

**UNITED STATES OF AMERICA
BUREAU OF CONSUMER FINANCIAL PROTECTION**

ADMINISTRATIVE PROCEEDING

File No. 2019-BCFP- 0001

In the Matter of:

USAA FEDERAL SAVINGS BANK

CONSENT ORDER

The Bureau of Consumer Financial Protection (Bureau) has reviewed the stop payment, error resolution, and deposit account re-opening practices of USAA Federal Savings Bank (Respondent, USAA, or the Bank, as defined below) and has identified violations of the Electronic Fund Transfer Act (EFTA), 15 U.S.C. § 1693 *et seq.*, Regulation E, 12 C.F.R. pt. 1005, and the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536. Under Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I Overview

1. USAA violated EFTA, its implementing Regulation E, and the CFPA by failing to properly stop Preauthorized Electronic Fund Transfers and failing to initiate and conduct adequate error resolution investigations. Respondent also engaged in unfair acts or practices prohibited under the CFPA by reopening closed consumer deposit accounts in certain circumstances without providing timely notice.

II Jurisdiction

2. The Bureau has jurisdiction over this matter under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, and under 15 U.S.C. § 1693o.

III Stipulation

3. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated December 12, 2018 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondent admits the

facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

IV Definitions

4. The following definitions apply to this Consent Order:
 - a. “Account Reopening Affected Consumer” includes any consumer whose deposit account USAA reopened during the Account Reopening Redress Period without obtaining the consumer’s prior authorization and providing timely notice to the consumer.
 - b. “Account Reopening Redress Period” includes the period from July 21, 2011 to November 1, 2016.
 - c. “Automated Clearing House” or “ACH” means the electronic network facilitating financial transactions that is administered by the National Automated Clearing House Association (NACHA).
 - d. “Board” means USAA’s duly-elected and acting Board of Directors.
 - e. “Effective Date” means the date on which the Consent Order is issued.
 - f. “Electronic Fund Transfer” or “EFT” means “any transfer of funds, other than a transaction originated by check, draft, or similar paper

instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.” 15 U.S.C. § 1693a(7).

g. “Error Resolution Investigation” means the procedures and duties required of financial institutions as described in 12 C.F.R. § 1005.11.

h. “Preauthorized Electronic Fund Transfer” or “Preauthorized EFT” means an Electronic Fund Transfer authorized in advance to recur at substantially regular intervals as described in 15 U.S.C. § 1693a(10).

i. “Regional Director” means the Regional Director for the Southeast Region for the Office of Supervision for the Bureau of Consumer Financial Protection or his or her delegate.

j. “Related Consumer Action” means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Respondent based on substantially the same facts as described in Section V of this Consent Order.

k. “Respondent,” “USAA,” or “the Bank” means USAA Federal Savings Bank and its successors and assigns.

l. “Written Statement of Unauthorized Debit” or “WSUD” means any document that USAA has entitled or will entitle “Written Statement of Unauthorized Debit” or that USAA has requested or will request that a consumer

provide as a written assertion that he or she believes an error concerning an EFT has occurred.

m. “WSUD Affected Consumer” includes any consumer who notified USAA of a potential error, was then sent a Written Statement of Unauthorized Debit (WSUD) by USAA, and did not return the completed WSUD during the WSUD Redress Period.

n. “WSUD Redress Period” includes the period from July 21, 2011 to June 1, 2015.

V

Bureau Findings and Conclusions

The Bureau finds the following:

5. Respondent is a federally chartered savings association headquartered in San Antonio, Texas. As of December 31, 2017, Respondent had approximately \$80.5 billion in total assets.

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

7. Respondent is a “covered person” as that term is defined by 12 U.S.C. § 5481(6) and is a “financial institution” as that term is defined by 15 U.S.C. § 1693a(9).

8. One way that consumers exchange money is through Electronic Fund Transfers (EFTs) that debit money from or credit money to their depository accounts.

9. USAA uses the Automated Clearing House (ACH) for the distribution of EFTs between their consumers' accounts and accounts held by other financial institutions.

10. As a way to pay their recurring bills, some consumers authorize entities in advance to originate Preauthorized EFTs. *See* 12 C.F.R. § 1005.2(k); *see also* 15 U.S.C. § 1693a(10). Preauthorized EFTs from a consumer's account may be authorized only by a writing signed or similarly authenticated by the consumer. 12 C.F.R. § 1005.10(b).

11. EFTA and its implementing Regulation E require that financial institutions holding consumers' accounts allow consumers to stop future payment on Preauthorized EFTs and to contest incorrect or unauthorized past EFTs through an error resolution procedure. 15 U.S.C. §§ 1693e, 1693f; 12 C.F.R. §§ 1005.10, 1005.11.

Findings and Conclusions as to EFTA Violations for Stop Payment Practices

12. On numerous occasions prior to 2015, USAA failed to enter stop payment orders after account holders notified the Bank of their desire to stop payment on Preauthorized EFTs, including by refusing to enter stop payments or

by requiring consumers to contact the merchants initiating the EFTs as a prerequisite to implementing stop payment orders. In some of these instances, USAA failed to enter stop payment orders because consumers requested to stop payments to payday loan lenders.

13. Under EFTA, “[a] consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of the transfer.” 15 U.S.C. § 1693e(a); *see also* 12 C.F.R. § 1005.10(c).

14. USAA violated section 907(e) of EFTA and section 1005.10(c) of Regulation E whenever it failed to stop payment for Preauthorized EFTs after notification from the consumer as described in Paragraph 12. 15 U.S.C. § 1693e(a); 12 C.F.R. § 1005.10(c).

Findings and Conclusions as to Oral Requests for Stop Payments

15. Prior to May 2013, USAA did not consistently honor oral stop payment requests for 14 days. Under EFTA and Regulation E, an oral stop payment request for a Preauthorized EFT is binding on the institution for 14 days.

16. A financial institution may require the consumer to give written confirmation of the stop payment order within 14 days of the oral notification, and an oral stop payment order ceases to be binding after 14 days if the consumer fails to provide the required written confirmation. 15 U.S.C. § 1693e(a); 12 C.F.R. §

1005.10(c)(2).

17. USAA violated section 907(a) of EFTA and section 1005.10(c)(2) of Regulation E whenever a consumer orally requested to stop a preauthorized EFT and the Bank failed to stop all transactions in the EFT series for 14 days. 15 U.S.C. § 1693e(a); 12 C.F.R. § 1005.10(c)(1)-(2).

Findings and Conclusions as to Stop Payments on Debit Card Transactions

18. Until January 2015, USAA lacked a systemic mechanism to stop payment of Preauthorized EFTs processed via a debit card.

19. As a result, USAA failed to block thousands of Preauthorized EFTs for which consumers requested stop payment orders.

20. Since January 2015, USAA has been able to stop debit card Preauthorized EFTs where the debiting merchant identified the EFT as “recurring.”

21. Under EFTA, “[a] consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer.” 15 U.S.C. § 1693e(a); *see also* 12 C.F.R. § 1005.10(c).

22. USAA’s failure to stop payment on debit card Preauthorized EFTs as described in Paragraphs 18-19 violated section 907(a) of EFTA and section 1005.10(c)(1) of Regulation E. 15 U.S.C. § 1693e(a); 12 C.F.R. § 1005.10(c).

Findings and Conclusions as to USAA's Failure to Initiate Error Resolution Investigations

23. On numerous occasions, when consumers notified USAA about suspected errors regarding EFTs that were incorrect, unauthorized, or exceeded the authorization granted by the consumer, USAA failed to promptly initiate Error Resolution Investigations.

24. Through May 2015, as a matter of policy USAA did not investigate reported errors unless the consumer asserting the error submitted a completed WSUD within 10 days of USAA sending the consumer the form.

25. Through June 2016, USAA had a separate procedure for consumers who notified the Bank of a suspected error concerning a payday loan:

- a. Through at least April 2013, the procedure said: "If the account holder wishes to dispute a pay day loan, instruct the account holder to contact the lender to dispute the transaction(s)." On numerous occasions, USAA representatives refused to investigate errors because they concerned payday loans.
- b. The procedure further instructed USAA representatives to warn consumers about potential legal and financial consequences of proceeding with an Error Resolution Investigation. For instance, through at least April 2013, the procedure directed USAA

representatives to say: “If we determine that the ACH debit in question was authorized, you will be putting your USAA membership at risk. What this means to you is that you may become ineligible to purchase additional USAA products and that existing USAA accounts may be closed. Also, please understand that it is a federal crime to make a false statement to a bank and this is punishable by a fine of up to one million dollars or imprisonment for up to 30 years, or both.”

This warning was part of a general conversation with consumers about payday loan contracts. USAA would send WSUD forms only to consumers who said they wanted to proceed after hearing the warning.

- c. Through March 2016, USAA required consumers contesting transactions from payday loan lenders to have their WSUDs notarized before submitting them. If a consumer contesting an error concerning a payday loan lender did not provide a notarized WSUD, USAA did not conduct an Error Resolution Investigation.

26. A financial institution “shall investigate [an] alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days.” 15 U.S.C.

§ 1693f(a); *see id.* § 1693f(a)-(f). Regulation E further mandates that the financial

institution must “investigate promptly.” 12 C.F.R. § 1005.11(c)(1); *see id.* § 1005.11(a)-(e).

27. As described in Paragraphs 23-25, USAA’s failure to promptly initiate and conduct Error Resolution Investigations upon notification from consumers of suspected errors violated section 908 of EFTA and section 1005.11 of Regulation E. 15 U.S.C. § 1693f; 12 C.F.R. § 1005.11.

**Findings and Conclusions as to USAA’s Failure to
Conduct Reasonable Error Resolution Investigations**

28. Until May 2016, USAA lacked a procedure requiring that a reasonable Error Resolution Investigation occur whenever a consumer notified the Bank about a suspected error regarding an EFT. As a result, through May 2016, USAA routinely failed to conduct a reasonable review of all relevant information within its own records prior to making a determination about whether the consumer had asserted a valid error. On numerous occasions during this period:

- a. When consumers had transactions with the merchant at issue that predated the disputed transaction, the Bank made the summary determination that no error had occurred, without reasonably considering other evidence in its own records, including the consumer’s assertion that the EFT was unauthorized or an incorrect amount or the bases for the consumer’s assertion; and

- b. Even when the consumer did not have a transaction history with the merchant, USAA failed to reasonably consider relevant details in its own records, including the consumer's account history, the consumer's assertions that the EFT was unauthorized or an incorrect amount, or the bases for the consumer's assertion.
29. In numerous instances when USAA found no error, a reasonable review of all relevant information within the Bank's own records would have resulted in a determination in favor of the consumer.
30. As a result of these practices, USAA failed to address adequately the unauthorized or incorrect transactions, as required by law.
31. When conducting an Error Resolution Investigation, a financial institution "must determine whether an error has occurred," 15 U.S.C. § 1693f, and in so doing, must conduct, at a minimum, a "review of its own records regarding [the] alleged error." 12 C.F.R. § 1005.11(c)(4). This review must include "any relevant information within the institution's own records," 12 C.F.R. Pt. 1005, Supp. I, Comment 11(c)(4)-5, and the investigation "must be reasonable," 71 Fed. Reg. 1638, 1654 (Jan. 10, 2006).
32. USAA's failure to conduct a reasonable review of all relevant records and information in its own records when investigating an error notification as

described in Paragraphs 28-30 violated section 908 of EFTA and section 1005.11(c)(4) of Regulation E. 15 U.S.C. § 1693f; 12 C.F.R. § 1005.11.

**Findings and Conclusions as to
Unfairly Reopening Closed Depository Accounts**

33. Until November 2016, when USAA received certain types of debits or credits to accounts previously closed by the account holders, the Bank reopened the accounts without obtaining consumers' prior authorization and providing timely notice to consumers informing them when their accounts had been reopened.

34. When USAA reopened accounts to process debits, some account balances became negative and therefore potentially subject to various fees, including overdraft fees and fees for non-sufficient funds.

35. When USAA reopened an account to process a credit, creditors had the opportunity to initiate debits to the account and draw down the funds, possibly resulting in a negative balance and the accumulation of fees.

36. USAA's practice of reopening accounts potentially impacted, among others, consumers who had closed their accounts because the stop payment order or error resolution process was ineffective. When USAA processed a credit through an account that USAA had reopened, those funds became available to entities attempting to debit funds from that account, including any entity related to a previous dispute or stop payment request.

37. USAA's practice of reopening consumer accounts without obtaining consumers' prior authorization and providing timely notice caused substantial injury to consumers that was not reasonably avoidable or outweighed by any countervailing benefit to consumers or to competition.

38. USAA represents that (a) between July 21, 2011 and November 1, 2016, the Bank reopened 16,980 closed accounts without obtaining consumers' prior authorization and providing timely notice to consumers; (b) of the consumers whose accounts were reopened, 5,118 incurred fees from USAA totaling an estimated \$269,365 as a result of the account reopening; and (c) in July 2017, the Bank reimbursed these 5,118 consumers a total of \$270,521, which included the amount of the fees plus interest.

39. Section 1036(a)(1)(B) of the CFPA prohibits "unfair, deceptive, or abusive" acts or practices." 12 U.S.C. § 5536(a)(1)(B). An act or practice is unfair if it causes or is likely to cause consumers substantial injury that is not reasonably avoidable and if the substantial injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c)(1).

40. By engaging in the acts and practices described in Paragraphs 33-38, USAA violated sections 1036(a)(1)(B) and 1031(a) of the CFPA. 12 U.S.C. §§ 5536(a)(1)(B), 5531(a).

ORDER

VI

Conduct Provisions

IT IS ORDERED, under sections 1053 and 1055 of the CFPA, that:

41. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not violate sections 907 and 908 of the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693e, 1693f, or sections 1005.10 and 1005.11 of Regulation E, 12 C.F.R. §§ 1005.10, 1005.11, and must take the following affirmative actions:

- a. When communicating with consumers who express concern about future EFTs, even if they do not expressly indicate a desire to enter a stop payment, inform them of their right to enter a one-time stop payment or a permanent stop payment;
- b. Grant stop payment requests to all consumers who contact the Bank seeking to stop payment on future Preauthorized EFTs within three business days of the EFT;
- c. Implement consumer stop payment requests without requiring consumers to contact the merchant initiating the EFT instead of or as a prerequisite to the entry of the stop payment;
- d. Inform consumers of their right to enter a stop payment order immediately whenever USAA tells consumers seeking a stop payment

- about the potential benefits of contacting the merchant who is originating the EFT;
- e. Honor stop payment requests for EFTs free of charge for a period of two years from the Effective Date;
 - f. Whenever a consumer notifies USAA that a stop payment order was ineffective, refund any stop payment fees charged and reimburse any other related fees incurred in connection with the ineffective stop payment order;
 - g. Whenever a consumer requests to stop payment on a debit card Preauthorized EFT, (i) inform the consumer that the stop payment may not be effective in certain circumstances; (ii) explain that if the transaction posts to the account, the consumer may not be able to seek reimbursement unless the consumer also has revoked authorization for the transaction beforehand; and (iii) if the consumer wants to revoke authorization, advise the consumer to contact the merchant in writing to revoke authorization and provide the consumer with the last-known address for the merchant, if known to the Bank;
 - h. Whenever a consumer notifies USAA that a stop payment order was ineffective and the reason the stop payment was ineffective was because the merchant designated a debit card EFT as “installment” or initiated a

- series of one-time debit card EFTs at regular intervals, then assist the consumer in disputing the amount debited;
- i. Inform consumers about their options in the event that a consumer notifies USAA that a stop payment order is ineffective, including closing the account and disputing the transaction, and, where applicable, helping the consumer revoke authorization and complete the WSUD or other required forms;
 - j. Conduct a prompt, thorough, and reasonable Error Resolution Investigation whenever a consumer notifies the Bank of a suspected error;
 - k. Promptly commence Error Resolution Investigations without requiring consumers asserting an error to contact the merchant that originated the EFT instead of or as a prerequisite to the Error Resolution Investigation;
 - l. Promptly investigate all errors asserted by USAA consumers, without regard to whether the consumer has submitted a WSUD;
 - m. Refrain from requiring that consumers who have asserted an alleged error have their WSUDs notarized;
 - n. During the course of an Error Resolution Investigation, reasonably consider all relevant information in the Bank's records that pertains to the

- account for which the assertion of error is made, including, but not limited to, the consumer's oral or written statements regarding the error;
- o. During the course of an Error Resolution Investigation initiated due to a consumer assertion that an ACH transaction was unauthorized, request from the originating depository financial institution documentation sufficient to prove the transaction was authorized and reasonably consider the documentation provided or any failure to provide documentation in the Error Resolution Investigation;
 - p. Refrain from declining to enter a stop payment or conduct an error investigation related to an EFT because that EFT was or will be initiated by a payday or other small dollar lender;
 - q. When consumers initiate either a stop payment or error resolution request, inform them that they can simultaneously avail themselves of both;
 - r. Once a consumer closes an account, not process any additional transactions to that account except (i) transactions originated before the account was closed, or (ii) when USAA is required to accept and settle the transaction under card network or NACHA rules;
 - s. If a consumer closes an account and the Bank subsequently reopens the account consistent with the requirements of this Consent Order, then (i)

- forward any credits posted to that account to the consumer as soon as practicable; (ii) ensure that the consumer knows the account has been reopened as soon as practicable after the account has been reopened; and (iii) reclose the account as soon as practicable; and
- t. For each account that USAA reopened during the Account Reopening Redress Period without obtaining the consumer's prior authorization and providing timely notice to the consumer, notify any consumer reporting agency to which USAA furnished information on or with respect to the reopened account to delete such information.

VII Compliance Plan

IT IS FURTHER ORDERED that:

42. Within 60 days of the Effective Date, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's stop payment, error resolution, and deposit account re-opening practices comply with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
- a. Detailed steps for addressing each action required by this Consent Order; and

b. Specific timeframes and deadlines for implementation of the steps described above.

43. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct the Respondent to revise it. If the Regional Director directs the Respondent to revise the Compliance Plan, the Respondent must make the revisions and resubmit the Compliance Plan to the Regional Director within 30 days.

44. After receiving notification that the Regional Director has made a determination of non-objection to the Compliance Plan, the Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

VIII Role of the Board

IT IS FURTHER ORDERED that:

45. The Board, or a relevant committee thereof, must review all submissions (including plans, reports, programs, policies, and procedures) required by this Consent Order prior to submission to the Bureau.

46. Although this Consent Order requires the Respondent to submit certain documents for the review or non-objection by the Regional Director, the Board will have the ultimate responsibility for proper and sound management of

Respondent and for ensuring that Respondent complies with Federal consumer financial law and this Consent Order.

47. In each instance that this Consent Order requires the Board to ensure adherence to, or perform certain obligations of Respondent, the Board, or a relevant committee thereof, must:

- a. Authorize whatever actions are necessary for Respondent to fully comply with the Consent Order;
- b. Require timely reporting by management to the Board on the status of compliance obligations; and
- c. Require timely and appropriate corrective action to remedy any material non-compliance with any failures to comply with Board directives related to this Section.

IX

Order to Pay Redress

IT IS FURTHER ORDERED that:

48. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account (a) an amount of \$12,028,522 for the purpose of providing redress to WSUD Affected Consumers as required by this Section; and (b) an amount not less than \$270,521 (Account Reopening Payment Floor), which represents the estimated amount of restitution to be paid for the

purpose of providing redress to the Account Reopening Affected Consumers as required by this Section. Respondent may reduce this reserve or the deposit by the amount of any restitution Respondent made prior to the Effective Date that complies with the requirements of this Consent Order for the purpose of providing redress to WSUD Affected Customers or Account Reopening Affected Consumers.

49. Within 45 days of the Effective Date, Respondent must submit to the Regional Director for review and non-objection a comprehensive written plan for providing redress consistent with this Consent Order (Redress Plan). The Regional Director will have the discretion to make a determination of non-objection to the Redress Plan or direct the Respondent to revise it. If the Regional Director requires the Respondent to revise the Redress Plan, the Respondent must make the revisions and resubmit the Redress Plan to the Regional Director within 20 days. After receiving notification that the Regional Director has made a determination of non-objection to the Redress Plan, the Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.

50. The Redress Plan must (a) provide \$181.59 to each of the 66,240 WSUD Affected Consumers; (b) specify how Respondent will identify the Account Reopening Affected Consumers and determine the fees the Bank charged each Account Reopening Affected Consumer as a result of the account reopening;

and; (c) provide each Account Reopening Affected Consumer the fees the Bank charged as a result of the account reopening.

51. The Redress Plan must describe the process for providing redress for WSUD Affected Consumers and Account Reopening Affected Consumers, and must include the following requirements:

- a. Respondent must issue an account credit—taking into account any restitution Respondent made to the consumer prior to the Effective Date that complies with the requirements of this Consent Order for the purpose of providing redress to WSUD Affected Customers or Account Reopening Affected Consumers—to each WSUD Affected Consumer and each Account Reopening Affected Consumer who still has a deposit account with Respondent, and mail, as appropriate, a WSUD Redress Notification Letter and/or Account Reopening Redress Notification Letter (as defined below);
- b. Respondent must mail a bank check—taking into account any restitution Respondent made to the consumer prior to the Effective Date that complies with the requirements of this Consent Order for the purpose of providing redress to WSUD Affected Customers or Account Reopening Affected Consumers—to each WSUD Affected Consumer and each Account Reopening Affected Consumer who no

longer has a deposit account with Respondent along with, as appropriate, a WSUD Redress Notification Letter and/or Account Reopening Redress Notification Letter;

- c. Respondent must send the bank check, WSUD Redress Notification Letter, and/or Account Reopening Redress Notification Letter by United States Postal Service first-class mail, address correction service requested, to the WSUD Affected Consumer or Account Reopening Affected Consumer's last known address as maintained by the Respondent's records;
 - d. Respondent must make reasonable attempts to obtain a current address for any WSUD Affected Consumer or Account Reopening Affected Consumer whose WSUD Redress Notification Letter, Account Reopening Redress Notification Letter, and/or redress check is returned for any reason, using the National Change Address System, and must promptly re-mail all returned letters and/or redress checks to current addresses, if any; and
 - e. Processes for handling any unclaimed funds.
52. The Redress Plan must include:
- a. The form letter to be sent notifying WSUD Affected Consumers of their redress ("WSUD Redress Notification Letter"), which must

include language explaining the manner in which the amount of redress was calculated and a statement that redress is being provided in accordance with the terms of the Consent Order;

- b. The form letter to be sent notifying Account Reopening Affected Consumers of their redress (“Account Reopening Redress Notification Letter”), which must include language explaining the manner in which the amount of redress was calculated and a statement that redress is being provided in accordance with the terms of the Consent Order; and
- c. The form of the envelope that will contain the WSUD Redress Notification Letter and/or Account Reopening Redress Notification Letter.

53. Respondent must not include in any envelope containing a WSUD Redress Notification Letter and/or Account Reopening Redress Notification Letter any materials other than the approved letters and redress checks, unless Respondent has obtained written confirmation from the Regional Director that the Bureau does not object to the inclusion of such additional materials.

54. Within 90 days from completion of the Redress Plan, Respondent must submit a Redress Plan Report to the Regional Director, which must include

Respondent's review and assessment of Respondent's compliance with the terms of the Redress Plan, including:

- a. The procedures used to issue and track redress payments;
- b. The amount, status, and planned disposition of all unclaimed redress payments, and
- c. The work of independent consultants that Respondent has used, if any, to assist and review its execution of the Redress Plan.

55. After completing the Redress Plan, if the amount of redress provided to WSUD Affected Consumers is less than \$12,028,522 or the amount of redress provided to Account Reopening Affected Consumers is less than \$270,521, then within 30 days of the completion of the Redress Plan, Respondent must pay to the Bureau, by wire transfer to the Bureau or to the Bureau's agent, and according to the Bureau's wiring instructions, the difference between the amount of redress provided to WSUD Affected Consumers and Account Reopening Affected Consumers and the amount of \$12,299,043

56. The Bureau may use these remaining funds to pay additional redress to WSUD Affected Consumers or Account Reopening Affected Consumers. If the Bureau determines, in its sole discretion, that additional redress is wholly or partially impracticable or otherwise inappropriate, or if funds remain after the additional redress is completed, the Bureau will deposit any remaining funds in the

U.S. Treasury as disgorgement. Respondent will have no right to challenge any actions that the Bureau or its representatives may take under this Section.

57. Respondent may not condition the payment of any redress to any WSUD Affected Consumer or Account Reopening Affected Consumer under this Consent Order on that WSUD Affected Consumer or that Account Reopening Affected Consumer waiving any right.

X

Order to Pay Civil Money Penalties

IT IS FURTHER ORDERED that:

58. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section V of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Respondent must pay a civil money penalty of \$3.5 million to the Bureau.

59. Within 10 days of the Effective Date, Respondent must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.

60. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

61. Respondent must treat the civil money penalty paid under this Consent Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Respondent may not:

- a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
- b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Consent Order.

62. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondent may not argue that Respondent is entitled to, nor may Respondent benefit by, any offset or reduction of any compensatory monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Respondent based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, Respondent must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau, and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional civil money

penalty and will not change the amount of the civil money penalty imposed in this action.

XI

Additional Monetary Provisions

IT IS FURTHER ORDERED that:

63. In the event of any default on Respondent's obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.

64. Respondent must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Respondent.

65. Under 31 U.S.C. § 7701, Respondent, unless it already has done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.

66. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Regional Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondent paid or is

required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

XII

Reporting Requirements

IT IS FURTHER ORDERED that:

67. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. Respondent must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.

68. Within 7 days of the Effective Date, Respondent must designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with Respondent.

69. Respondent must report any change in the information required to be submitted under Paragraph 68 at least 30 days before the change or as soon as practicable after learning about the change, whichever is sooner.

70. Within 90 days of the Effective Date, and again one year after the Effective Date, Respondent must submit to the Regional Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board or a relevant committee thereof, which, at a minimum:

a. Lists each applicable paragraph and subparagraph of the Order and describes in detail the manner and form in which Respondent has complied with each such paragraph and subparagraph of this Consent Order;

b. Describes in detail the manner and form in which Respondent has complied with the Redress Plan and Compliance Plan; and

c. Attaches a copy of each Order Acknowledgment obtained under Section XIII, unless previously submitted to the Bureau.

XIII

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

71. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have management or supervisory responsibilities related to the subject matter of the Consent Order.

72. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section XII, any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have management or supervisory responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.

73. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

XIV

Recordkeeping

IT IS FURTHER ORDERED that

74. Respondent must create, or if already created, must retain for the duration of the Consent Order, the following business records:

- a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau;
- b. All documents and records pertaining to the Redress Plan,

described in Section IX above;

c. Copies of all member service representative scripts, training materials, compliance audits and evaluations relating to the subject of this Consent Order, and all materials used to implement the Compliance Plan and measure or evaluate Respondent's fulfillment of the Compliance Plan; and

d. For each individual WSUD Affected Consumer: the consumer's name, address, phone number, email address; date on which the WSUD Affected Consumer requested error resolution; and the amount of restitution paid by Respondent to the WSUD Affected Consumer.

e. For each individual Account Reopening Affected Consumer: the consumer's name, address, phone number, email address; date on which USAA reopened the Account Reopening Affected Consumer's account; and the amount of restitution paid by Respondent to the Account Reopening Affected Consumer.

75. Respondent must make the documents identified in Paragraph 74 available to the Bureau upon the Bureau's request.

XV

Notices

IT IS FURTHER ORDERED that:

76. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to

this Consent Order in writing, with the subject line, “*In re* USAA Federal Savings Bank, File No. 2019-BCFP-0001” and send them by overnight courier or first-class mail to the below address and contemporaneously by email to Enforcement_Compliance@cfpb.gov:

Regional Director, Bureau Southeast Region
1700 G Street, NW
Washington, DC 20552

and

Assistant Director for Enforcement
Bureau of Consumer Financial Protection
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington, D.C. 20552

XVI

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

77. Respondent must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each WSUD Affected Consumer and each Account Reopening Affected Consumer. Respondent must provide such information in its or its agents’ possession or control within 14 days of receiving a written request from the Bureau.

XVII

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Respondent's compliance with this Consent Order:

78. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested non-privileged information related to the requirements of this Consent Order, which must be made under penalty of perjury; provide sworn testimony related to requirements of this Consent Order and Respondent's compliance with those requirements; or produce non-privileged documents related to requirements of this Consent Order and Respondent's compliance with those requirements.

79. Respondent must permit Bureau representatives to interview about the requirements of this Consent Order and Respondents' compliance with those requirements any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.

80. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XVIII

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

81. Respondent may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.

82. The Regional Director may, in his or her discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if he or she determines good cause justifies the modification. Any such modification by the Regional Director must be in writing.

XIX

Administrative Provisions

83. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondent, except as described in Paragraph 84.

84. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section V of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the

Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent and its affiliates, including, without limitation, 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 does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.

85. This Consent Order is intended to be, and will be construed as, a final Consent 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 Bureau or the United States.

86. This Consent Order will terminate 5 years from the Effective Date. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.

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

88. Should Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, Respondent must, as a condition

of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.

89. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondent wherever Respondent may be found and Respondent may not contest that court's personal jurisdiction over Respondent.

90. This Consent Order and the accompanying Stipulation contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.

91. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing the Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 2 day of January, 2019.

A handwritten signature in blue ink, appearing to read "Kathleen L. Kraninger", written over a horizontal line.

Kathleen L. Kraninger

Director

Bureau of Consumer Financial Protection