

CFPB Continues Assault on Add-On Financial Products

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The Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation (FDIC), and the Options Clearing Corporation (OCC) have again required multimillion dollar refunds and penalties related to marketing add-on credit card products. In December, the Bureau and banking regulators ordered American Express to pay \$59.5 million to more than 300,000 consumers for unfair and deceptive marketing of credit card add-on products and unfair billing practices found to violate the Consumer Financial Protection Act, and for failing to provide free credit report options in violation of Reg V of the Fair Credit Reporting Act. The bank was also ordered to pay \$15.6 million in civil penalties to the CFPB, FDIC, and OCC. In the latest order – the sixth entered by the CFPB and banking regulators regarding the marketing of credit card add-on products – the Bureau found that consumers were misled about the benefits, fees, and terms and conditions of the payment protection products marketed by telemarketers and other third-party vendors. It also required American Express to hire an independent third party to review credit card add-on products for compliance with consumer protection laws, and maintain better oversight over third-party vendors. In 2012, the Bureau issued guidance advising that it considered third-party service providers to banks and nonbank consumer financial service providers "supervised entities" subject to its supervision, and that it would hold them responsible for violations of Federal Consumer financial law by their third-party service providers. The very first CFPB Consent Order entered jointly with the OCC against Capital One Bank that year – also involving add-on products marketed by third-party vendors – required the Bank to refund \$140 million to the consumers and assessed a \$25 million civil penalty. The six existing orders represent more than \$600 million in refunds to consumers and assessed civil penalties of close to \$100 million related to the marketing of credit card payment protection, identity theft, and other add-on products.

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