

The Virgin Islands Consortium

Consumer Financial Protection Bureau And American Express Reach Resolution To Address Discriminatory Card Terms In USVI, Puerto Rico

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The Consumer Financial Protection Bureau (CFPB) on Wednesday took action against two American Express banking subsidiaries for discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 states, according to a release issued by CFPB. American Express also discriminated against certain consumers with Spanish-language preferences, the release says.

Over the course of at least ten years, more than 200,000 consumers were harmed by American Express' discriminatory practices, which included charging higher interest rates, imposing stricter credit cutoffs, and providing less debt forgiveness. American Express has paid approximately \$95 million in consumer redress during the course of the Bureau's review and American Express' review, and Wednesday's order requires it to pay at least another \$1 million to fully compensate harmed consumers.

"Consumer financial protections are not confined within the 50 states," said CFPB Director Richard Cordray. "American Express discriminated against consumers in Puerto Rico and the U.S. territories by providing them with less-favorable financial products and services. They have ceased this practice and are making consumers whole. In particular, because they self-reported the problem and fully cooperated with our investigation, no civil penalties are being assessed in this matter."

The American Express Company is a multi-bank holding corporation based in New York and a global provider of credit and charge cards, savings accounts, certificates of deposit, and travel services. American Express Centurion Bank and American Express Bank, FSB are both bank subsidiaries of American Express Company that administer American Express Company's credit and charge card lines of business. These companies offered 45 credit cards and charge cards, which are similar to credit cards but require the full balance to be paid monthly, in its U.S. states market, including cards such as the American Express Green, Gold, and Platinum. In addition to managing cards offered in the 50 U.S. states, these two companies also manage cards offered in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories, which include Guam, American Samoa, and Northern Mariana Islands.

Beginning in 2013, American Express self-reported to the Bureau differences between its Puerto Rico and U.S. Virgin Islands cards (collectively, Puerto Rico cards) and its cards offered in the 50 U.S. states (U.S. cards), as well as differences with respect to certain consumers with a Spanish-language preference. Through the course of a supervisory review, the Bureau concluded that, from at least 2005 to 2015, American Express' Puerto Rico cards had different—and often worse—pricing, rebates, and promotional offers, underwriting, customer and account management services, and collections practices than its U.S. cards. The Bureau's review did not find that American Express intentionally discriminated against its customers but rather found that these differences were the result of American Express' card management structure, which had different business units overseeing its Puerto Rico cards and U.S. cards. These differences spanned the product lifecycle and included:

- **Charging higher fees and interest rates and offering less advantageous promotional offers:** One American Express bank charged Puerto Rico cardholders higher average interest rates and annual fees than similarly situated U.S. cardholders. American Express' promotional offers (such as 0% introductory rates or waiving first year fees) for its Puerto Rico cards were also inferior. Similarly, for some residents of Puerto Rico and the U.S. territories who did get U.S. cards, including some small business cards, American Express gave less valuable promotional offers than those given to 50 U.S. states residents. These discriminatory pricing practices harmed over 200,000 cardholders.

- **Imposing more stringent credit score cutoffs and lower credit limits:** American Express applied stricter credit score requirements to its Puerto Rico cards than its comparable U.S. cards but did not apply more stringent credit score cutoffs to other U.S. geographies. As a result, American Express denied credit to certain Puerto Rico card applicants who would have been approved for comparable U.S. cards had they lived in the 50 U.S. states. American Express also imposed lower initial credit limits on certain Puerto Rico cards and thus provided less access to credit than to similarly situated U.S. cardholders. Additionally, one American Express bank outright denied Puerto Rican residents who applied for certain consumer and small business card products that were offered to U.S. residents. These discriminatory practices harmed over 35,000 consumers and small businesses.
- **Requiring more money to settle debt:** In using third-party debt collectors, one American Express bank settled card debt held by Puerto Rico cardholders on less favorable terms than debt held by its U.S. cardholders. On average, Puerto Rico cardholders had to pay 73 percent of the owed amount, compared with only 55 percent paid by U.S. cardholders. It also excluded certain Puerto Rico cardholders from letter campaigns with even more advantageous debt settlement offers through which U.S. cardholders were able to settle, on average, for 42 percent of the owed amount. American Express also did not provide certain collection offers and services that it gave to U.S. cardholders, including benefits for paying all or a part of their past due balance, to Puerto Rico cardholders and cardholders who requested Spanish language communication. These differential collection practices harmed over 53,000 cardholders in Puerto Rico and the U.S. territories, or who indicated a Spanish-language preference.

Enforcement Action

The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the CFPB to take action against creditors engaging in discrimination in violation of the Equal Credit Opportunity Act (ECOA). ECOA prohibits creditors from discriminating against applicants and prospective applicants in credit transactions on the basis of characteristics such as race and national origin. Under the terms of the CFPB order released today, American Express is required to:

- **Fully remediate harmed consumers:** During the Bureau's review, American Express provided monetary and non-monetary relief to 221,932 harmed consumers, resulting in approximately \$95 million of remediation. American Express must review and verify the adequacy of any redress done prior to the CFPB order. The Bureau is ordering American Express to pay at least an additional \$1 million to redress harmed consumers who have not yet been fully compensated, as required by the consent order.
- **Not discriminate against residents of Puerto Rico, the U.S. territories, and consumers with a Spanish-language preference:** American Express must develop and implement a comprehensive compliance plan to ensure that it provides credit and charge cards in a non-discriminatory manner to consumers in Puerto Rico, the U.S. territories, and customers in collection who prefer Spanish-language communications. American Express has already modified its management structure such that it manages its Puerto Rico cards under the same division as its U.S. cards. The compliance plan must include any necessary additional improvements

to its compliance management system; compliance audit program; credit and charge card business structure, policies, and procedures; employee training procedures; and complaints procedures.

The Bureau did not assess penalties based on a number of factors, including that American Express self-reported the violations to the Bureau, self-initiated remediation for the harm done to affected consumers, and fully cooperated with the Bureau's review and investigation.