

CFPB Orders \$6.5 Million Refund on Sub-prime Auto Loans Marketed to Servicemembers

June 27, 2013

In its first enforcement orders directed to the subprime auto finance industry, the Consumer Financial Protection Bureau ("CFPB") announced today that it has ordered U.S. Bank and a nonbank auto finance partner, Dealers' Financial Services ("DFS"), to return approximately \$6.5 million to servicemembers, based on its finding that the two companies "developed a joint program that engaged in deceptive lending and marketing practices" in marketing and making subprime auto loans to active-duty military members. The "Military Installment Loans and Educational Services" ("MILES") program was initially created by U.S. Bank to finance subprime auto loans for active duty service members worldwide, according to the CFPB. The program required servicemembers to make loan payments using the military allotment system ("MAS"), which deducts payments directly from a military member's paycheck before it is deposited in his or her bank account. The CFPB found that the MILES program failed to properly disclose the costs associated with repaying auto loans through MAS, charges for third party processor fees, which the CFPB found could cost servicemembers more than available alternatives like online banking, and deceptively marketed add-on products such as warranties and GAP Insurance. More specifically, the CFPB found violations as follows: **U.S. Bank.** The CFPB found U.S. Bank violated the Truth in Lending Act and Dodd-Frank's prohibition on deceptive acts or practices by:

- **Failing to properly inform servicemembers about processing fees:** Monthly processing fee charged for automatic payroll deductions were not disclosed to servicemembers as part of the finance charge, annual percentage rate, and total payments for the loans. The fees could amount to \$180 over the life of a typical loan.
- **Failing to properly disclose schedule of payments:** Servicemembers were not informed that because the bank required payment by military allotments, payments would be deducted from their paychecks twice a month instead of once a month. However, their accounts were credited only once a month, and the lag time between the initial deduction and crediting of the payment cost servicemembers additional interest – an extra \$75 over the life of a typical loan.

The CFPB also found the Bank responsible for the illegal marketing of a vehicle service contract add-on product offered by the DFS and described below. **Dealers' Financial Services.** The CFPB found that DFS deceptively marketed two add-on products, a vehicle service contract and GAP insurance, sold in conjunction with MILES loans, by misrepresenting the costs and the coverage provided by the GAP insurance. DFS's marketing practices found to be deceptive included:

- **Understating the costs of the vehicle service contract:** DFS marketed vehicle service contracts as adding only "a few dollars" to the customer's monthly payment when actual additional charges averaged \$43 per month.
- **Understating the costs of the insurance:** DFS similarly misrepresented the cost of GAP insurance as only a few cents a day, when the true cost averaged \$.42 cents a day, or more than \$100 a year.
- **Misleading consumers about product benefits:** Marketing materials were found to deceptively suggest that the vehicle service contract would protect servicemembers from all expensive car repairs, when many basic parts were not covered.

Remedies. Under the CFPB orders, U.S. Bank and DFS agreed to:

- **Stop deceptive marketing and lending practices,** including making misleading claims or omissions in marketing add-on products through MILES or similar programs;
- **Pay restitution to servicemembers:** U.S. Bank will pay \$3.2 million and DFS will pay \$3.3 million to over 50,000 servicemembers for violating TILA and Dodd-Frank prohibitions on deceptive marketing and lending practices, with reimbursement to be sent directly to the victims;
- **Stop requiring the use of MAS:** U.S. Bank and DFS will no longer require servicemembers to use military allotments in order to participate in the MILES program;
- **Improve disclosures:** Both companies must take steps to improve disclosures to servicemembers regarding the cost and other material terms of add-on products.

Both Companies will also have to submit a redress plan to be approved by the CFPB, and provide reports demonstrating compliance with the Orders.

- A link to the U.S. Bank Consent Order may be found here:
http://files.consumerfinance.gov/f/201306_cfpb_enforcement-order_2012-0340-02.pdf
- A link to the DFS Order may be found here:
http://files.consumerfinance.gov/f/201306_cfpb_enforcement-order_2013-0589-02.pdf

Related Practices

Business Transactions

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