

OPTIONAL PROTECTION PRODUCTS

Optional protection products, also known as ancillary products, are intended to allow borrowers to create loans that meet their personal needs. They come in many different forms and vary depending on the type of consumer finance product with which they are associated. They can be purchased and incorporated into a contract and thus financed through a financial institution. Vehicle finance companies, traditional installment lenders, mortgage lenders and credit card companies, all provide a range of ancillary product options for their customers. Some of the more common types of optional protection products include credit insurance, debt cancellation contracts (DCC), Guaranteed Auto Protection (GAP), and payment protection plans.

Optional protection products grew out of a desire by consumers to build levels of safety and protection into their loans. Early optional protection products were sold as a means by which consumers could protect themselves when unanticipated events interfered with their ability to meet financial obligations. Since those times, increasing use of credit and innovation by lenders has broadened the array of optional protection products available to borrowers. This has given the consumer more choices as to how they wish to structure a loan that best suits their needs and preferences.

Many borrowers see ancillary loan products as valuable tools. Some optional protection products, particularly in the small loan and credit card spaces, operate as debt-cancellation or credit insurance, ensuring that in the event of a death or other insured loss, the loan will be paid off and any security, such as the family car, will not be subject to repossession. Other products fulfill other roles, such as GAP, which users of vehicle finance products can choose, and that waives the outstanding balance on an auto-loan in the event that the vehicle is destroyed or stolen.

Financial institutions offer optional protection products to meet consumer demand, though their sale can indirectly offset the costs of making loans, which in turn can help the lender stay competitive in the marketplace and make loans more widely available. In the case of installment loans, certain states have regulations that cap the amount of interest a small loan can carry. In these states, lenders have had to rely on the provision of optional protection products to reduce lending risk, which in turn has allowed them to remain viable as businesses and continue to meet the needs of borrowers.

Ancillary product sales have recently become the source of intense scrutiny by federal and state policymakers and regulators. In July 2012, in the wake of a settlement relating to credit card debt protection, the Consumer Financial Protection Bureau (CFPB) issued a compliance bulletin

reminding financial institutions¹ that it will not tolerate deceptive marketing practices for optional protection products and that companies subject to its supervision are responsible for the oversight of the third-party vendors they employ to market them. The language of the related settlement order, though specific to credit cards, indicated the Bureau's position on these voluntary products.

This position was further demonstrated in a June 2016 Request for Information² issued by the CFPB, which, in a section entitled Potential Consumer Harm from Ancillary Products, stated that "...in the Bureau's experience, the marketing of ancillary products, sometimes called "add-ons," can lead to consumer protection concerns."

In addition to oversight and scrutiny from state financial services and insurance regulators, state attorneys general have also looked at optional protection products and some legislatures have enacted new laws affecting optional protection products as various as GAP, debt cancellation, service contracts, motor clubs and vehicle protection products, title insurance, and lender-placed insurance.

AFSA's Position

AFSA strongly supports legislative and regulatory efforts that protect consumers and promote access to credit, while encouraging policymakers and regulators across the country to support proposals that maintain and safeguard consumers' access to ancillary loan products that they value and rely upon.

AFSA members support measures that promote transparency and clarity in marketing and contracting for optional protection products and believe that these enhancements to extensions of credit can play an important part in protecting consumers and preserving access to credit by keeping the cost of credit affordable for American consumers.

¹ CFPB, *Bulletin 2012-06: Marketing of Credit Card Add-on Products*, http://files.consumerfinance.gov/f/201207_cfpb_bulletin_marketing_of_credit_card_addon_products.pdf. (July 18, 2012).

² CFPB, *Request for Information on Payday Loans, Vehicle Title Loans, Installment Loans, and Open-End Lines of Credit*, http://files.consumerfinance.gov/f/documents/RFI_Payday_Loans_Vehicle_Title_Loans_Installment_Loans_Open-End_Credit.pdf (June 1, 2016).