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CFPB Issues Report on Concerns Regarding the Solar Financing Market

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In **this report on the solar financing marketplace**, which is characterized as an "Issue Spotlight", the CFPB identifies four areas that they view to present risks to consumers. In the **press release** accompanying the report, Director Rohit Chopra commented, "With sweltering heat across America this summer, many families are installing solar panels to save on energy costs to cool their home, the CFPB is closely scrutinizing solar lenders to make sure that Americans don't get burned."

We leave it to the reader to decide whether anyone really thinks about installing solar panels specifically to cool off their homes.

The four areas of concern identified by the CFPB are as follows, each of which should be taken into consideration by participants in this marketplace to ensure that their programs, disclosures and processes do not trip on them:

1. **Hidden markups and fees**. The CFPB identifies "dealer fees" as being baked into the loan principal and therefore constituting "hidden" fees. To the CFPB, "dealer fees" are "a markup from the total cash price that consumers pay for the system installation." Should dealer fees appear in financing, it is important to understand what those fees represent and to ensure that the system installation through financing will have the same base price as system installation paid for by cash.
2. **Misleading statements concerning federal tax credits**. Emphasizing that the federal "Investment Tax Credit" is not a guarantee because it "depends on the consumer's federal tax liability" (i.e., "[l]ow-income consumers are less likely to receive a tax credit'). The CFPB specifically highlighted being concerned about marketing materials that "deduct" the presumed tax credit from sample loan costs and then present a "net cost" for the system.
3. **Misrepresentations and omissions concerning "voluntary" prepayments**. The CFPB observes that many solar loans are structured such that borrowers have to pay a large share of the loan principal (30% is referenced) by a certain time, regardless of their minimum monthly payment amounts, to avoid having the monthly payment amount increase. To the extent solar loans are structured in this manner, it is important to ensure that consumers understand the timing of the monthly payment increase and the circumstances under which the monthly payment may not increase (e.g., because the required amount of principal has been paid or due to set-offs from tax credits).
4. **Misrepresentations regarding financial benefits**. Although the CFPB acknowledges that "households can generate substantial savings from solar energy installation", they emphasize the need to ensure that any statements regarding such savings be properly substantiated and include clear and conspicuous warnings that a variety of factors may lead to significant variations in actual savings.

While reminding that the CFPB **proposed rules** last summer to "rein in abuses" on PACE and is working on finalizing them, the CFPB also released a **consumer advisory** "warning homeowners of the risky practices in the solar lending market and sharing advice for borrowers who encounter illegal activity." Among the advice provided, consumers are suggested to spend money on an "independent energy audit" before investing in energy-efficient appliances, taking steps to weatherize the home or solar energy systems and to present that auditor with any proposals received that include the cash price of the items/services, a written breakdown of the work to install the items and the actual materials that will be installed. The "auditor can go over the proposals with you, to help you choose."