

On July 18, in conjunction with the announcement of a \$210M settlement with Capital One Bank, the CFPB issued Bulletin 2012-06 offering guidance on financial institution marketing of "credit card add-on products." The Bulletin states directly that the guidance offered pertains equally to "similar products in connection with other forms of credit or deposit services" and for that reason it is essential that **all consumer and auto finance providers** review this new Bulletin and coordinate action with the previously released bulletin on managing third party Service Provider relationships.

In related CFPB news, Marcie Belles of Auto Finance News, reported from the ACA International conference that CFPB Assistant Director of Non-Bank Supervision Peggy Twohig stated that rules and guidance on CFPB's planned regulation of Non-Banks will be announced in September of this year. This rulemaking will clarify the CFPB's intentions and procedures regarding supervision of consumer and auto finance providers (and related product providers) who do not fit into categories specifically listed for supervision in the agency's charter.

The new "Add On Product" Bulletin specifically references, "debt protection, identity theft protection, credit score tracking, and other products that are supplementary to the credit provided by the [credit] card itself" and restates the CFPB's expectation that institutions have an effective process for managing the risks of service provider relationships explained in Bulletin 2012-3 and the topic of FNI's first Take Action Newsletter in May of this year. Please visit the "Resources" page of [www.myFNI.com](http://www.myFNI.com) for a link to the complete CFPB Bulletin 2012-06 and the original Service Provider Bulletin 2012-03.

With a focus on protecting consumers from deceptive sales and marketing practices, the latest CFPB Bulletin provides the following guidance on what constitutes "deceptive practices" and on the adequacy of product disclosures:

- **A practice is "deceptive"** if the representation, omission, act or practice misleads or is likely to mislead the consumer; the consumer's interpretation of the representation, act, omission or practice is reasonable under the circumstances; and is material to the transaction.
- **Disclosures to consumers should be:** prominent enough for the consumer to notice; presented in an easy-to-understand format that is not contradictory with other information in the disclosure; made at a time when the consumer is not distracted by other information; located and presented where consumers can be expected to find it or hear it and nearby by the claim it qualifies.

The Bulletin sets forth these Bureau expectations for institutions marketing add-on products:

- **Marketing materials** must reflect the actual terms and conditions of the product and cannot be misleading or deceptive to consumers.
- **Employee incentive or compensation programs** tied to the sale of the products require adherence to institution-specific program guidelines and cannot incentivize deception or misleading information about the product to consumers.
- **Scripts and manuals** used to sell the product must be based on a compliant process that ensures program description accuracy; requires customer affirmation of purchase; provides clear guidance on sales tactics; and makes clear to consumers that purchase of products is not required to obtain credit as applicable.
- **Product cancellation** request processes must be consistent with product terms and not misleading.

If you are offering or thinking about offering vehicle service contracts, GAP or debt waivers, credit insurance, car clubs, or using GPS or Starter Interrupt devices, **this Bulletin in conjunction with Bulletin 2012-03 impacts numerous aspects of your sales, marketing, underwriting and compliance procedures**, and requires a close examination and evaluation of your third party provider's training, sales and implementation procedures as well.



*Get expert assistance – Contact FNI Today.*

Contact FNI President David Bafumo at **888-973-9776** or  
E-mail [David@myFNI.com](mailto:David@myFNI.com) for a confidential consultation.

### Due Diligence & Process Design

FNI conducts third party Service Provider and product due diligence on behalf of CFPB regulated financial institutions. You can rely on FNI industry expertise for development and implementation of effective compliance monitoring and risk mitigation processes for Service Provider relationships and product offerings subject to CFPB oversight.

### Income Development

Discover FNI income producing products and marketing programs that provide real consumer value and enhanced business profitability. Exclusive access to products and programs designed specifically for today's challenging regulatory environment together with compliance focused process development and program implementation provides new income opportunities that protect your business and reputation, build customer loyalty and increase your bottom line.

### Program Performance

While many financial institutions have experimented with preferred or captive F&I product solutions, few report success in meeting their program profitability goals. Working with your existing product array, FNI offers compliance-minded customized sales process design with proven implementation strategies to maximize the value of F&I products in your business.

### Dealer Partner Development

Looking to expand or improve auto finance portfolio performance? Indirect lending technologies that link lenders and dealers can create portfolio management concerns and a market blind spot leaving a large and profitable segment underserved by lenders. With expert partner selection and training, FNI delivers new markets, new partnerships and smart portfolio and business growth for financial institutions.

### TAKE ACTION!

With 15 years of combined experience in F&I administration executive management, product development and marketing, auto finance sales management, and law, you can count on FNI's total vision of industry products and issues for complete profitability and compliance solutions for your business.

