

UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING
File No. 2013-CFPB-0013

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In the Matter of) CONSENT ORDER
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AMERICAN EXPRESS TRAVEL)
RELATED SERVICES COMPANY, INC.)
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The Consumer Financial Protection Bureau (“CFPB”) has reviewed the practices of American Express Centurion Bank (“AECB”) and American Express Bank, FSB (“AEBFSB”) and the role of Respondent American Express Travel Related Services Company, Inc. (“AETRS”) relating to certain credit card add-on products and has identified violations of law. Under Sections 1053 and 1055 of the Consumer Financial Protection Act of 2010 (“CFP Act”), the CFPB hereby issues, pursuant to 12 U.S.C. §§ 5563 and 5565, this Consent Order (“Order”).

I.

OVERVIEW

1. The CFPB finds that AETRS has engaged in violations of sections 1031 and 1036 of the CFP Act, 12 U.S.C. §§ 5531 and 5536 (“Sections 1031 and 1036”), as a service provider to its subsidiary banks, AECB and AEBFSB, for deceptive and unfair marketing practices related to certain credit card add-on products, and violations of Regulation V, 12 C.F.R. § 1022.138(b)(7), for failing to provide the mandatory disclosure related to free credit reports.

II.

JURISDICTION

2. The CFPB has jurisdiction over this matter pursuant to sections 1053 and 1055 of the CFP Act, 12 U.S.C. §§ 5563, 5565.

III.

STIPULATION

3. AETRS has executed a “Stipulation and Consent to the Issuance of a Consent Order” (“Stipulation”), which is incorporated by reference and is accepted by the CFPB. By this Stipulation, AETRS has consented to the issuance of this Order by the CFPB pursuant to sections 1053 and 1055 of the CFP Act, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any of findings of fact or violations of law, except that AETRS admits the CFPB’s jurisdiction over AETRS and the subject matter of this action.

IV.

CFPB FINDINGS AND CONCLUSIONS

The CFPB finds the following:

4. AETRS is a company headquartered in New York and is the parent company of subsidiary banks AECB and AEBFSB.

5. AETRS acts as a service provider to American Express banking subsidiaries AECB and AEBFSB.

6. AETRS is a “covered person” as that term is defined by 12 U.S.C. § 5481(6).

7. AETRS marketed, processed, and serviced certain credit card add-on products for the card portfolios at AECB and AEBFSB. AETRS also provided compliance, audit, and information technology support to AECB and AEBFSB.

8. The CFPB found certain credit card add-on product marketing practices to be in violation of Sections 1031 and 1036 in the Consent Order issued by the CFPB to AECB on December 24, 2013 No. 2013-CFPB-0011 (“AECB Consent Order”) and the Consent Order issued by the CFPB to AEBFSB on December 24, 2013 No. 2013-CFPB-0012 (“AEBFSB Consent Order”).

9. As a service provider with respect to the deceptive and unfair marketing practices described in the AECB Consent Order and the AEBFSB Consent Order, AETRS violated Sections 1031 and 1036.

V.

CORRECTIONS OF VIOLATIONS OF LAWS

IT IS HEREBY ORDERED that AETRS and its officers, agents, servants and employees immediately cease and desist from engaging in violations of Sections 1031 and 1036 in connection with its activities as a service provider in AECB and AEBFSB’s marketing or sales of the credit card add-ons that are the subject of the AECB Consent Order and the AEBFSB Consent Order, and it is further ordered that AETRS take affirmative actions as of the date of issuance of the Order (“Effective Date”), unless otherwise specified, as follows:

10. AETRS shall correct all violations of Sections 1031 and 1036 and Regulation V in connection with its activities as a service provider in AECB’s and AEBFSB’s marketing, sales, and administration of the credit card add-ons that are the subject of the AECB Consent Order and the AEBFSB Consent Order, and shall implement procedures to prevent their recurrence. AETRS’s actions as required by this paragraph shall be satisfactory to the Regional Director for the West Region for the Office of Supervision for the CFPB (“Regional Director”) as determined at subsequent examinations and/or visitations.

11. AETRS shall not take any actions which interfere with AECB or AEBFSB taking all action necessary to comply with the AECB Consent Order and the AEBFSB Consent Order.

12. AETRS shall take all action necessary to eliminate its violations of Sections 1031 and 1036 in connection with the marketing, sales, and administration of Account Protector, ID Protection Products, or Lost Wallet PR and from engaging in violations of Regulation V in connection with the marketing, sales, and administration of ID Protection Products. AETRS shall take appropriate steps to effect and maintain future compliance with Sections 1031 and 1036 in connection with the marketing, sales, and administration of Account Protector, ID Protection Products, or Lost Wallet PR and from engaging in violations of Regulation V in connection with the marketing, sales, and administration of ID Protection Products.

VI.

ORDER TO PAY CIVIL MONEY PENALTY

13. IT IS FURTHER ORDERED that by reason of the violations of law and/or regulations set forth in Section IV of this Order, and after taking into account the Stipulation and taking into account the factors set forth in 12 U.S.C. § 5565(c)(3): AETRS shall pay civil money penalties of \$4,000,000 to the CFPB, in accordance with section 1017(d) of the CFP Act, 12 U.S.C. § 5497(d), as directed by the CFPB and as set forth herein.

14. Within 10 days of the Effective Date, AETRS shall pay the civil money penalty in the form of a wire transfer to the CFPB or to such agent as the CFPB may direct, and in accordance with wiring instructions to be provided by counsel for the CFPB.

15. The civil money penalty paid pursuant to this Order shall be deposited in the Civil Penalty Fund of the CFPB in accordance with section 1017(d) of the CFP Act, 12 U.S.C. § 5497(d).

16. In the event of any default on AETRS's obligation to make payment under this Section, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue on any outstanding amounts not paid from the date of default to the date of payment, and shall immediately become due and payable.

17. AETRS shall relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds shall be returned to AETRS.

18. AETRS shall treat the civil money penalty as a penalty paid to the government for all purposes. Regardless of how the CFPB ultimately uses those funds, AETRS shall not:

- a. Claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any civil money penalty that AECB pays pursuant to this Order; or
- b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil money penalty that AECB pays pursuant to this Order.

VII.

NOTIFICATION AND REPORTING REQUIREMENTS

19. Within 30 days from the end of each calendar quarter following the Effective Date, AETRS shall provide a written progress report addressing each provision of this Order and detailing the form, manner, results and dates of any actions taken to secure compliance with the provisions of this Order to the Regional Director. All progress reports and other written responses to this Order shall be reviewed by the Board and made a part of the Board minutes. The progress reports shall be true and accurate and accompanied by a certification of compliance

signed by the Chairman of the Board and the President. The certification of compliance shall include the following:

- a. A statement confirming that AETRS is in compliance with all provisions of the Order; or
- b. If AETRS is not in compliance with all provisions of the Order, AETRS must provide:
 - i. A list of the provisions with which AETRS is not yet in compliance, an explanation of why AETRS is not yet in compliance with each specific provision, and a description of the actions AETRS has taken to comply with the provision; and
 - ii. A statement as to when AETRS will be in full compliance with the Order.

VIII.

NOTICES

20. IT IS FURTHER ORDERED that, unless otherwise directed in writing by the Regional Director, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and shall be sent by overnight courier (not the U.S. Postal Service), as follows:

To the CFPB:
Regional Director, CFPB Western Region
Consumer Financial Protection Bureau
301 Howard Street
Suite 1200
San Francisco, CA 94105

The subject line shall include the Docket Number and shall begin: In re American Express Travel Related Services, Inc.

21. Provided however that AETRS may send such reports or notifications by first-class mail, but only if AETRS contemporaneously sends an electronic version of such report or notification to: Enforcement_Compliance@cfpb.gov.

IX.

COMPLIANCE AND EXTENSIONS OF TIME

22. IT IS FURTHER ORDERED that, upon a written showing of good cause, the Regional Director may, in his/her discretion, modify any non-material provisions of this Order (e.g., reasonable extensions of time). Any such modification by the Regional Director shall be in writing.

X.

ADMINISTRATIVE PROVISIONS

23. Except as set forth in Paragraph 27, the provisions of this Order shall not bar, estop or otherwise prevent the CFPB or any other federal or state agency or department from taking any other action against AETRS.

24. This Order is intended to be, and shall be construed to be, a final order issued pursuant to section 1053 of the CFP Act, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the CFPB or the United States.

25. This Order shall be effective on the date of issuance.

26. Calculation of time limitations for compliance with the terms of this Order shall be based on calendar days, unless otherwise noted.

27. This Order constitutes a settlement of the administrative proceeding against AETRS contemplated by the CFPB, based on the conduct described in the CFPB Findings and Conclusions set forth in this Order. The CFPB releases and discharges AETRS from all potential

liability (other than as set forth in this Order) for a cease and desist or other order or civil money penalty that has been or might have been asserted by the CFPB based on AETRS's conduct, as described in the CFPB Findings and Conclusions, to the extent such conduct was known to the CFPB as of the Effective Date. Notwithstanding the foregoing, the practices alleged in this Order may be utilized by the CFPB in future enforcement actions against AETRS and its affiliates to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release shall not preclude or affect any right of the CFPB to determine and ensure compliance with the terms and provisions of this Order, or to seek penalties for any violations thereof.

28. The provisions of this Order shall be binding on AETRS, its officers, agents, servants, employees, other institution-affiliated parties, and any successors and assigns thereof.

29. The provisions of this Order shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside by the CFPB.

30. Any violation of this Order may result in the imposition by the CFPB of the maximum amount of civil money penalties allowed under section 1055(c) of the CFP Act, 12 U.S.C. §5565(c).

31. The provisions of this Order shall be enforceable by the CFPB.

Issued this 24th day of December, 2013.


Richard Cordray
Director
Consumer Financial Protection Bureau