule against real estate professionals who assist consumers in obtaining short sales from their lenders or servicers.

The FTC's forbearance should have the effect of resolving this issue for real estate professionals who are acting in their licensed capacity. While the Consumer Financial Protection Bureau and state attorney generals can still enforce the Rule as written, both groups are expected to follow the FTC's lead. NAR will continue to work on obtaining a complete resolution of this issue.

Current Legislation/Regulation (bill number or regulation)

[Federal Register Vol. 75, No. 230 Pg 75092](#)

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