UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING
File No. 2014-CFPB-0007

In the Matter of: **Synchrony Bank, f/k/a** **GE Capital Retail Bank**	**CONSENT ORDER**

Through the course of its supervisory activity, the Consumer Financial Protection Bureau (CFPB) has reviewed the practices of Respondent Synchrony Bank, formerly known as GE Capital Retail Bank (the Bank), and has identified the following law violations: (1) deceptive practices relating to the marketing and sale of certain of the Bank's credit card add-on products (the Add-On Matter), in violation of Sections 1031(a) and 1036(a)(1)(B) of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B); and (2) discrimination on the basis of national origin in connection with two direct-mail collection offers to certain credit card consumers by excluding consumers who had "Spanish-preferred" indicators on their accounts or consumers with mailing addresses in Puerto Rico from the offers (the Offer Exclusion Matter) in violation of the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, and its implementing regulation, Regulation B, 12 C.F.R. pt. 1002. The Bank self-identified and reported the offer exclusions to the CFPB. Following the CFPB's review, on March 3, 2014, the CFPB referred the Offer Exclusion Matter to the Attorney General through the Civil Rights Division of the Department of Justice pursuant to Section 706(g) of the ECOA and the December 6, 2012 Memorandum of Understanding between the CFPB and the

Department of Justice (DOJ). The CFPB and the DOJ engaged in a joint investigation into the Bank's compliance with the ECOA.

The CFPB issues this Consent Order (Order) under Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, and in coordination with the DOJ on the Offer Exclusion Matter. The DOJ will concurrently file a complaint and proposed consent decree related to the Offer Exclusion Matter in the United States District Court for the District of Utah.

I

OVERVIEW

1. The CFPB finds that the Bank has engaged in violations of Sections 1031 and 1036 of the CFPA (collectively, Section 1036), 12 U.S.C. §§ 5531, 5536, in connection with the marketing and sales of the Bank's Add-On Products (as defined below).

2. The CFPB finds that the Bank has engaged in violations of the ECOA, 15 U.S.C. § 1691(a)(1), and its implementing regulation, Regulation B, 12 C.F.R. § 1002.4(a), in connection with the Offer Exclusion Matter.

II

JURISDICTION

3. The CFPB has jurisdiction over the Add-On Matter pursuant to Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565.

4. The CFPB has jurisdiction to enforce the ECOA in the Offer Exclusion Matter pursuant to Sections 1002, 1025, 1053, and 1055 of the CFPA, 12 U.S.C. §§ 5481(12)(D), (14), 5515(c)(1), 5563, and 5565; and the ECOA, 15 U.S.C. § 1691c(a)(9).

III

STIPULATION

5. The Bank has executed a Stipulation and Consent to the Issuance of Consent Order (Stipulation), which is incorporated by reference and is accepted by the CFPB. By this Stipulation, the Bank has consented to the issuance of this Order by the CFPB pursuant to Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any findings of fact, any violations of law, or any wrongdoing, except that the Bank admits the Bureau has jurisdiction over it and the subject matter of this action.

IV

DEFINITIONS

6. For purposes of this Order, the following definitions shall apply:

a. "Add-On Consumer" shall mean any Cardholder who enrolled in an Add-On Product.

b. "Add-On Product" shall mean any consumer financial products or services, as defined by Section 1002(5) of the CFPA, 12 U.S.C. § 5481(5), that the Bank markets or offers to Cardholders as an optional add-on product to Bank credit cards and that are supplementary to the credit provided by the credit cards, and includes the Covered Add-On Products.

c. "Add-On Relevant Time Period" shall mean January 1, 2010, through October 19, 2013.

d. "Bank" shall mean Synchrony Bank, formerly known as GE Capital Retail Bank, and its successors and assigns.

e. "Board" shall mean the Bank's duly elected and acting Board of Directors.

f. "Cardholder" shall mean any person who opened a credit card account issued by the Bank.

g. "Charged-off" shall mean a determination by the Bank that an unpaid balance on an account is not collectible. Charged-off accounts may have been sold to third-party debt collectors.

h. "Collection Offers" shall mean the Statement Credit Offer and the Settlement Offer, as described in Paragraph 23 below.

i. "Covered Add-On Product" shall mean any of the five Add-On Products described in Paragraph 10 below.

j. "Effective Date" shall mean the date on which the Order is issued.

k. "Eligible Add-On Consumers" shall mean Add-On Consumers who enrolled in a Covered Add-On Product through the Bank's Service to Sales channel (as defined in Paragraph 11), at any time from January 1, 2010 to October 19, 2012, excluding Add-On Consumers who (i) received a benefit from the Covered Add-On Product in which the consumer was enrolled, (ii) received a full refund of all fees paid by the Consumer under the Covered Add-On Product's terms, or (iii) would be eligible to receive a refund or credit under the Add-On Redress Plan of less than $1.

l. "Eligible Offer Exclusion Consumers" shall mean Cardholders who had "Spanish-preferred" indicators on their accounts or who had mailing addresses in Puerto Rico and, as a result, were excluded from the Collection Offers at any time during the Offer Exclusion Relevant Time Period.

m. "Offer Exclusion Relevant Time Period" shall mean January 1, 2009 through March 31, 2012.

n. "Regional Director" shall mean the Regional Director for the West Region for the Office of Supervision for the CFPB, or his or her delegee.

o. "Related Consumer Action" shall mean a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against the Bank based on substantially the same facts as set forth in Section V of this Order.

p. "Service Provider" shall mean any service provider, as defined in Section 1002(26) of the CFPA, 12 U.S.C. § 5481, that provides services with respect to an Add-On Product pursuant to a contractual arrangement with the Bank.

q. "Spanish-preferred" shall mean a notation in a Cardholder's account indicating a preference for communications relating to the account in Spanish, rather than English.

V

CFPB FINDINGS AND CONCLUSIONS

The CFPB finds the following:

7. The Bank is a federal savings association headquartered in Draper, Utah. As of March 2014, the Bank reported total assets of $39.8 billion.

8. The Bank is an insured depository institution with assets greater than $10 billion within the meaning of 12 U.S.C. § 5515(a).

9. The Bank is a "covered person" as that term is defined by 12 U.S.C. § 5481(6).

Add-On Products

10. During at least the Add-On Relevant Time Period, the Bank had five Covered Add-On Products:

a. The Bank marketed Card Security, the Bank's primary Add-On Product, as providing balance and/or payment cancellation for a cost of 1.66% of the balance and as covering up to $10,000 per event. Under the terms and conditions, Add-On Consumers enrolled in this product could seek benefits upon involuntary unemployment or approved leave of absence, and, if approved, the Add-On Consumers' minimum monthly payments could be canceled for every month, up to 90 days' duration, and the Add-On Consumers' full balance could be canceled, up to $10,000 after 90 days. These Add-On Consumers could seek benefits upon disability, which, if approved, resulted in canceling minimum monthly payments for 30 days, up to 90 days' duration, and canceling the full balance, up to $10,000, after 90 days. These Add-On Consumers could seek benefits upon hospitalization or nursing home care, which, if approved, resulted in canceling one minimum monthly payment for any event requiring a two-night stay and canceling the full balance, up to $10,000, for any event requiring a seven-night stay. Finally, these Add-On Consumers could seek benefits upon loss of life or terminal medical condition, which, if approved, resulted in canceling the full balance, up to $10,000.

b. The Bank marketed Account Security as providing balance cancellation at a cost of 1.50% of the balance and covering up to $10,000 per event.

Under the terms and conditions, Add-On Consumers enrolled in this product could seek cancellation of the full balance, up to $10,000, for involuntary unemployment or approved leave of absence lasting 90 days, disability lasting 90 days, hospitalization or nursing home care for 14 nights, or loss of life.

c. The Bank marketed Account Security Plus as providing balance cancellation at a cost of 1.50% of the balance and covered up to $10,000 per event. Under the terms and conditions, Add-On Consumers enrolled in this product could seek cancellation of the full balance, up to $10,000, for involuntary unemployment lasting 90 days, disability lasting 90 days, hospitalization or nursing home care for 14 nights, or loss of life. Additionally, if merchandise was destroyed, Add-On Consumers enrolled in this product could seek cancellation of the lower of the remaining account balance or the original purchase price of the merchandise.

d. The Bank marketed Debt Security as providing payment and/or balance cancellation for a cost of 0.99% of the balance and covered up to $10,000 per event. Under the terms and conditions, Add-On Consumers enrolled in this product could seek cancellation of 5% of the balance for involuntary unemployment or approved leave of absence, disability, or hospitalization or nursing home care. These Add-On Consumers could also seek cancellation of the full balance, up to $10,000, in the event of loss of life.

e. The Bank marketed Debt Security Plus as providing payment and/or balance cancellation at a cost of 0.99% of the balance and covered up to

$10,000 per event. Under the terms and conditions, Add-On Consumers enrolled in this product could seek cancellation of 5% of the balance for involuntary unemployment, disability, or hospitalization or nursing home care. These Add-On Consumers could also seek cancellation of 100% of the balance, up to $10,000, in the event of loss of life. Additionally, if merchandise was destroyed, Add-On Consumers enrolled in this product could seek cancellation of the lower of the remaining account balance or the original purchase price of the merchandise.

11. During the Add-On Relevant Time Period, the Bank marketed and offered the Add-On Products through five channels: Cardholders' inbound calls to activate their credit cards, Cardholders' inbound customer service assistance calls (Service to Sales or S2S), online, point of sale, and direct mail.

12. The Bank, its affiliates, and Service Providers operated the S2S channel.

13. Until May 2012, the Bank did not require scripts for customer service representatives (CSRs) conducting marketing of the Covered Add-On Products in the S2S channel, except for a scripted statement to be given at the end of the call. In May 2012, the Bank began requiring full scripting for use in S2S calls.

14. During the Add-On Relevant Time Period, the Bank and its Service Providers enrolled some Cardholders in Covered Add-On Products in the S2S channel without adequately informing them that they were purchasing the Add-On Products, or misrepresented to some Cardholders the costs, terms, benefits, and benefits process of the Add-On Products. During the Add-On Relevant Time Period, the Bank's improper telemarketing practices included:

a. misrepresenting the cost of the Add-On Products by suggesting that Cardholders could avoid a fee by paying their balance in full before the monthly due date; in fact, to avoid paying the fee, the Cardholder must pay the balance in full substantially earlier – prior to the statement's issuance – so that the statement has a zero balance;

b. failing to inform Cardholders who had disclosed information suggesting that they would be ineligible for one or more of the Add-On Products' benefits that such Cardholders would be ineligible for one or more of the Add-On Products' benefits;

c. representing in some instances as part of the call introduction that CSRs were attempting to handle ministerial tasks related to the Cardholders' accounts, rather than enrolling the Cardholders in an optional fee-based product; and

d. misrepresenting the availability of the Add-On Products, such as by representing them as "limited time" offers.

15. The Bank's compliance monitoring, Service Provider management, and quality assurance yielded ineffective oversight and did not, in certain instances, prevent, identify, or correct the improper sales practices in marketing the Add-On Products.

16. Section 1036(a)(1)(B) of the CFPA prohibits "unfair, deceptive, or abusive" acts or practices. 12 U.S.C. § 5536(a)(1)(B).

17. Statements and omissions by the Bank or its Service Providers, as set forth in the preceding Paragraphs, are material because they are likely to affect a Cardholder's choice or

conduct regarding the Covered Add-On Products. These statements and omissions are also likely to mislead consumers acting reasonably under the circumstances.

18. The representations of the Bank, through its Service Providers and CSRs, as set forth in in the preceding Paragraphs, constitute deceptive acts and practices in violation of Sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). During the Add-On Relevant Time Period, these violations potentially affected approximately 638,000 Add-On Consumers in the amount of at least $56 million in fees and finance charges.

Offer Exclusion

19. During the course of the CFPB's supervisory quarterly monitoring, the Bank self-identified and reported to the CFPB that it had excluded Cardholders with "Spanish-preferred" indicators on their accounts or with mailing addresses in Puerto Rico from its Statement Credit Offer (as defined in Paragraph 23(a) below) and Settlement Offer (as defined in Paragraph 23(b) below).

20. From May 2013 through November 2013, the CFPB conducted a review of these exclusions for compliance with the ECOA and its implementing regulation, Regulation B.

21. On March 3, 2014, based on the CFPB's finding that it had reason to believe the Bank engaged in a pattern or practice of discrimination in violation of Section 701(a) of the ECOA, the CFPB referred the Offer Exclusion Matter to the DOJ pursuant to Section 706(g) of the ECOA and the December 6, 2012, Memorandum of Understanding between the CFPB and the DOJ.

22. On March 12, 2014, the DOJ initiated an investigation under the ECOA of the Bank's exclusion of Cardholders with a "Spanish-preferred" indicator on their accounts or a

mailing address in Puerto Rico from certain credit card offers. The DOJ and the CFPB coordinated their investigations of the Bank with respect to the Offer Exclusion Matter.

23. During the Offer Exclusion Relevant Time Period, the Bank provided the following two direct mail offers (the Collection Offers) to Cardholders who met certain criteria, including:

a. Cardholders with (i) balances greater than $700, (ii) three payments due, (iii) a credit bureau score below 670, and (iv) an amount due greater than $150 received letters offering a credit on their statement in an amount ranging from $25 to $100 (Statement Credit Offer). To accept the Statement Credit Offer, the consumer was asked to contact the Bank and pay an amount equal to three payments to bring the account current. These letters were sent to Cardholders between March 2010 and March 2012.

b. Cardholders (i) with balances greater than $200, (ii) within certain internally developed risk score thresholds, (iii) with four or more payments due, and (iv) with no payment made in the previous 90 days received letters offering to settle their account balance by paying a percentage, ranging from 25% to 55%, of their account balance (Settlement Offer). To accept the Settlement Offer, the consumer had to contact the Bank and pay the reduced balance in the offer. Thereafter, the account would be deemed settled and the Bank would no longer seek to collect on the account. These letters were sent to Cardholders between January 2009 and March 2012.

24. During the Offer Exclusion Relevant Time Period, the Bank did not provide the Statement Credit Offer or Settlement Offer to otherwise eligible Cardholders with a "Spanish-preferred" indicator on their accounts or with a mailing address in Puerto Rico, in writing in any language, including English. The Bank provided the Collection Offers in writing to other Cardholders who met the respective eligibility criteria.

25. These Collection Offers relate to an aspect of a credit transaction, including the Bank's collections procedures for settling and resolving the outstanding debts of its existing Cardholders. These procedures include the Bank's regular participation in the decision to grant its credit card customers the right to incur and defer debt.

26. The Bank is a creditor within the meaning of the ECOA, 15 U.S.C. § 1691a(e), and Regulation B, 12 C.F.R. § 1002.2(l).

27. According to the 2010 U.S. Census data, 75% of Hispanics five years of age and older speak Spanish at home.[1] In addition, 99% of the residents of Puerto Rico are Hispanic.[2] According to 2011 American Community Survey data, nationwide the percentage of Hispanics five years of age and older that speak Spanish at home and speak English "less than very well" is 34%; that number for non-Hispanic whites is less than one quarter of a single percentage point (0.22%).[3]

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[1] *See* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_1YR_B16006&prodType=table.

[2] *See* http://www.pewhispanic.org/2011/06/13/a-demographic-portrait-of-puerto-ricans/#fn-143-3.

[3] *See* http://www.census.gov/prod/2013pubs/acs-22.pdf.

28. The Bank's exclusion of Cardholders with a "Spanish-preferred" indicator on their accounts and Cardholders with a mailing address in Puerto Rico from the Collection Offers is not justified by a legitimate business need.

29. The Bank's exclusion of Cardholders with a "Spanish-preferred" indicator on their accounts and Cardholders with a mailing address in Puerto Rico from the Collection Offers constituted discrimination on the basis of national origin in violation of the ECOA. 15 U.S.C. § 1691(a)(1); 12 C.F.R. § 1002.4(a).

30. When the Bank's remediation is completed, it will apply to, in total, approximately 108,000 eligible Cardholders with a "Spanish-preferred" indicator on their accounts or with a mailing address in Puerto Rico. The Bank will provide remediation in the amount of at least $169 million to affected consumers in the form of monetary payments, credits, and waivers on accounts, representing the value of the excluded offer, lost interest, and indirect damages. Of that total, $8 million represents payments to affected consumers; $3 million represents credits and waivers on accounts the Bank has not charged-off; $86 million represents credits on accounts that the Bank has charged-off; and $72 million represents waivers on accounts that the Bank has charged-off.[4]

VI

ORDER TO CEASE AND DESIST AND TO TAKE OTHER AFFIRMATIVE ACTION

IT IS HEREBY ORDERED, pursuant to Sections 1053 and 1055 of the CFPA, that:

31. The Bank and its officers, agents, servants, employees, and attorneys who have actual notice of this Order, whether acting directly or indirectly, shall:

[4] "Waivers" refers to the deletion of a consumer's account balance, whereas "credits" refers to the reduction of a consumer's account balance.

a. cease and desist from engaging in violations of law or regulation in connection with the marketing and sale of Covered Add-On Products and shall take reasonable measures to ensure that its Service Providers and other agents cease and desist from engaging in violations of law or regulation in connection with the marketing and sale of Covered Add-On Products; and

b. cease and desist from engaging in any act or practice that discriminates on the basis of national origin in any aspect of Cardholders' credit transactions with the Bank, including, but not limited to, provision of the Collection Offers to Cardholders.

32. The Bank shall correct all violations of law, to the extent not already corrected, as described herein, and shall implement procedures to prevent their recurrence. The Bank's actions as required by this Paragraph shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

Action Plan

33. Within 90 days of the Effective Date, the Bank shall submit to the Regional Director and the DOJ a plan to address the actions that are necessary and appropriate to achieve compliance with this Order (Action Plan). The Action Plan shall specify timelines for completion of each of the requirements of this Order that have not already been completed and shall designate and certify those items that have been completed. The timelines in the Action Plan shall be consistent with all deadlines in this Order, unless modified in writing by the Regional Director and the DOJ.

34. The Bank's existing Audit Committee, which is composed of independent directors, shall be responsible for monitoring and ensuring the Bank's compliance with this Order.

35. The Action Plan shall include provisions requiring the Bank, within 30 days after the end of each quarter starting after the Bank's receipt of a determination of non-objection and until all items in the Action Plan have been completed, to submit a written progress report (Quarterly Progress Report) to the Board setting forth in detail the actions taken to comply with this Order, and the results and status of those actions.

36. The Action Plan shall also include provisions requiring that, upon receiving the Quarterly Progress Report, the Board shall forward a copy of the Quarterly Progress Report, with any additional comments by the Board, to the Regional Director and the DOJ within 10 days of the first Board meeting following receipt of such report.

37. The Board or a Committee thereof shall ensure the Action Plan is submitted to the Regional Director and the DOJ for review and determination of non-objection. In the event that the Regional Director and, where appropriate, the DOJ direct the Bank to revise the Action Plan, the Bank shall make the revisions and resubmit the Action Plan to the Regional Director and, where appropriate, the DOJ within 30 days of the date of notification of the need for revisions.

38. Upon receipt of a determination of non-objection from the Regional Director and the DOJ to the Action Plan, the Audit Committee shall ensure the Bank's adoption, implementation, and adherence to the Action Plan.

39. Any material proposed changes or deviations from the approved Action Plan shall be submitted in writing to the Regional Director and the DOJ for review and determination of non-objection. In the event that the Regional Director and, where appropriate, the DOJ direct the

Bank to revise the changes to the Action Plan, the Bank shall make the revisions and resubmit the Action Plan to the Regional Director and, where appropriate, the DOJ within 30 days of the date of notification of the need for revisions.

Compliance Plan for Add-On Products

40. With respect to the violations identified relating to the Add-On Matter, the Bank represents that it ceased all telephone-based enrollment for the Covered Add-On Products in October 2012, ceased marketing and selling all Covered Add-On Products except Card Security on July 1, 2012, and completed a remediation plan that refunded or credited approximately $11 million in fees and charges to certain Cardholders.

41. The Bank is prohibited from marketing, soliciting, offering for sale, and selling Add-On Products by telephone unless it submits to the Regional Director a compliance plan (the Add-On Compliance Plan) specifically designed to prevent all violations of Section 1036 in the marketing, sale, and administration of Add-On Products.

42. The Bank shall submit any Add-On Compliance Plan to the Regional Director at least 90 days prior to marketing, soliciting, offering for sale, or selling Add-On Products by telephone for prior determination of supervisory non-objection. In the event that the Regional Director directs the Bank to revise the Add-On Compliance Plan, the Bank shall make the revisions and resubmit the Add-On Compliance Plan to the Regional Director within 30 days of the date of notification of the need for revisions.

43. Any Add-On Compliance Plan concerning Add-On Products shall:

a. Include appropriate safeguards designed to ensure that the Bank's officers, servants, employees, attorneys, Service Providers, affiliates, or other

agents refrain from engaging in violations of law or regulations in the marketing, sale, and administration of Add-On Products.

b. Address the manner in which the Bank informs Cardholders of all fees, costs, expenses, and charges associated with the Add-On Product.

c. Describe how the Bank will inform Cardholders of any material conditions, benefits, and restrictions related to the Add-On Product, including how the Bank will inform Cardholders who disclose conditions that may make them ineligible for certain benefits (*e.g.*, current disability or unemployment) of the restrictions and conditions relating to those conditions.

d. Describe how the Bank will disclose that by enrolling, the Cardholder is purchasing an optional product with a cost, and that enrolling is not a mandatory or ministerial process (*e.g.*, ensuring that Cardholders understand enrolling in an Add-On Product is not an "update" to the Cardholder's account or to their "card security").

e. Describe how the Bank will ensure that the Add-On Product's availability is accurately represented.

44. Any Add-On Compliance Plan shall also include the development or revision of a written Vendor Management Policy designed to ensure that Add-On Products which are marketed and sold by the Bank or through the Bank's Service Providers comply with applicable Federal consumer financial laws, including but not limited to Section 1036. At a minimum, the Vendor Management Policy shall require:

a. An analysis to be conducted by the Bank, prior to the Bank entering into a contract with any Service Provider, of the ability of the Service Provider to perform the marketing, sales, delivery, servicing, and fulfillment of services for the Add-On Product(s) in compliance with all applicable Federal consumer financial laws and the Bank's policies and procedures;

b. For new and renewed contracts, a written contract between the Bank and the Service Provider, which sets forth the responsibilities of each party, especially:

   i. the Service Provider's specific performance responsibilities and duty to maintain adequate internal controls over the marketing, sales, delivery, servicing, and fulfillment of services for the Add-On Products;

   ii. the Service Provider's responsibilities and duty to provide adequate training on applicable Federal consumer financial law and the Bank's policies and procedures to all Service Provider employees or agents engaged in the marketing, sales, delivery, servicing, and fulfillment of services for the Add-On Product(s);

   iii. granting the Bank the authority to conduct periodic onsite reviews of the Service Provider's controls, performance, and information systems as they relate to the marketing, sales, delivery, servicing, and fulfillment of services for the Add-On Product(s); and

iv. the Bank's right to terminate the contract if the Service Provider materially fails to comply with the terms specified in the contract, including the terms required by this Paragraph; and

c. Periodic onsite review by the Bank of the Service Provider's controls, performance, and information systems.

45. Any Add-On Compliance Plan shall also include a written Unfair, Deceptive, or Abusive Acts or Practices Policy (UDAAP Policy) for any Add-On Products that shall require a written analysis, to be conducted on an annual basis, of:

a. Any changes to the governance, control, marketing, sales, delivery, servicing, and/or fulfillment of Add-On Products marketed and sold by the Bank or through Service Providers; and

b. Any new Add-On Products.

46. The analysis required by the preceding Paragraph shall at a minimum include the following:

a. An assessment of the UDAAP risks of the Add-On Product and of the governance, control, marketing, sales, delivery, servicing, and/or fulfillment of services for the Add-On Product; and

b. An evaluation of the adequacy of the Bank's internal controls and written policies and procedures to identify, measure, monitor, and control the UDAAP risks associated with the Add-On Product.

47. The UDAAP Policy shall also require:

a. When consistent with applicable law, the recording of all telephone calls in which Add-On Products are marketed or sold by the Bank or through a

Service Provider to Cardholders, which recordings shall be retained for a period of at least 25 months from the date of the call;

b. When consistent with applicable law, the recording of all telephone calls in which a customer enrolled in an Add-On Product marketed or sold by the Bank or through a Service Provider indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the Add-On Product, which recordings shall be retained for a period of at least 25 months from the date of the call;

c. Comprehensive written procedures for providing appropriate training on applicable Federal consumer financial laws and the Bank's policies and procedures, including but not limited to unfair, deceptive, and abusive acts and practices, to appropriate Bank employees and Service Provider CSRs who market or sell Add-On Products during telephone calls or who engage in retention efforts during telephone calls in which a Bank customer indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the Add-On Product;

d. Comprehensive written procedures for providing appropriate training on applicable Federal consumer financial laws and the Bank's policies and procedures, including but not limited to training on Section 1036, to appropriate Bank employees and Service Provider employees or agents monitoring telephone calls;

e. Comprehensive written policies and procedures for identifying and reporting any violation of applicable Federal consumer financial laws and

the Bank's policies and procedures by the Bank's employees and Service Provider's employees or agents, in a timely manner, to a specified executive risk manager at the Bank who is independent of the unit overseeing the sale and marketing of the Add-On Products;

f. Development of training materials relating to identifying and responding to violations of applicable Federal consumer financial laws that will be incorporated into the existing annual compliance training for appropriate employees;

g. Independent telephone call monitoring by qualified personnel who have training in identifying and reporting violations of applicable Federal consumer financial laws and the Bank's policies and procedures, including but not limited to violations of Section 1036;

h. Reporting, on at least a monthly basis by the independent unit responsible for conducting the required monitoring, of its findings from the telephone call monitoring to a specified executive risk manager at the Bank who is independent of the unit overseeing the sales and marketing of these Add-On Products; and

i. Written policies and procedures to ensure the risk management, internal audit, and corporate compliance programs have the requisite authority and status within the Bank so that appropriate reviews of Add-On Products marketed or sold by the Bank or through Service Providers may occur and deficiencies are identified and properly remedied.

48. Any Add-On Compliance Plan shall also require that the Bank's Internal Audit department periodically assess the Bank's compliance with the Vendor Management Policy and UDAAP Policy. Such assessments shall occur within 120 days after the Bank's receipt of a determination of supervisory non-objection to the Add-On Compliance Plan, and periodically but at least annually thereafter, and the findings shall be memorialized in writing. Within 10 days of completing each assessment, the Internal Audit department shall provide its written findings to the Audit Committee and the Regional Director.

49. Any Add-On Compliance Plan shall also include a written Consumer Compliance Internal Audit Program for all Add-On Products (the Internal Audit Program). At minimum, the Internal Audit Program shall include:

a. Written policies and procedures for conducting audits of the Bank's compliance with applicable Federal consumer financial laws, including but not limited to Section 1036. These policies and procedures shall specify the frequency, scope, and depth of these audits; and

b. Written policies and procedures for expanding its sampling when exceptions based on potential violations of applicable Federal consumer financial laws are detected as part of an audit described in the preceding Paragraph.

50. Upon receipt of a determination of supervisory non-objection from the Regional Director to the Add-On Compliance Plan, including the Vendor Management Policy, the UDAAP Policy, and the Internal Audit Program, the Board or a Committee thereof shall ensure the Bank's adoption, implementation and adherence to the Add-On Compliance Plan.

51. Any material proposed changes or deviations from the approved Add-On Compliance Plan shall be submitted in writing to the Regional Director for determination of supervisory non-objection. In the event that the Regional Director directs the Bank to revise the changes to the Add-On Compliance Plan, the Bank shall make the revisions and resubmit the Add-On Compliance Plan to the Regional Director within 30 days of the date of notification of the need for revisions.

Compliance Plan for Offer Exclusions

52. With respect to the violations identified relating to the Offer Exclusion Matter, the Bank represents that as of March 2012, (a) Cardholders with "Spanish-preferred" indicators on their accounts or with addresses in Puerto Rico are being included in the Settlement Offer, and (b) the Statement Credit Offer was completely discontinued. The Bank has also represented that it has taken the following actions:

a. it has taken steps to improve its compliance management system with respect to fair lending; and

b. it has reacquired accounts of certain Eligible Offer Exclusion Consumers that were sold to third-party debt collectors, and provided the benefits of the Offers or their equivalent value as well as other relief to approximately 84,000 Eligible Offer Exclusion Consumers; as a result, to date the Bank has provided $131.8 million of remediation to affected consumers in the form of monetary payments, credits, and waivers on accounts, representing the value of the excluded offer, lost interest, and indirect damages. Of that total, $6.1 million represents payments to affected consumers; $2.9 million represents credits and waivers on accounts the

Bank has not charged-off; $68.4 million represents credits on accounts that the Bank has charged-off; and $54.4 million represents waivers on accounts that the Bank has charged-off.

53. The Bank is prohibited from excluding Cardholders from any aspect of its credit offers because they have "Spanish-preferred" indicators on their accounts, and prohibited from impermissibly excluding Cardholders from any aspect of its credit offers because those Cardholders have a mailing address in Puerto Rico.

54. Within 90 days of the Effective Date, the Bank shall provide an Offer Exclusion Compliance Plan to the Regional Director and the DOJ for prior determination of non-objection, which may be satisfied in whole or in part by the Bank's existing fair lending program. In the event that the Regional Director and the DOJ direct the Bank to revise the Offer Exclusion Compliance Plan, the Bank shall make the revisions and resubmit the Offer Exclusion Compliance Plan to the Regional Director and the DOJ within 30 days of the date of notification of the need for revisions. The Offer Exclusion Compliance Plan shall include the following:

a. a review of all aspects of the Bank's current credit offer strategies, including collections strategies, for its "Spanish-preferred" indicator Cardholders and Cardholders with mailing addresses in Puerto Rico for compliance with the ECOA and Regulation B, including, but not limited to, a review designed to ensure that these Cardholders have not been adversely affected in any aspect of the terms or conditions of credit offers with the Bank as compared with the Bank's other Cardholders. If in connection with this review, the Bank identifies any violation or potential violation of the ECOA and Regulation B, within 60 days of completing

the review, the Bank shall notify the Regional Director and the DOJ and include details regarding the harm, proposed corrective action, and timeline for implementation;

b. fair lending training to its employees, including its collections unit, to include an explanation of the national origin discrimination resulting from the exclusion of Cardholders with "Spanish-preferred" indicators on their accounts or mailing addresses in Puerto Rico;

c. a formal process for reviewing for compliance with the ECOA and Regulation B all new or modified collections strategies and credit card terms and conditions;

d. participation of its Fair Lending Officer in the Bank's Credit Strategies Sub-Committee; and

e. implementation of a regular and periodic schedule for the Bank's Internal Audit department to assess compliance with the ECOA and Regulation B. Such assessments shall occur at least annually. Within ten (10) days of completing each assessment, the Internal Audit department shall provide its written findings to the Audit Committee and the Regional Director.

55. Upon receipt of a determination of non-objection from the Regional Director and the DOJ to the Offer Exclusion Compliance Plan, the Board or a Committee thereof shall ensure the Bank's adoption, implementation, and adherence to the Offer Exclusion Compliance Plan. Any material proposed changes or deviations from the approved Offer Exclusion Compliance Plan shall be submitted in writing to the Regional Director and the DOJ for review and determination of non-objection. In the event that the Regional Director and the DOJ direct the

Bank to revise the changes to the Offer Exclusion Compliance Plan, the Bank shall make the revisions and resubmit the Offer Exclusion Compliance Plan to the Regional Director and the DOJ within 30 days of the date of notification of the need for revisions.

VII

ROLE OF THE BOARD

IT IS FURTHER ORDERED that:

56. Unless otherwise specified in this Order, the Board shall ensure that all submissions required by this Order (including plans, reports, programs, policies, and procedures) regarding the Add-On Matter are submitted to the Regional Director and, with respect to the Offer Exclusion Matter, to the Regional Director and to the DOJ.

57. Although this Order requires the Bank to submit certain documents for the determination of non-objection by the Regional Director and the DOJ, the Board shall have the ultimate responsibility for proper and sound management of the Bank and for ensuring that the Bank complies with Federal consumer financial laws and this Order.

58. With the prior non-objection of the Regional Director and the DOJ, the Board may delegate the approval or reporting obligations included in this Order to the Audit Committee.

59. In each instance in this Order in which the Board or a Board committee is required to ensure adherence to, or undertake to perform certain obligations under this Order, the Board, directly or through the Audit Committee, shall:

a. authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Order;

b. require the timely reporting by Bank management of such actions directed by the Board to be taken under this Order;

c. cure any material non-compliance with such actions in a timely and appropriate manner; and

d. require corrective action be taken in a timely manner of any material non-compliance with such actions.

VIII

ORDER TO PAY REDRESS

IT IS FURTHER ORDERED that:

60. Within 10 days of the Effective Date, the Bank shall set aside sufficient funds in a segregated account to effect the following prospective consumer redress:

a. $32 million, for the purpose of providing redress required by this Section to Eligible Add-On Consumers, which represents $56 million in refunds and credits, less (i) $11 million previously remediated to Eligible Add-On Consumers and (ii) $13 million in refunds and credits that will be applied to balances on charged-off accounts, for injury caused by the practices described in Paragraphs 10–18 of Section V.

b. $2 million, for the purpose of providing redress required by this Section to Eligible Offer Exclusion Consumers, which represents $37 million in payments, credits and waivers, less $35 million of credits and waivers that will be applied to balances on charged-off accounts, for injury caused by the practices described in Paragraphs 19–30 of Section V.

61. Within 90 days of the Effective Date, the Bank shall submit to the Regional Director for review and non-objection a comprehensive written plan for providing redress to Eligible Add-On Consumers consistent with this Order (Add-On Redress Plan). Additionally, within 90 days of the Effective Date, the Bank shall submit to the Regional Director and the DOJ for review and non-objection a comprehensive written plan for providing redress to Eligible Offer Exclusion Consumers consistent with this Order (Offer Exclusion Redress Plan) (collectively, Redress Plans). The Regional Director and the DOJ shall have the discretion to make a determination of non-objection to the applicable Redress Plan(s) or direct the Bank to revise the Plan(s). In the event that the Regional Director and the DOJ direct the Bank to revise the Redress Plans, the Bank shall make the revisions and resubmit the Redress Plans to the Regional Director and the DOJ within 30 days of the date of notification of the need for revisions. Upon notification that the Regional Director and the DOJ have made a determination of non-objection to the Redress Plans, the Bank shall implement and adhere to the steps, recommendations, deadlines, and timeframes set forth in the Redress Plans (to the extent not already implemented).

62. Within 90 days from completion of the Redress Plans, the Bank shall submit an Add-On Redress Plan Report and an Offer Exclusion Redress Plan Report to the Regional Director and, where applicable, the DOJ.

a. The Add-On Redress Plan Report shall include the Bank's Internal Audit department's review and assessment of the Bank's compliance with the terms of the Add-On Redress Plan, including:

(i) the methodology used to determine the population of Eligible Add-On Consumers;

(ii) the amount of redress for each Eligible Add-On Consumer;

(iii) the total number of Eligible Add-On Consumers;

(iv) the procedures used to issue and track redress payments;

(v) the procedures used for reporting and requesting the reporting of updated balances to the credit reporting agencies;

(vi) an accounting of amounts the Bank represents that it has already provided to Eligible Add-On Consumers prior to the Effective Date; and

(vii) the work of independent consultants that the Bank has used, if any, to assist and review its execution of the Add-on Redress Plan.

b. The Offer Exclusion Redress Plan Report shall include the Bank's Internal Audit department's review and assessment of its compliance with the terms of the Offer Exclusion Redress Plan, including:

(i) the methodology used to determine the population of Eligible Offer Exclusion Consumers;

(ii) the amount of redress for each Eligible Offer Exclusion Consumer;

(iii) the total number of Eligible Offer Exclusion Consumers;

(iv) the procedures used to issue and track redress payments;

(v) the procedures used for reporting and requesting the reporting of updated balances to all three major credit reporting agencies – Experian, Equifax, and TransUnion – including, as appropriate, deleting trade lines or adjusting payment histories;

(vi) an accounting of amounts the Bank represents that it has already provided to Eligible Offer Exclusion Consumers prior to the Effective Date; and

(vii) the work of independent consultants that the Bank has used, if any, to assist and review its execution of the Offer Exclusion Redress Plan.

63. The Bank shall provide all relief to consumers required by this Order, regardless of whether the total of such relief exceeds the amount reserved or deposited into a segregated account under this Section.

64. Upon completion of the Add-On Redress Plan Report, if the amount of redress provided to Eligible Add-On Consumers is less than $32 million, within 30 days of the completion of the Redress Plan Report, the Bank shall pay the difference in accordance with the processes set forth in Paragraph 67(b), through a pro rata distribution to the Eligible Add-On Consumers described in Paragraph 68(a)(i)(b). If the Bureau determines, in its sole discretion, that part or all of this pro rata distribution is impracticable, any remaining funds shall be deposited in the U.S. Treasury General Fund, pursuant to wiring instructions to be provided by counsel for the Bureau.

65. Upon the Bank's completion of the Offer Exclusion Redress Plan Report, and in the event that funds remain after the Bank provides redress to Eligible Offer Exclusion Consumers as set forth in Paragraph 60(b), distribution of any and all remaining money shall be subject to Court approval in accordance with Paragraphs 21–23 of the DOJ's Consent Order filed in the United States District Court for the District of Utah.

66. The Bank shall not require any Eligible Add-On Consumer or Eligible Offer Exclusion Consumer to waive any right as a condition of receiving payment of any redress under this Order.

Add-On Product Redress

67. With respect to the Add-On Matter, the Redress Plan shall:

a. Apply to all Eligible Add-On Consumers;

b. Provide for processes covering all Eligible Add-On Consumers regardless of their current account status with the Bank, including open accounts, closed accounts with and without a balance, and charged-off accounts. The processes shall include the following requirements:

(i) for any open credit card account, the Bank shall deliver a statement credit to the account or otherwise send a refund check;

(ii) for any closed or inactive credit card account with a zero balance, the Bank shall send a check to any Eligible Add-On Consumer;

(iii) for any charged-off account, the Bank shall issue a credit decreasing the charged-off balance by the amount of redress; where the refund is greater than the existing charged-off balance, the Bank shall send to the consumer a check in the amount of the excess;

(iv) if the Eligible Add-On Consumer is deceased, and the balance is greater than the refund, the Bank will apply a statement credit to the account; otherwise, a refund check shall be issued to the Eligible Add-On Consumer or the estate, if any; and

(v) with respect to any bankruptcy, accounts in litigation, and sold charged-off accounts, the Bank shall make the refund in accordance with applicable law; and

c. Include a description of the following:

(i) methods used and the time necessary to compile a list of potential Eligible Add-On Consumers;

(ii) methods used to calculate the amount of redress to be paid to each Eligible Add-On Consumer as required herein;

(iii) procedures for issuance and tracking of redress to Eligible Add-On Consumers; and

(iv) procedures for monitoring compliance with the Redress Plan.

68. With respect to the Add-On Matter, the Redress Plan shall, at a minimum, require the Bank to refund to each Eligible Add-On Consumer:

a. The sum of:

(i) Either

(a) for an Eligible Add-On Consumer who was enrolled in the Product for 364 days or fewer, all fees paid by the Consumer under the Add-On Product's terms; or

(b) for an Eligible Add-On Consumer who was enrolled in the Product for 365 days or more, 180 days of fees paid by the Consumer under the Add-On Product's terms, based on the average daily fee paid by the consumer from January 1, 2010, to October 19, 2013;

(ii) all over-limit fees paid by an Eligible Add-On Consumer because the charging of the Add-On Product's fees described in Sub-Paragraph (a)(i) resulted in the consumer exceeding his or her credit limit; and

(iii) all finance charges assessed by the Bank that accrued to the Eligible Add-On Consumer's account as a result of the charging of the Add-On Product's fees described in Sub-Paragraph (a)(i);

b. Less any amount of redress or refunds provided to an Eligible Add-On Consumer prior to the Effective Date.

69. No Eligible Add-On Consumer shall be precluded from receiving redress with respect to more than one Add-On Product. For any Eligible Add-On Consumer who is eligible with respect to more than one Add-On Product, the Eligible Add-On Consumer's redress will be determined for each Add-On Product separately pursuant to Paragraph 68.

70. The Bank represents that it has reimbursed some Add-On Consumers, including some Eligible Add-On Consumers, for certain fees and charges that they paid. This reimbursement shall be documented as part of the Add-On Redress Plan and Add-On Redress Plan Report and be subject to the requirements of this Order, and it shall include confirmation of those amounts the Bank has already reimbursed to Eligible Add-On Consumers.

71. With respect to any Eligible Add-On Consumer's account that receives redress under the Add-On Redress Plan as a credit that decreases the existing balance or charged-off balance, the Bank shall as permitted by law and in accordance with existing procedures:

a. Report the updated balance to each credit reporting agency to which the Bank had previously furnished balance information for the account;

b. Delete the account tradeline at each credit reporting agency to which the Bank had previously furnished balance information for the account; or

c. In the case of an account sold to an unaffiliated third party, request that such third party owner of the debt report the updated balance to, or delete the account tradeline at, each credit reporting agency to which the Bank or the third party owner of the debt had previously furnished balance information for the account.

72. With respect to redress to be paid to Eligible Add-On Consumers, the Redress Plan shall include: (1) the form of the letter (Redress Notification Letter) to be sent notifying Eligible Add-On Consumers of the redress; and (2) the form of the envelope that will contain the Redress Notification Letter. The Redress Notification Letter shall include language explaining the manner in which the amount of redress was calculated; an explanation of the use of a credit and/or check as applicable; and a statement that the provision of refund payment is in accordance with the terms of this Order. The Bank shall not include in any envelope containing a Redress Notification Letter any materials other than the approved letters, and when appropriate, redress checks, unless the Bank has obtained written confirmation from the Regional Director that the CFPB does not object to the inclusion of such additional materials.

Offer Exclusion Redress

73. With respect to Offer Exclusion Matter, the Redress Plan shall:

a. Apply to all Eligible Offer Exclusion Consumers;

b. Provide for processes covering all Eligible Offer Exclusion Consumers regardless of their current account status with the Bank, including open and closed accounts, both with and without a balance, and regardless of

whether or not the Bank charged off or reacquired the accounts. The processes shall include the following requirements:

(i) for any open credit card account, the Bank shall apply a statement credit to the account or otherwise send a check to the Eligible Offer Exclusion Consumer;

(ii) for any closed or inactive credit card account with a zero balance at the time of redress, the Bank shall send a check to any Eligible Offer Exclusion Consumer;

(iii) for any charged-off or reacquired accounts, the Bank shall issue a credit decreasing the charged-off balance by the amount of redress; where the redress is greater than the existing charged-off balance, the Bank shall send the Eligible Offer Exclusion Consumer a check in the amount of the excess;

(iv) for any credit card account for which the Bank suspends collection efforts or reduces the remaining balance to zero, notice of that suspension or balance reduction shall be sent to the Eligible Offer Exclusion Consumer; such notice shall be sent to the consumer in Spanish if the Eligible Offer Exclusion Consumer has a "Spanish-preferred" indicator on his or her account;

(v) if the Eligible Offer Exclusion Consumer is deceased, and the balance is greater than the redress, the Bank will apply a statement credit to the account; otherwise, a refund check shall be issued to the Eligible Offer Exclusion Consumer or the estate, if any; and

(vi) with respect to any bankruptcy and accounts in litigation, the Bank shall make the redress in accordance with applicable law.

c. Include a description of the following:

(i) methods used and the time necessary to compile a list of potential Eligible Offer Exclusion Consumers;

(ii) methods used to calculate the amount of redress to be paid to each Eligible Offer Exclusion Consumer as required herein;

(iii) procedures for issuance and tracking of redress to each Eligible Offer Exclusion Consumer; and

(iv) procedures for monitoring compliance with the Redress Plan.

74. With respect to the Offer Exclusion Matter, at a minimum, the Bank shall provide to each Eligible Offer Exclusion Consumer:

a. The original value of the excluded offer plus interest, calculated from the date they should have initially received the offer until the earlier of (i) the approximate date they received the benefit of the offer, or (ii) the date their account was charged-off;

b. For closed accounts, the Bank shall request that the credit reporting agencies to which it furnishes information delete any trade lines for accounts that did not receive a Collection Offer under the Offer Exclusion Matter; and

c. For accounts that were closed with balances, including accounts that were charged-off or reacquired during or after the Offer Exclusion Relevant Time Period, given the difficulty in calculating specific indirect damages

resulting from the exclusion from the Offers, the Bank shall suspend collection efforts and reduce the remaining balances to zero.

75. With respect to redress to be paid to Eligible Offer Exclusion Consumers, the Redress Plan shall include: (1) the form of the letter to be sent notifying Eligible Offer Exclusion Consumers of the redress (Redress Notification Letter); and (2) the form of the envelope that will contain the Redress Notification Letter. The letter shall include language explaining the manner in which the amount of redress was calculated; an explanation of the use of a credit and/or check as applicable; and a statement that the provision of the refund payment is in accordance with the terms of this Order. The letter shall be sent to the consumer in Spanish if the Eligible Offer Exclusion Consumer has a "Spanish-preferred" indicator on his or her account. The Bank shall provide the Regional Direction and the DOJ with samples of each letter it will send as required by Paragraph 73(b)(iv) and this Paragraph, and receive the Regional Director and the DOJ's non-objection to the sample letters, before mailing any letters required under Paragraph 73(b)(iv) and this Paragraph. The Bank shall not include in any envelope containing a Redress Notification Letter any materials other than the approved letters, and when appropriate, redress checks, unless the Bank has obtained written confirmation from the Regional Director and the DOJ that they do not object to the inclusion of such additional materials.

76. Throughout the course of the CFPB's and the DOJ's review of the Offer Exclusion Matter, the Bank proposed, modified, and implemented a number of redress steps outlined above, which provided relief to approximately 84,000 consumers with "Spanish-preferred" indicators on their accounts or with mailing addresses in Puerto Rico. This resulted in $131.8 million of remediation to affected consumers, which reflects the value of the excluded offer, lost interest, and indirect damages. Of that total, $6.1 million represents payments to

affected consumers; $2.9 million represents credits and waivers on accounts the Bank has not charged-off; $68.4 million represents credits on accounts that the Bank has charged-off; and $54.4 million represents waivers on accounts that the Bank has charged-off. Accordingly, this redress and relief shall be certified and documented as part of the Offer Exclusion Redress Plan and Offer Exclusion Redress Plan Report and be subject to the requirements of this Order, and shall include confirmation of those amounts the Bank has provided to Eligible Offer Exclusion Consumers.

77. The review and determination of non-objection by the CFPB and the DOJ to the Offer Exclusion Redress Plan shall satisfy fully the claims of the United States for damages and other monetary relief related to the Offer Exclusion Matter.

IX

ORDER TO PAY CIVIL MONEY PENALTY

IT IS FURTHER ORDERED that:

78. Pursuant to Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law and/or regulations set forth in Section V of this Order and taking into account the factors set forth in 12 U.S.C. § 5565(c)(3), the Bank shall pay to the CFPB a civil money penalty of $3.5 million, as directed by the CFPB and as set forth herein. Civil money penalties are not assessed for the Offer Exclusion Matter violations based on the totality of the circumstances, including the Bank's responsible business conduct related to the Offer Exclusion Matter including self-identification of the matter through self-policing, prompt reporting of the matter to the Bureau, self-initiation of consumer remediation, and full and timely cooperation with the Bureau's investigation and resolution.

79. Within 10 days of the Effective Date, the Bank shall pay the civil money penalty in the form of a wire transfer to the CFPB or to such agent as the CFPB may direct, and in accordance with wiring instructions to be provided by counsel for the CFPB.

80. The civil money penalty paid pursuant to this Order shall be deposited in the Civil Penalty Fund of the CFPB in accordance with Section 1017(d) of the CFPA, 12 U.S.C. § 5497(d) and 12 C.F.R. part 1075.

81. The Bank shall treat the civil money penalty as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, the Bank shall not:

a. Claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any civil money penalty that the Bank pays pursuant to this Order; or

b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil money penalty that the Bank pays pursuant to this Order.

82. To preserve the deterrent effect of the civil money penalty, in any Related Consumer Action, the Bank shall not argue that the Bank is entitled to, nor shall the Bank benefit by, any offset or reduction of any compensatory damages imposed in the Related Consumer Action, by any amount of the civil money penalty paid in this action (Penalty Offset). If the court in any Related Consumer Action grants such a Penalty Offset, the Bank shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Regional Director, and pay the amount of the Penalty Offset to the U.S. Treasury. Such a payment shall not be deemed an

additional civil money penalty and shall not be deemed to change the amount of the civil money penalty imposed in this action.

X

ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

83. In the event of any default on the Bank's obligations to make payment under this Order, interest (computed under 28 U.S.C. § 1961) shall accrue on any outstanding amounts not paid from the date of default to the date of payment and shall immediately become due and payable.

84. The Bank shall relinquish all dominion, control, and title to the payments detailed in this Consent Order to the fullest extent permitted by law, and no part of the funds shall be returned to the Bank.

XI

REPORTING REQUIREMENTS

IT IS FURTHER ORDERED that:

85. The Bank shall notify the Regional Director and the DOJ of any change in the Bank that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company, or the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

XII

ORDER DISTRIBUTION AND ACKNOWLEDGEMENT

IT IS FURTHER ORDERED that:

86. Within 30 days of the Effective Date, the Bank shall deliver a copy of this Order to each member of the Board and each executive officer, as well as any managers, employees, Service Providers, or other agents and representatives who have managerial-level responsibilities related to the subject matter of the Order or otherwise have responsibilities for implementing this Order.

87. For five years from the Effective Date, the Bank shall deliver a copy of this Order to any business entity resulting from any change in structure, to any future members of the Board and executive officers, as well as to any managers, employees, Service Providers, or other agents and representatives who will have managerial-level responsibilities related to the subject matter of the Order, before they assume their responsibilities.

88. The Bank shall secure a signed and dated statement acknowledging receipt of a copy of this Order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons required to receive a copy of this Order under this Section.

XIII

RECORDKEEPING

IT IS FURTHER ORDERED that:

89. The Bank shall create, for a period of five years from the Effective Date, and then retain for at least five years, and make available to the CFPB and the DOJ upon request, the following business records:

a. All documents and records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the CFPB and the DOJ and all documents and records pertaining to the redress provisions, as set forth in Section VIII above.

b. Copies of all sales scripts, training materials, advertisements, websites, and other marketing materials relating to Add-On Products, including any such materials used by a Service Provider on behalf of the Bank.

c. For every Add-On Product, accounting records showing the gross and net revenues generated by the Product.

XIV

NOTICES

IT IS FURTHER ORDERED that:

90. Unless otherwise directed in writing by the CFPB and the DOJ, all submissions, requests, communications, consents, or other documents relating to this Order shall be in writing and shall be sent by overnight courier to the CFPB and the DOJ as follows:

To the CFPB:

Regional Director, CFPB West Region
Consumer Financial Protection Bureau
301 Howard Street, Suite 1200
San Francisco, CA 94105

To the DOJ:

Chief
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
1800 G Street NW, Suite 7002
Washington, DC 20006
DJ# 188-77-13

The subject line shall begin: *In re Synchrony Bank*. Notwithstanding the foregoing, the Bank may send such reports or notifications by first-class mail, but only if the Bank contemporaneously sends an electronic version of such report or notification to: Enforcement_Compliance@cfpb.gov and the email addresses provided by the DOJ.

XV

COMPLIANCE AND EXTENSIONS OF TIME

IT IS FURTHER ORDERED that:

91. Upon a written showing of good cause, the Regional Director may, in his or her discretion, and after consultation with the DOJ with respect to the Offer Exclusion Matter, modify any non-material provisions of this Order (*e.g.*, reasonable extensions of time and changes to reporting requirements). Any such modification by the Regional Director shall be in writing.

XVI

ADMINISTRATIVE PROVISIONS

IT IS FURTHER ORDERED that:

92. All references to DOJ in this Order are limited to the Offer Exclusion Matter. This Order does not require the Bank to provide any document, plan, report, or information to the DOJ regarding the Add-On Matter. The provisions relating to the Add-On Matter in this Consent Order are solely under the jurisdiction of the CFPB.

93. Except as set forth in Paragraph 97 below, the provisions of this Order shall not bar, estop, or otherwise prevent the CFPB, the DOJ, or any other governmental agency from taking any other action against the Bank.

94. This Order is intended to be, and shall be construed to be, a final Order issued under Section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the CFPB or the United States.

95. This Order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the CFPB or its designated agent.

96. Calculation of time limitations shall run from the Effective Date and shall be based on calendar days, unless otherwise noted.

97. This Order constitutes a settlement of the administrative proceeding against the Bank contemplated by the CFPB, based on the conduct described Section V of this Order. The CFPB releases and discharges the Bank from all potential liability (other than as set forth in this Order) for a cease and desist or other order or civil money penalty that has been or might have been asserted by the CFPB based on the Bank's conduct, as described in Section V of this Order, to the extent such practices occurred before the Effective Date and are known to the CFPB as of the Effective Date of this Order. Notwithstanding the foregoing, the practices described in Section V of this Order may be used by the CFPB in future enforcement actions against the Bank and its affiliates to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release shall not preclude or affect any right of the CFPB to determine and ensure compliance with the terms and provisions of this Order, or to seek penalties for any violations thereof.

98. The provisions of this Order shall be binding upon the Bank, and if the Bank is disposed of, spun-off, or sold, such sale, spin-off, or disposition will be contingent upon the new

entity or purchaser's agreement to abide by the terms of this Order and all obligations imposed on or undertaken by the Bank herein.

99. The provisions of this Order shall be enforceable by the CFPB. Any violation of this Order may result in the imposition by the CFPB of the maximum amount of civil money penalties allowed under Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c).

100. The provisions of this Order shall be severable and, should any provisions be declared by a court of competent jurisdiction to be unenforceable, the other provisions shall remain in full force.

101. No promises, representations or warranties other than those set forth in this Order and the accompanying Stipulation have been made by any of the parties. This Order and the accompanying Stipulation supersede all prior communications, discussions, or understandings, if any, of the parties, whether oral or in writing.

102. Nothing in this Order or the accompanying Stipulation shall be construed as allowing the Bank, its Board, its officers, or its employees to violate any law, rule, or regulation.

103. To the extent that a specific action by the Bank is required with respect to the Offer Exclusion Matter both by this Consent Order and the Consent Order entered by the United States District Court for the District of Utah in the civil action styled *United States of America v. Synchrony Bank*, filed on or about June 17, 2014, action by the Bank that satisfies a requirement under any such District Court Consent Order will satisfy that same requirement under this Consent Order.

IT IS SO ORDERED, this 19th day of June, 2014.

Richard Cordray

Richard Cordray
Director
Consumer Financial Protection Bureau