

Multistate and CFPB Enforcement Actions Against Lease Finance Company Tempoe

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The Consumer Financial Protection Bureau (“CFPB”) [announced on Monday](#) that it and 41 states and the District of Columbia had resolved a multistate investigation in the leasing activities engaged in by specialty consumer finance company Tempoe. According to the press releases of the CFPB and several of the states involved (See, e.g., [North Carolina](#) and [Connecticut](#)), Tempoe will cancel all existing leases, to the tune of \$33MM, and will then pay a \$2MM penalty to the CFPB and \$1MM total to all 41 states and the District of Columbia. The CFPB and the states allege that Tempoe engaged in unfair or deceptive acts or practices in violation of their various consumer protection laws, and also violated Regulation M, [12 CFR 1013](#), the implementing regulation for the federal Consumer Leasing Act.

Leases have come to be a favorite financing vehicle for subprime consumers who are not otherwise able to qualify for financing when they are attempting to finance the purchase of items like furniture or equipment from retailers. While consumers are used to the concept of leasing in terms of real property or motor vehicles, consumers do not typically associate leases with items like mattresses or auto parts because they are not sold as “used” to subsequent purchasers when the lease ends.

In the Tempoe case, consumers were indeed attempting to finance items such as mattresses and auto parts. With respect to the Tempoe leases in question, “[t]ypically, consumers were offered [the Tempoe lease] after applying and being rejected for financing through the retailer. The in-store application process was designed so that a consumer’s approval [for the lease] was nearly instant and contemporaneous with the financing rejection.”

When the consumer agreed to the leasing option, Tempoe then purchased the item(s) directly from the retailer, and the retailer was no longer involved in the transaction. The consumer made an initial payment at the retailer and then made payments to Tempoe for an initial term of five months. After those first five months, during which time consumers had paid as much as 90% of the cash price of the item, the consumer could choose to keep making periodic payments (for as long as three years), to purchase the item outright for an additional fee, or to return the property to Tempoe (not the retailer). Many consumers never received a copy of their initial lease agreement and those who continued making periodic payments because they either did not choose to purchase the item outright or did not (or could not) return the item to Tempoe, never received subsequent required disclosures. It was not unusual for these consumers to discover at the end of the initial term “that

they did not own their items and were required to pay more to buy the items.”

While the 41 states and the District of Columbia entered into an “[Assurance of Voluntary Compliance/Discontinuance](#)” with Tempoe that included permanently banning Tempoe from engaging in future leasing activities, the CFPB decided to handle its action administratively, and obtained a [negotiated consent order](#) from Tempoe, as well as a “[Stipulation and Consent to the Issuance of a Consent Order](#)”.

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