



Enforcement Alert from Hudson Cook; CFPB Fines Large National Bank for Withholding Credit Card Rewards, Charging Multiple Non-sufficient Fund Fees, and Opening Unauthorized Accounts

July 11th, 2023 | [Michael A. Goodman](#) and [Kristen Yarows](#)

HIGHLIGHTS:

- The national bank agreed to pay over \$100 million to consumers for allegedly charging multiple non-sufficient fund fees for the same transaction, withholding credit card reward bonuses, and misusing sensitive customer information to open unauthorized accounts.
- The national bank also agreed to pay \$90 million in penalties to the CFPB and \$60 million in penalties to the Office of the Comptroller of the Currency.
- The national bank neither admitted nor denied the allegations but entered into two consent orders with the CFPB to resolve the allegations.

CASE SUMMARY

On July 11, 2023, the CFPB announced two consent orders against a large national bank, settling allegations that the bank illegally charged consumers multiple non-sufficient fund fees for the same transaction, withheld cash and point rewards on new credit cards, and misused sensitive consumer information to open unauthorized credit card accounts. The CFPB alleged that from September 2018 until February 2022, the national bank generated hundreds of millions of dollars by charging repeat non-sufficient fund fees constituting an unfair act or practice in violation of the Consumer Financial Protection Act of 2010. The national bank charged consumers who did not have sufficient funds in their account at the time they made a transaction a \$35 non-sufficient funds fee. If merchants “re-presented” the transaction—i.e., tried additional times to receive payment—the national bank charged the consumer repeated non-sufficient funds fees. The CFPB’s order requires the national bank to refund all repeat non-sufficient fund fees that it collected since 2018 and has not yet refunded, totaling approximately \$80.4 million in consumer redress. The Bureau also assessed a \$60 million civil penalty in connection with this conduct. The Office of the Comptroller Currency concurrently issued an order against the national bank separately issuing an additional \$60 million penalty.

The national bank entered into a second consent order with the CFPB, settling allegations that the bank opened unauthorized accounts and issued misleading statements regarding certain credit card rewards. The CFPB alleged that from at least 2012, the bank opened unauthorized credit card accounts without consumer consent. The CFPB alleged that these practices violated the Fair Credit

Reporting Act by using or obtaining consumer reports without a permissible purpose; the Truth in Lending Act and Regulation Z; and by violating these laws, also violated the Consumer Federal Protection Act of 2010. The Bureau alleged that bank employees opened these accounts to reach now disbanded sales-based incentive goals and evaluation criteria. The order prohibits the bank from using these sales goals for three years after the effective date. Additionally, the order alleges that the bank engaged in deceptive acts or practices by failing to honor rewards promises for consumers who signed up for credit cards in person or over the phone and failing to provide sign-up bonuses due to employee error. The order requires the national bank to stop these practices, pay redress to consumers, and pay the Bureau a \$30 million civil money penalty. The national bank did not admit or deny the allegations in either of the consent orders.

RESOURCES

You can review all the relevant court filings and press releases at the [CFPB's Enforcement Page](#).

- [Consent Order \(Non-Sufficient Funds\)](#)
- [Press Release \(Non-Sufficient Funds\)](#)
- [Consent Order \(Credit Cards\)](#)
- [Press Release \(Credit Cards\)](#)

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