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Consumer Advocates: FDIC Action Shows RALs are Unsafe and Unsound
$2 Million Fine Proposed Against Republic Bank

Consumer advocates at the National Consumer Law Center (NCLC) and Consumer Federation of America (CFA) applauded the FDIC's most recent action against Republic Bank & Trust of Kentucky, the last of the refund anticipation loan (RAL) lenders. The FDIC issued an "Amended Notice of Charges for an Order to Cease and Desist," which detailed widespread legal violations in Republic's RAL program. The FDIC proposed a $2 million civil money penalty to be imposed against Republic.

The FDIC's investigation of Republic's RAL program uncovered numerous violations by tax preparers, acting as agents of Republic, of various consumer protection laws. The Notice of Charges describes the "FDIC's determination that the Bank is unable to appropriately manage, monitor, and control third-party risk at its [tax preparers] in many aspects. Findings concerning inadequate management, monitoring and controlling [preparers] and third-party risk include a deficient training program; inadequate security for customer information and cash equivalents, including debit cards, inadequate computer safeguards, and [preparers'] failure to comply with law and regulation."

"The FDIC's investigation finds that, not only are RALs pricey and risky for consumers, but some tax preparers aren't bothering to comply with basic consumer protection laws in making them," according to National Consumer Law Center Staff Attorney Chi Chi Wu.

RALs are one to two week loans made by banks and offered by tax preparers, secured by the taxpayer's refund. Republic is the last bank in the nation making RALs, and is the RAL lender for Jackson Hewitt and Liberty Tax. RALs can be expensive; this year, Republic Bank is charging $61.22 for a RAL of $1,500, which translates into an APR of 149%. RALs target low-income taxpayers, especially recipients of the Earned Income Tax Credit, a special tax break for working poor families. In 2009, RALs skimmed over $600 million from the refunds of 7.2 million American taxpayers.

"We are pleased that the FDIC took strong and appropriate action against Republic and its tax preparer agents," stated Jean Ann Fox, director of financial services for Consumer Federation of America. "FDIC enforcement of federal consumer and privacy laws will protect some of the most vulnerable taxpayers - low-income families that receive the EITC."

Earlier in the year, the FDIC had notified Republic that its RALs were unsafe and unsound based upon the termination of the Debt Indicator by the IRS in August 2010. The Debt Indicator was an IRS-provided service that helped tax preparers and banks make RALs by notifying them if the borrower's refund would be intercepted by the government for certain debts. In this latest Notice of Charges, the FDIC alleges that Republic also violated:

- Truth-in-Lending Act (TILA) - The FDIC found that copies of the written disclosures required by TILA were regularly absent from loan files. In addition, nearly 88% of the tax preparers that FDIC investigators called failed to make an oral disclosure of the annual percentage rate (APR) when requested.
- Gramm-Leach-Bliley Act - Tax preparers did not have proper physical and electronic safeguards for the protection of confidential consumer information, such as shredders or locked dumpsters. Half of the tax preparer offices had no alarm system, even though the stores had bank checks inside.
- Federal Trade Commission Act - The FDIC alleged that Republic engaged in unfair and deceptive actions, such as implying that customers would receive the full amount of their refunds minus fees in one or two days by getting a RAL, despite the fact that the RAL amounts were limited by Republic to $1,500.
- Equal Credit Opportunity Act (ECOA): The FDIC found tax preparers refused to process a RAL application when only one spouse applied for the loan, in violation of the ECOA.

According to the FDIC, 46.5 percent of tax preparers who made Republic RALs were in violation of at least three different laws. The FDIC found that Republic failed to properly train tax preparers to comply with consumer protection laws. In particular, Republic tested preparers' knowledge of consumer laws by giving them an online quiz that permitted the preparers to keep guessing until they passed the test. In addition, the FDIC alleged that Republic attempted to interfere with its investigation by setting up an Internet webpage of Frequently Asked Questions to coach tax preparers during the day when the FDIC tested the preparers.

The Amended Notice of Charges for an Order to Cease and Desist against Republic at http://sec.gov/Archives/edgar/data/921557/000115752311002750/a6710620_ex992.htm

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National Consumer Law Center® is a non-profit organization specializing in consumer issues on behalf of low-income people. Since 1969, NCLC has worked with legal services and nonprofit organizations as well as government and private attorneys across the United States, to create sound public policy for low-income and elderly individuals on consumer issues.

The Consumer Federation of America is an association of nearly 300 nonprofit consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.