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CFPB Takes Action Against NewDay Financial for Deceptive Mortgage Advertising and Kickbacks

Lender to Pay $2 Million Civil Penalty for Illegal Conduct

WASHINGTON, D.C. — Today, the Consumer Financial Protection Bureau (CFPB) took action against NewDay Financial, LLC for deceptive mortgage advertising and kickbacks. NewDay deceived consumers about a veterans' organization's endorsement of NewDay products and participated in a scheme to pay kickbacks for customer referrals. NewDay will pay a $2 million civil money penalty for its actions.

"NewDay profited from the trust that veterans place in their veteran service organization," said CFPB Director Richard Cordray. "Veterans, and any consumers getting a mortgage, deserve honest information about lender endorsements."

NewDay is a Maryland-based, nonbank mortgage lender owned by Chrysalis Holdings, a private company. Its primary business is originating refinance mortgage loans guaranteed by the Veterans Benefits Administration. These loans are available exclusively to servicemembers, veterans, and their surviving spouses. NewDay mainly advertises its mortgage products to consumers through direct mail campaigns. Between July 2011 and July 2014, NewDay sent consumers over 50 million mortgage solicitations by postal and electronic mail.

Beginning in 2010, NewDay entered into a marketing arrangement with a veterans' organization. The arrangement was facilitated by a broker company. As part of that agreement, NewDay paid "lead generation fees" to the veterans' organization and the broker company. NewDay also paid a $15,000 monthly licensing fee to the broker company. As part of this arrangement, NewDay was named the "exclusive lender" of the veterans' organization.

In targeted marketing to members of this veterans' organization, NewDay stated that this title was based on its high standards for service and excellent value. At no point did NewDay disclose to consumers that the veterans' organization had a financial relationship with NewDay. Under the circumstances, this failure to disclose the relationship constituted a deceptive act or practice, which violates the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

The direct mail that NewDay sent contained a recommendation from the veterans' organization to its members. The recommendation urged members to use NewDay's products, which, together with other telephone and web-based referral activities, constituted a referral of settlement service business. NewDay's payments to the veterans' organization and the coordinating company for these referral activities constituted illegal kickbacks in violation of the Real Estate Settlement Procedures Act (RESPA).

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Enforcement Action

Under the Dodd-Frank Act, the CFPB has the authority to take action against institutions violating federal consumer financial laws, including by engaging in unfair, deceptive, or abusive acts or practices. NewDay is ending its relationship with the veterans' organization and the broker company. The CFPB's order requires that NewDay:

- **End deceptive marketing:** NewDay may not engage in deceptive marketing related to mortgage credit products and may not assist others in making misrepresentations.
- **Cease deceptive endorsement relationships:** NewDay may not enter into any business relationship that would involve third-party endorsements inconsistent with the Federal Trade Commission's (FTC) guidance on endorsements and any subsequent guidance issued by the FTC or the Bureau concerning endorsements.
- **End kickbacks:** The consent order requires that NewDay fully comply with the law and make no payments for referrals.
- **Pay $2 million in civil penalties:** For its conduct, NewDay will make a $2 million penalty payment to the CFPB's Civil Penalty Fund.

The full text of the CFPB's Consent Order is available at: http://files.consumerfinance.gov/f/201502_cfpb_consent-order_newday-financial.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.

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