Consumer Federation of America

NCLC NATIONAL CONSUMER LAW CENTER®

Advancing Fairness in the Marketplace for All

For Immediate Release
February 8, 2010

Contact:
Chi Chi Wu, NCLC, 617-542-8010
Jean Ann Fox, CFA, 928-772-0674

CONSUMER ADVOCATES TO BANK REGULATOR: ENFORCE RULES FOR QUICKIE REFUND LOANS

Advocates from a coalition of community reinvestment and consumer organizations demanded that a federal regulator immediately implement its longstanding, but unenforced, requirements for banks making refund anticipation loans (RALs). The advocates sent a joint letter to the U.S. Treasury Department's Office of the Comptroller of the Currency (OCC), which is charged with overseeing national banks, on February 4, 2010. The advocates also asked for OCC to provide leadership to end RALs after this tax season.

At issue is a 2007 federal guidance that establishes disclosure requirements, advertising standards, and capital requirements for banks making RALs through commercial tax preparers. Banks must both review the advertising and monitor the regulatory compliance of commercial preparers arranging the loans.

Multiple enforcement lawsuits and "mystery shopper" testing by federal and state regulators, as well as consumer groups, suggest that the guidance has not been adequately implemented. The lawsuits and testing reveal repeated deceptive advertising and incorrectly prepared tax returns. These lawsuits and tests include:

- A judgment against Liberty Tax Service for repeatedly engaging in deceptive advertising of RALs. A California court ordered Liberty to pay $1.16 million in civil penalties and $135,886 in restitution to consumers.
- Mystery shopper testing by consumer groups in Durham, NC and Philadelphia, PA found multiple instances of tax preparation that would have led to inflated refunds.
- Mystery shopper testing by an advocacy group in Alabama found numerous errors by preparers that would have led to inflated refunds.
- Repeated sanctions against Jackson Hewitt for engaging in deceptive, misleading and even criminal conduct, including a $5 million settlement with the California Attorney General over false and deceptive marketing of RALs and a 2007 enforcement action by the U.S. Department of Justice against five Hewitt franchisees for engaging in a tax fraud schemes that falsely claimed $70 million in refunds.

- A 2006 Government Accountability Office investigation finding inflated refunds by 6 out of 19 paid preparers they tested.

The letter requested that the OCC immediately enforce existing consumer protection policies, prohibit new financial institutions from entering the RAL business, and eliminate the product entirely after the 2010 tax season.

Under the guidance, JP Morgan Chase, one of the largest RAL providers, would be responsible for screening tax preparers, reviewing their RAL advertising, and maintaining ongoing oversight, including conducting its own testing. Chase must do this for the over 13,000 independent tax preparers that offer Chase RALs to taxpayers.

Other national banks making RALs, such as HSBC (H&R Block's RAL provider) would also be subject to the guidance. Pacific Capital Bancorp, the parent company of Santa Barbara Bank & Trust, a major RAL provider, was recently ordered by the OCC to stop making the loans.

RALs strip hundreds of millions in wealth from low-income taxpayers, according to data recently released by the National Consumer Law Center and Consumer Federation of America. This data revealed that RALs drained the refunds of about 8.4 million American taxpayers in 2008, costing them in the neighborhood of $738 million in loan fees, plus over $68 million in other fees.

The joint letter was signed by advocates from a multi-state collaboration of community reinvestment and consumer organizations, including National Consumer Law Center, Consumer Federation of America, Community Reinvestment Association of North Carolina, California Reinvestment Coalition, and Neighborhood Economic Development Advocacy Project of New York, and Woodstock Institute of Chicago, Illinois.

# # #

National Consumer Law Center® is a non-profit organization specializing in consumer issues on behalf of low-income people. NCLC works with thousands of legal services, government and private attorneys, as well as organizations, who represent low-income and elderly individuals on consumer issues.

CFA is a nonprofit association of some 280 pro-consumer groups, with a combined membership of 50 million people. CFA was founded in 1968 to advance consumers' interests through advocacy and education.