



## ENDING DECEPTIVE MARKETING PRACTICES

The Consumer Financial Protection Bureau (CFPB) announced its first public enforcement action with an order requiring Capital One to refund approximately \$140 million dollars to two million customers who were misled into buying credit card “add-on products.”

### By the Numbers

- **\$140 million:** The estimated total refund to Capital One consumers.
- **2 million:** The approximate number of consumers receiving a refund.
- **\$25 million:** The additional penalty fee that Capital One will pay to the Civil Penalty Fund.

### Overview

The Dodd-Frank Act gave the CFPB the authority to pursue institutions engaged in unfair, deceptive, or abusive practices. Through the supervision process, CFPB’s examiners discovered Capital One’s call-center vendors engaged in deceptive tactics to sell the company’s credit card add-on products.

These products included “payment protection,” which allows consumers to request that the bank cancel up to 12 months of minimum payments – roughly one percent of their credit card balance – if they encounter certain life events like unemployment and temporary disability. It also provides debt forgiveness in the event of death or permanent disability. Another product was “credit monitoring,” with services such as identity-theft protection, access to “credit education specialists,” and, in some cases, daily monitoring and notification.

### Deceptive Marketing Practices

Capital One customers with low credit scores or low credit limits were directed to a third-party call center when they wanted to activate newly issued credit cards. Consumers were offered these products by Capital One’s call center representatives when they called to have their credit card activated. As part of the high-pressure tactics Capital One representatives used to sell these add-on products, consumers were:

- **Misled about the benefits of the products:** Consumers were led to believe that the product would improve their credit scores and help them increase the credit limit on their Capital One credit card.
- **Deceived about the nature of the products:** Consumers were not always told that buying the products was optional. In other cases, consumers were wrongly told they were required to purchase the product in order to receive full information about it, but that they could cancel the product if they were not satisfied. Many of these consumers later had difficulty canceling when they called to do so.
- **Misled about eligibility:** Although most of the payment protection benefits kicked in when consumers became disabled or lost a job, call center representatives marketed and sold the product to unemployed and disabled consumers whose claims would inevitably be denied.
- **Misinformed about cost of the products:** Consumers were led to believe that they would be enrolling in a free product rather than making a purchase.

- **Enrolled without their consent:** Some call center vendors processed the add-on product purchases without the consumer's consent. Consumers were then automatically billed for the product and often had trouble cancelling the product when they called to do so.

#### **CFPB Enforcement Action**

The Bureau has issued a Consent Order to Capital One. To ensure that all affected consumers are repaid and that consumers are no longer subject to these misleading and high pressure tactics, Capital One has agreed to:

- **End deceptive marketing:** Capital One must cease all marketing of these products until the Bureau has approved a compliance plan to help ensure these violations do not occur in the future.
- **Complete repayment plus interest to two million consumers:** Capital One will pay approximately \$140 million to 2 million consumers who initially enrolled in a product on or after August 1, 2010, or tried to cancel a product on or after August 1, 2010, but kept the product after speaking with a call center representative. In addition to the cost of the product, cardmembers will receive a refund of the finance charges associated with the fees paid, any over-the-limit fees resulting from the charge for the product, and interest.
- **Pay claims denied based on ineligibility at enrollment:** For any of these eligible consumers whose payment protection claims were previously denied because their loss occurred prior to enrollment (because of unemployment, disability, etc.), Capital One will pay their claims as if they had been eligible, if that amount is greater than the refund for that consumer.
- **Convenient repayment for consumers:** If the consumers are still Capital One customers, they will see a credit in their account. If they no longer have a credit card account with Capital One, they will receive a check.
- **Independent audit:** Compliance with the terms of the Consent Order will be assured through the work of an independent auditor.
- **\$25 million penalty:** Capital One will pay \$25 million in a civil money penalty to the Civil Penalty Fund.

#### **Other CFPB Action**

In addition to the Consent Order, the Bureau is taking other action to educate and protect consumers by:

- **Issuing consumer advisories:** One consumer advisory is intended to make Capital One consumers aware of the action taken by the CFPB, and the other serves as a warning for consumers who may have gone through a similar experience with another financial institution.
- **Putting other institutions on notice:** The Bureau issued a Compliance Bulletin that warns other financial institutions the CFPB will not tolerate deceptive marketing practices. The bulletin also establishes that institutions will be held responsible for the actions of their third party vendors. The Bureau's Consumer Response Office has received complaints about other credit card add-on products, which the Bureau will monitor.