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CFPB Orders Bank Of America To Pay \$727 Million In Consumer Relief For Illegal Credit Card Practices

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Millions of Consumers Harmed by Bank's Deceptive Marketing and Unfair Credit Card Billing Practices

WASHINGTON, D.C. — The Consumer Financial Protection Bureau (CFPB) has ordered Bank of America, N.A. and FIA Card Services, N.A. to provide an estimated \$727 million in relief to consumers harmed by practices related to credit card add-on products. Roughly 1.4 million consumers were affected by Bank of America's deceptive marketing of their add-on products. Bank of America also illegally charged approximately 1.9 million consumer accounts for credit monitoring and credit reporting services that they were not receiving. Bank of America will pay a \$20 million civil money penalty to the CFPB.

"We have consistently warned companies about illegal practices related to credit card add-on products," said CFPB Director Richard Cordray. "Bank of America both deceived consumers and unfairly billed consumers for services not performed. We will not tolerate such practices and will continue to be vigilant in our pursuit of companies who wrong consumers in this market."

Deceptive Marketing

From 2010 through 2012, Bank of America actively marketed two credit card payment protection products, "Credit Protection Plus" and "Credit Protection Deluxe." Both products allowed customers to request that Bank of America cancel some amount of credit card debt in the event of certain hardships like involuntary unemployment or disability and certain life events such as entering college or retirement. The Bureau

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found that the telemarketing scripts Bank of America used for these products contained misstatements. Additionally, telemarketers often went off script to make sales pitches that were misleading and that omitted pertinent information. Over 1.4 million card members were affected by this deceptive marketing.

Among other things, Bank of America misled consumers about:

- **Cost of first 30 days of coverage:** Bank of America led some consumers to believe that the first 30 days of coverage were free of charge when, in fact, by enrolling, consumers were agreeing to purchase the credit protection products. Consumers would begin incurring charges unless they cancelled within an initial 30-day review period, in which case any fees previously paid would be reimbursed.
- **Enrollment process for credit protection products:** Bank of America misled some consumers about the enrollment process for these products, telling them that there were additional steps to enroll in or purchase the products after the telemarketing call or that, on the call, they were merely agreeing to receive additional information. In reality, Bank of America was enrolling these consumers in the products during these calls and then charging consumers for the products.
- **Benefits of credit protection products:** Bank of America misrepresented the benefits consumers could receive from the products, telling consumers they could receive benefits for a longer period of time than was allowed under the terms and conditions of the credit protection products. Bank of America also led some consumers to believe they would be entitled to a “\$25,000 death benefit” by enrolling in Credit Protection Plus when that was not the case. Telemarketers misled consumers by implying the benefits of these products were automatic upon notice of a qualifying event when, in fact, benefits were contingent on the successful completion of a benefit request submission and approval process.

Unfair Billing Practices

Bank of America also enrolled consumers in identity protection credit card add-on products, known as “Privacy Guard,” “Privacy Source,” and “Privacy Assist,” that promised to monitor customer credit and alert consumers to potentially fraudulent activity. Under federal law, in order for Bank of America or its vendors to obtain consumers’ credit information, the consumers generally must authorize access to credit information. Bank of America, however, billed consumers for these products without or before having the authorization necessary to perform the credit monitoring and credit report retrieval services. As a result, the company:

- **Billed consumers for services they did not receive:** Bank of America

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illegally charged customers for these products as soon as they enrolled even if they were not actually receiving the services yet.

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- **Unfairly charged consumers for interest and fees:** The unfair monthly fees that customers were charged sometimes resulted in customers exceeding their credit card account limits, which lead to additional fees for the customers. Some consumers also paid interest charges on the fees for services that were never received.
- **Illegally charged approximately 1.9 million consumer accounts:** Bank of America engaged in these unfair billing practices from at least October 2000 through September 2011. About 1.9 million consumer accounts were improperly billed product fees while not receiving the full product services, affecting roughly 1.5 million consumers. The unfair billing practices resulted in about \$459 million in harm to consumers.
- **Failed to provide product benefits:** Consumers may have been under the impression that their credit was being monitored for fraud and identity theft, when, in fact, these services were either not being performed at all, or were only partially performed.

Enforcement Action

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has the authority to take action against institutions engaging in unfair, deceptive, or abusive practices. Bank of America ended the marketing and sales of credit protection products in August 2012, canceled all existing accounts as of September 2013, and provided six months of no-cost coverage to consumers enrolled as of March 2013. Bank of America stopped marketing the identity protection products in approximately December 2011.

To ensure that Bank of America honors its obligation to provide relief to affected consumers and that consumers are no longer subject to these deceptive marketing tactics and unfair billing practices, the CFPB's order requires that Bank of America:

- **Prohibited from engaging in illegal practices:** Bank of America will be prohibited from marketing any credit protection or credit monitoring add-on products until it submits a compliance plan to the CFPB.
- **End unfair billing practices:** Consumers will no longer be billed for these products if they are not receiving the promised benefits. Bank of America will review and, if necessary, improve its policies to ensure that it does not commit unlawful acts in the future.
- **Repayment to affected consumers:** Bank of America must provide approximately \$268 million in refunds and additional relief to more than 1.4

million customers subjected to deceptive marketing practices. It also must pay approximately \$459 million to roughly 1.9 million customer accounts, representing approximately 1.5 million consumers who enrolled in the credit monitoring products and were charged while Bank of America did not perform all of the promised services.

- **Conveniently repay consumers:** Bank of America has completed reimbursement to consumers for the unfair billing practices relating to the identity protection products. For the credit protection products, if the consumers are still Bank of America customers, they will receive or already have received a credit to their accounts. If they are no longer a Bank of America credit card holder, they will receive or already have received a check in the mail or have charged-off balances reduced by the amount they were charged in fees. Consumers are not required to take any action to receive their credit or check.
- **Pay a \$20 million penalty:** Bank of America will make a \$20 million penalty payment to the CFPB's [Civil Penalty Fund](#).

This enforcement action is the result of the CFPB's investigation into Bank of America's payment protection products and of work started by the Office of the Comptroller of the Currency (OCC) regarding the unfair billing practices of the identity protection products, which the CFPB joined. This is the fifth action the Bureau has taken in coordination with a fellow regulator to address illegal practices with respect to credit card add-on products. The OCC is separately ordering restitution from Bank of America for the unfair billing practices. The OCC is ordering Bank of America to pay \$25 million in civil money penalties for the unfair billing practices, in addition to those ordered by the CFPB.

The full text of the CFPB's Consent Order is available at:

http://files.consumerfinance.gov/f/201404_cfpb_bankofamerica_consent-order.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.



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