

# A lender's guide to refund fees and charges of ancillary products

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Ancillary products are under scrutiny by attorneys general, the **Consumer Financial Protection Bureau** and the **Office of the Comptroller of the Currency**. These regulators are evaluating creditors' policies and practices related to refunds of ancillary products upon early termination of the underlying contracts.

Many ancillary products are statutorily governed as insurance, and there are legal obligations that borrowers receive refunds of unearned premiums — though no particular party is bound to make those refunds. Once ancillary products are financed, states regulate the transactions. Many states require borrowers to request refunds upon termination of the underlying contracts or require creditors to notify dealers or providers when refunds are due. Other states require creditors to initiate refunds upon early termination of the underlying contracts.

State attorneys general regulate creditors in consumer finance transactions, but not insurance companies, dealers or ancillary product providers. Therefore, regulators mandate creditor responsibility to ensure that consumers receive refunds. Creditors may work with dealers or providers to process refunds, but regulators hold lenders responsible for accuracy and completion of the actual refund.

Mere notification of prepayment to dealers or providers will not relieve creditors of refund obligations. Ultimately, creditors are responsible to ensure that consumers have received their refunds. The best evidence for lenders — in case of an audit — are copies of the canceled refund checks.

To that end, creditors should follow up with providers and dealers when refund obligations are contracted out. If the dealer or provider can't provide evidence of the return, the creditor may refund the consumer directly and "true-up" with the dealer or provider on a predetermined basis. In other words, the amount that the creditor refunds the consumer would be deducted from any amounts that the creditor owes the dealer in the regular course of business.

When creditors are unable to deliver refunds to consumers, they must report and deliver the refunds to the state's unclaimed property authority. Creditors' obligations to refund property in their possession may extend as far back as the effective date of the refund requirement statute, and unclaimed property laws are not subject to statutes of limitation.

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