

NAR Issue Summary

Business / Federal Trade Commission Regulations

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

The Federal Trade Commission (FTC) has issued a final rule that may impact real estate professionals who represent clients involved in a short sale transaction. Depending on specified factors, the rules may require real estate professionals to make certain disclosures to consumers if they negotiate a short sale with a lender, advertise short sales experience, or take up-front fees from short sale sellers. The MARS rules are now in effect.

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

The MARS rule covers short sale negotiations, so many real estate professionals acting in their licensed capacity will need to comply with these rules. FTC staff has determined that “negotiate” includes communications with a lender about the possibility of a short sale transaction involving a consumer’s mortgage loan.

NAR Policy:

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

Opposition Arguments:

N/A.

Legislative/Regulatory Status/Outlook

NAR has 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. NAR expects the FTC to issue guidance expected to result in flexibility.

Current Legislation/Regulation (bill number or regulation)

The Federal Trade Commission (FTC) has issued a final rule on MARS, which is now in effect.

Legislative Contact(s):

Melanie Wyne, mwyne@realtors.org, 202-383-1234

NAR Issue Summary

Business / Federal Trade Commission Regulations

Daniel Blair, dblair@realtors.org, 202-383-1089

Regulatory Contact(s):

Melanie Wyne, mwyne@realtors.org, 202-383-1234