

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

ADMINISTRATIVE PROCEEDING  
File No. 2023-CFPB-0017

In the Matter of:

**CONSENT ORDER**

**ATLANTIC UNION BANK**

The Consumer Financial Protection Bureau (Bureau) has reviewed the policies and practices of Atlantic Union Bank (Respondent or AUB, as defined below) relating to the enrollment of consumers into overdraft services and has identified the following violations of law: failing to obtain consumers' affirmative consent to enroll in Respondent's opt-in overdraft service and subsequently charging those consumers overdraft fees pursuant to that service, in violation of the Electronic Fund Transfer Act (EFTA), 15 U.S.C. § 1693 et seq., and its implementing Regulation E, 12 C.F.R. § 1005.17(b)(1)(iii); and engaging in deceptive acts or practices while offering opt-in overdraft services to consumers over the phone, in violation of the Consumer Financial Protection Act (CFPA), 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

Under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

**I.**

**Jurisdiction**

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565 and Section 1693o(a)(5) of the EFTA, 15 U.S.C. § 1693o(a)(5).

**II.**

**Stipulation**

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated December 6, 2023 (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 §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 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.

### III.

#### Definitions

3. The following definitions apply to this Consent Order:
  - a. “Affected Consumers” includes current and former customers of Respondent who:
    - i. opened a consumer checking account in person, at one of Respondent’s branches, between January 1, 2017 through November 30, 2020 and enrolled in Opt-in ODP (defined below) at account-opening; or
    - ii. enrolled in Opt-in ODP by phone between January 1, 2017 through February 7, 2020.
  - b. “Assisting Others” includes, but is not limited to:
    - i. consulting in any form whatsoever;
    - ii. performing customer-service functions, including but not limited to receiving or responding to consumer complaints or running a call center to enroll consumers;
    - iii. providing names of, or assisting in the generation of, potential customers; and
    - iv. performing marketing, billing, or payment services of any kind.

c. “Board” means Respondent’s duly-elected and acting Board of Directors.

d. “Covered Overdraft Fees” means overdraft fees assessed for paying Covered Transactions.

e. “Covered Transactions” means ATM and one-time debit card transactions that are subject to the requirements in 12 C.F.R. § 1005.17(b).

f. “Effective Date” means the date on which the Consent Order is entered on the administrative docket.

g. “Enforcement Director” means the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau, or their delegate.

h. “Opt-in ODP” means Opt-in Overdraft Privilege, the Respondent’s discretionary overdraft service for Covered Transactions.

i. “Redress Fees” means all Covered Overdraft Fees Respondent charged Affected Consumers with the exception of (1) Covered Overdraft Fees incurred after the Affected Consumer unenrolled from Opt-in ODP and later enrolled in Opt-in ODP through Respondent’s online platform or U.S. Mail, or

(2) Covered Overdraft Fees Respondent waived, refunded, or charged off for the Affected Consumer prior to the Effective Date.

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 IV of this Consent Order.

k. “Relevant Period” means January 1, 2017 to November 30, 2020.

l. “Respondent” or “AUB” means Atlantic Union Bank, and its successors and assigns.

m. “Standard ODP” means Standard Overdraft Privilege, which covers transactions not subject to 12 C.F.R. § 1005.17(b), including checks, automated clearing house (ACH) transactions, and recurring debit-card transactions.

n. “Supervision Director” means the Assistant Director of the Office of Supervision Policy for the Consumer Financial Protection Bureau, or their delegate.

**IV.****Bureau Findings and Conclusions**

The Bureau finds the following:

4. Respondent is a full-service bank and a subsidiary of Atlantic Union Bankshares Corporation, a bank holding company organized under Virginia law. AUB's headquarters are in the Richmond, Virginia area. As of March 31, 2023, Respondent had over \$20 billion in total assets.
5. Respondent is an insured depository institution with assets greater than \$10,000,000,000, within the meaning of 12 U.S.C. § 5515(a).
6. Respondent is a “covered person” under 12 U.S.C. § 5481(6) because it “engages in offering or providing a consumer financial product or service,” including by engaging in deposit-taking activities for use by consumers primarily for personal, family, or household purposes. 12 U.S.C. § 5481(6)(A), (15)(A)(iv).
7. Respondent is also a “financial institution” under EFTA and Regulation E because it is a state or national bank holding consumer-deposit accounts. 15 U.S.C. § 1693a(9).
8. During the Relevant Period, Respondent offered consumers overdraft options in connection with their consumer-checking accounts: (1) Overdraft Privilege, (2) Overdraft Account Transfer, and (3) Overdraft Line of Credit. Since

approximately November 2020, Respondent has, in its communications with customers, separated the Overdraft Privilege service into two services: a Standard ODP, which covers transactions not subject to 12 C.F.R. § 1005.17(b), including checks, automated clearing house (ACH) transactions, and recurring debit-card transactions; and Opt-in ODP, which applies to Covered Transactions.

9. New customers may enroll in Opt-in ODP when opening a consumer-checking account online, in person at one of Respondent's branches, or by video conference with a branch employee. Existing checking-account customers may enroll an existing checking account in Opt-in ODP in person at one of Respondent's branches, online, over the phone, or through the U.S. Mail.
10. For both Standard and Opt-in ODP, the Bank charged a \$36 fee for each item paid, up to six such fees per day, until August 3, 2020. It currently charges a \$38 fee for each item paid, up to a total of four such fees per day, for overdrafts above the Bank's overdraft threshold.
11. Consumers who have enrolled in Opt-in ODP receive overdraft coverage on transactions not subject to 12 C.F.R. § 1005.17(b) through Respondent's "standard" overdraft service, not through their enrollment in Opt-in ODP.

**Findings and Conclusions as to Respondent's Opt-in ODP Enrollment Process  
in Respondent's Branches in Violation of EFTA and Regulation E**

12. Under Respondent's branch enrollment procedures, Respondent's branch employees orally present Opt-in ODP to new customers who are opening consumer-checking accounts and request those new customers to orally indicate whether they want to enroll following that presentation. Respondent's branch employees then document the new customer's oral enrollment preference in Respondent's account-opening computer system.
13. Under Respondent's branch enrollment procedures, Respondent's branch employees do not print the written overdraft notice for new customers until the end of the account-opening process. This form is entitled "What You Need to Know about Overdrafts," which is AUB's version of the Regulation E model consent form (the A-9 Form).
14. The printed A-9 Form that Respondent's branch employees present to new customers is populated with a checked box to reflect the customer's oral enrollment preference from earlier in the account-opening process.
15. Under Respondent's branch procedures, through January 2019, new customers did not receive written disclosures about Respondent's Opt-in ODP service before receiving the A-9 Form at the end of the account-opening process. From January 2019 to November 2020, new customers received

some, but still inadequate written disclosures about Respondent's Opt-in ODP service before receiving the A-9 Form at the end of the account-opening process.

16. Respondent's branch employees present this printed A-9 Form together with Respondent's account-opening authorization form. New customers that opt in to Opt-in ODP are required to sign both forms to complete the account-opening process.
17. Under Regulation E, a financial institution may not charge Covered Overdraft Fees unless it first “[o]btains the consumer's affirmative consent, or opt-in, to the institution's payment of ATM or one-time debit card transactions.” 12 C.F.R. § 1005.17(b)(1)(iii).
18. A financial institution must provide a consumer with the written (or, if the consumer agrees, electronic) notice required by 12 C.F.R. § 1005.17(b)(1)(i) before it can obtain that consumer's affirmative consent as required by 12 C.F.R. § 1005.17(b)(1)(iii).
19. As described in paragraphs 12-16 above, during the Relevant Period, Respondent requested that new customers orally specify their enrollment decision before providing them with adequate written notice describing the Opt-in ODP service.
20. Through this process, Respondent did not obtain a new customer's affirmative

consent to enroll in Opt-in ODP.

21. During the Relevant Period, Respondent charged approximately 8,500 Affected Consumers Covered Overdraft Fees using this account opening process at Respondent's branches.
22. As a result, Respondent charged Covered Overdraft Fees without obtaining consumers' affirmative consent to enroll in Opt-in ODP, in violation of EFTA, 15 U.S.C. § 1693 et seq., and Regulation E, 12 C.F.R. § 1005.17(b)(1)(iii).

**Findings and Conclusions as to Respondent's Deceptive Acts or Practices and Failure to Obtain Affirmative Consent When Presenting Opt-in ODP to Existing Customers by Phone, in Violation of the CFPA and EFTA and Regulation E**

23. Respondent permits consumers who have an existing checking account to enroll a new or existing checking account in Opt-in ODP over the phone.
24. During the Relevant Period and until at least February 7, 2020, Respondent did not provide its customer service representatives a script to be read to customers about the fees and features of Opt-in ODP before enrolling such customers over the phone.
25. As a result, before February 2020, Respondent's representatives often did not clearly distinguish the transactions covered by Standard versus Opt-in ODP or specify for consumers which transactions were covered by the opt-in election.

26. Respondent's employees made a variety of misleading statements in certain calls with consumers who opted in, such as (1) opting in would provide consumers with emergency funds when they needed them, with no other context about the costs of the service; (2) that consumers could avoid returned-item fees by opting in, even though such fees do not apply to ATM and one-time debit card transactions; and (3) that opting in would cover debit card transactions as well as checks, even though checks were already covered by Standard ODP.
27. In some calls, Respondent's employees also omitted key information about the cost of Opt-in ODP and the fact that consumers could incur a \$36 or \$38 overdraft fee for each transaction covered by Respondent.
28. These representations and omissions of key information were likely to mislead consumers. Many call recordings demonstrated consumer confusion, with consumers asking questions or making statements that demonstrated a lack of understanding regarding the terms and conditions of Opt-in ODP.
29. Consumers acted reasonably in accepting AUB employees' descriptions of Opt-in ODP and its benefits.
30. Respondent's employees' misstatements and omissions were material because they went directly to the key costs, terms, and conditions of the overdraft products that AUB offered.

31. Section 1036(a)(1)(B) of the CFPA prohibits deceptive acts or practices. 12 U.S.C. § 5536(a)(1)(B).
32. Respondent's misrepresentations and omissions, as described in paragraphs 23-30, constitute deceptive acts or practices in violation of §§ 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).
33. Under Regulation E, a financial institution may not charge Covered Overdraft Fees unless it first “[o]btains the consumer’s affirmative consent, or opt-in, to the institution’s payment of ATM or one-time debit card transactions.” 12 C.F.R. § 1005.17(b)(1)(iii).
34. Because, as described in paragraphs 23-30 above, Respondent did not provide consumers calling in by phone with the necessary information, it did not provide consumers with a reasonable opportunity to provide affirmative consent to enroll Opt-In ODP.
35. As a result, Respondent charged Covered Overdraft Fees without obtaining consumers' affirmative consent to enroll in Opt-in ODP, in violation of the EFTA, 15 U.S.C. § 1693 et seq., and Regulation E, 12 C.F.R. § 1005.17(b)(1)(iii).
36. Respondent's acts and practices described herein resulted in harm to Affected Consumers equal to at least \$5 million.

## **CONDUCT PROVISIONS**

V.

### **Prohibited Conduct**

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

37. Respondent and its officers, agents, servants, employees, and attorneys and all other persons in active concert or participation with them who receive actual notice of this Consent Order, whether acting directly or indirectly, may not violate Regulation E, 12 C.F.R. § 1005.17(b)(1), by failing to secure consumers' affirmative consent before enrolling them in Opt-in ODP, and the CFPA, 12 U.S.C. §§ 5531(a) & (d)(1), 5536(a)(1)(B), or by deceiving consumers about the terms and conditions of Opt-in ODP.
38. Respondent, and its officers, agents, servants, employees, and attorneys and all other persons in active concert or participation with them who receive actual notice of this Consent Order, whether acting directly or indirectly, in connection with offering or advertising Opt-in ODP, may not misrepresent, or Assist Others in misrepresenting, expressly or impliedly:
  - a. the terms and conditions of Opt-in ODP for Covered Transactions;
  - b. the categories of transactions covered by Opt-in ODP;
  - c. the risks and costs associated with Opt-in ODP;

- d. the risks and costs associated with not enrolling in Opt-in ODP;
- e. the fees associated with Opt-in ODP; or
- f. any other term material to the decision whether to enroll in Opt-in ODP.

### **Affirmative Requirements**

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

39. Respondent must take the following affirmative actions:
- a. Within 30 days of the Effective Date, Respondent must send a letter (Opt-in Status Letter), by United States Postal Service first-class mail, address-correction service requested, to Affected Consumers who have maintained a checking account with Respondent and who have remained enrolled in Opt-in ODP, that includes the following information: (1) the consumer's Opt-in ODP enrollment status; (2) the transactions and fees associated with Opt-in ODP coverage; (3) detailed instructions on how to unenroll from Opt-in ODP; and (4) that consumers have the option of enrolling in Opt-in ODP, Standard ODP only, or declining all overdraft services. In the case of consumers who have elected to receive electronic communications from Respondent and for whom Respondent has current contact information, Respondent may send an electronic version of the Opt-In Status Letter. Respondent must submit the Opt-In Status Letter to the

Supervision Director 14 days prior to sending the Opt-In Status Letter to consumers.

b. Before charging Covered Overdraft Fees to any Affected Consumers, Respondent must first obtain a new enrollment decision from Affected Consumers in a manner that complies with 12 C.F.R. § 1005.17(b)(1)(ii) and (iii), and that discloses, at a minimum, that: (i) Opt-in ODP covers Covered Transactions only; (ii) Standard ODP covers, at Respondent's discretion, remaining transactions such as checks, ACH, bill-pay, and recurring-debits; (iii) Respondent charges consumers an overdraft fee for each transaction that overdraws a consumer's current balance by more than the de minimis amount and the transaction is greater than the de minimis amount, up to four times a day (or the maximum number of overdraft fees then in effect), and the amount of that fee and de minimis amount; and (iv) consumers have the option of enrolling in Opt-in ODP and may revoke their consent to Opt-In ODP at any time.

c. Respondent's policies and practices must ensure that consumers do not receive an A-9 Form that is pre-marked with the "Enrolled" option before they receive written disclosures that comply with Regulation E.

d. By the Effective Date, Respondent must ensure that its policies and procedures, job aids, trainings, scripts, and other similar internal and

consumer-facing materials consistently distinguish between Standard ODP and Opt-in ODP.

- e. By the Effective Date, Respondent's policies and practices must require that employees use an accurate and informative script during phone calls that distinguishes between Standard ODP and Opt-in ODP. Respondent must submit the script to the Supervision Director upon request; and
- f. Respondent's policies and practices must require that Bank employees who handle opt-in calls send consumers an electronic version of the A-9 Form and obtain their written opt-in election and signature before enrolling them in Opt-in ODP.

## VI.

### **Compliance Plan**

**IT IS FURTHER ORDERED** that:

40. Within 30 days of the Effective Date, Respondent must create and implement a comprehensive compliance plan designed to ensure that Respondent's policies and practices relating to enrolling consumers in Opt-in ODP comply with all applicable laws that the Bureau enforces, including 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;
- b. A mechanism to ensure that the Board is kept apprised of the status of compliance actions; and
- c. Specific timeframes and deadlines for implementation of the steps described above.

Respondent will provide the Compliance Plan to the Bureau upon request.

## VII.

### **Role of the Board and Chief Executive Officer**

**IT IS FURTHER ORDERED** that:

41. Respondent's Board has the ultimate responsibility for ensuring that Respondent complies with this Consent Order.
42. Respondent's Chief Executive Officer and Respondent's Board must review all plans and reports required by this Consent Order, and any submissions to the Bureau prior to such submission. One year after the Effective Date, Respondent must submit to the Supervision Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board, the accuracy of which is sworn to under penalty of perjury, and which, at a minimum:

- a. Describes the steps that Respondent's Chief Executive Officer

and Board have taken to reasonably assess whether Respondent is complying with the Redress Plan and Compliance Plan, and each applicable paragraph and subparagraph of the Order;

- b. Describes in detail whether and how Respondent has complied with the Redress Plan and Compliance Plan, and each applicable paragraph and subparagraph of the Order, including the manner of verification of such compliance and any corrective actions taken to remedy potential non-compliance with the applicable requirement, paragraph, or subparagraph; and
- c. Attaches a copy of each Order Acknowledgment obtained under Section XII, unless previously submitted to the Bureau.

43. Respondent's Board and Chief Executive Officer must:

- a. Authorize whatever actions are necessary for Respondent to assess whether Respondent is complying with the Redress Plan and Compliance Plan, and each applicable paragraph and subparagraph of the Order;
- b. Authorize whatever actions, including corrective actions, are necessary for Respondent to fully comply with the Redress Plan and Compliance Plan, and each applicable paragraph and subparagraph of the Order; and
- c. Require timely reporting by management to Respondent's Board

and Chief Executive Officer on the status of compliance obligations.

## **MONETARY PROVISIONS**

### **VIII.**

#### **Order to Pay Redress**

**IT IS FURTHER ORDERED** that:

44. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account not less than \$5 million, as restitution, for the purpose of providing Redress Fees to Affected Consumers as required by this Section.
45. Respondent must provide redress by paying Redress Fees to All Affected Consumers. Such Redress Fees shall not be less than \$5 million.
46. Within 30 days of the Effective Date, Respondent must submit to the Enforcement Director for review and non-objection a comprehensive written plan for providing redress consistent with this Consent Order (Redress Plan). The Enforcement Director will have the discretion to make a determination of non-objection to the Redress Plan or direct Respondent to revise it. If the Enforcement Director directs Respondent to revise the Redress Plan, Respondent must make the revisions and resubmit the Redress Plan to the Enforcement Director within 15 days. After receiving notification that the Enforcement Director has made a determination of non-objection to the Redress

Plan, Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.

47. The Redress Plan must:

- a. Provide a mechanism to pay not less than \$5 million to Affected Consumers in Redress Fees, and to ensure that each Affected Consumer receives the amount of Redress Fees that they paid;
- b. Specify how Respondent will identify Affected Consumers and determine the amount of Redress Fees incurred and paid by each Affected Consumer;
- c. Include the form letter or (in the case of a consumer who has elected to receive electronic communications from Respondent and for whom Respondent has current contact information) electronic communication to be sent notifying Affected Consumers of their redress (Redress Notification), which must include language explaining how the amount of redress was calculated and a statement that redress is being provided in accordance with the terms of the Consent Order; and
- d. Include the form of the envelope that will contain the Redress Notification, when such notification is not sent electronically.

48. Respondent must not include in any envelope containing a Redress Notification any materials other than the approved Redress Notification and

redress check, unless Respondent has obtained written confirmation from the Enforcement Director that the Bureau does not object to the inclusion of such additional materials.

49. The Redress Plan must describe the process for providing redress for all Affected Consumers under the terms of this Order, and must include the following:
  - a. For Affected Consumers who maintain a checking account with Respondent and whose account has been affected by the practices described in this Order, Respondent must send a Redress Notification and either (1) mail a bank check or (2) issue an account credit;
  - b. Respondent must mail a Redress Notification and mail a bank check to each Affected Consumer who no longer maintains a checking account with Respondent affected by the practices described in this Order;
  - c. Respondent must send the bank check and any mailed Redress Notification by United States Postal Service first-class mail, address-correction service requested, to each Affected Consumer's last known address as maintained by Respondent's records. For Affected Consumers who no longer maintain a checking account with Respondent affected by the practices described in this Order, Respondent must first make reasonable attempts to obtain a current address through the National Change of Address System

before sending the bank check and Redress Notification to those Affected Consumers' last known address;

d. For any Affected Consumer who maintains with Respondent a checking account affected by the practices described in this Order and whose Redress Notification and/or redress check is returned for any reason, Respondent must make reasonable attempts to obtain their current address using the National Change of Address System or some other method of contact such as telephone outreach, and must promptly re-mail all returned Redress Notifications and redress checks to current addresses, if any; and

e. Processes for handling any funds that remain unclaimed for a reasonable period.

50. Respondent must provide the redress and notification described in this section within 60 days of the Enforcement Director's non-objection to the Redress Plan.
51. Within 30 days of completing the Redress Plan, Respondent must submit to the Bureau a Redress Report detailing the number of consumers and consumer accounts who received redress, the total amount of redress paid to those consumers, and any remainder of funds to be wired to the Bureau pursuant to Paragraph 52.

52. After completing the Redress Plan, if the amount of restitution mailed to Affected Consumers as a bank check or issued as an account credit is less than \$5 million, 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 restitution provided to Affected Consumers and \$5 million.
53. The Bureau may use these remaining funds to pay additional redress to 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. Respondent will have no right to challenge any actions that the Bureau or its representatives may take under this Section.
54. Respondent may not condition the payment of any redress to any Affected Consumer under this Consent Order on that Affected Consumer waiving any right.

## IX.

### **Order to Pay Civil Money Penalty**

**IT IS FURTHER ORDERED** that:

55. Under § 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, Respondent must pay a civil money penalty of \$1.2 million to the Bureau.
56. 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.
57. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by § 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
58. Respondent, for all purposes, must treat the civil money penalty paid under this Consent Order as a penalty paid to the government. 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. 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 or because of any payment that the Bureau makes from the Civil Penalty Fund. 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.

**X.**

**Additional Monetary Provisions**

**IT IS FURTHER ORDERED** that:

59. 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.
60. 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.

61. Respondent acknowledges that its Taxpayer Identification Number (Social Security Number or Employer Identification Number), which Respondent previously submitted to the Bureau, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
62. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Supervision 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.

## XI.

### COMPLIANCE PROVISIONS

#### Reporting Requirements

**IT IS FURTHER ORDERED** that:

63. 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.

64. Within 7 days of the Effective Date, Respondent must:

a. designate at least one telephone number and email, physical, and postal addresses as points of contact that the Bureau may use to communicate with Respondent; and

b. designate at least one telephone number and email, physical, and postal addresses as points of contact for consumers with inquiries related to consumer relief under the Consent Order.

65. Respondent must report any change in the information required to be submitted under Paragraph 64 at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.

## XII.

### **Order Distribution and Acknowledgment**

**IT IS FURTHER ORDERED** that:

66. Within 7 days of the Effective Date, Respondent must submit to the Supervision Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
67. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its Board members and senior executive officers, as well as to any business leaders and managers who have responsibilities related to the subject matter of the Consent Order.
68. 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 XI, any future Board members and senior executive officers, as well as to any business leaders and managers who will have responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.
69. 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.
70. Ninety days from the Effective Date, Respondent must submit to the Bureau a list of all persons and their titles to whom this Consent Order was delivered

under the Section of this Order titled “Order Distribution and Acknowledgement” and a copy of all signed and dated statements acknowledging receipt of this Consent Order under Paragraph 69.

### XIII.

#### **Recordkeeping**

**IT IS FURTHER ORDERED** that:

71. Respondent must create and retain the following business records:

- a. all documents and records necessary to demonstrate full compliance with the Compliance Plan and each provision of this Consent Order, including all submissions to the Bureau.
- b. all documents pertaining to the Redress Plan, described in Section VIII above.
- c. copies of all sales scripts; training materials; advertisements; websites; and other marketing materials, including any such materials used by a third party on Respondent’s behalf.
- d. for each individual Affected Consumer and his or her enrollment in that Opt-in ODP service: the consumer’s name, address, phone number, and email address, in the case of consumers who have elected to receive electronic communications from Respondent; amount paid; the date on which the

consumer opted in to the Opt-in ODP service; and a copy of welcome materials provided to the consumer; and, if applicable, the date the consumer left the Opt-in ODP service.

e. for Opt-in ODP services, accounting records showing the gross and net revenues generated by the Opt-in ODP services;

f. all consumer complaints and refund requests (whether received directly or indirectly, such as through a third party) pertaining to Opt-in ODP, and any responses to those complaints or requests.

g. records showing, for each employee providing services related to Opt-in ODP, that person's name, telephone number, email, physical, and postal address, job title or position, dates of service, and, if applicable, the reason for termination.

h. records showing, for each service provider providing services related to Opt-in ODP, the name of a point of contact, and that person's telephone number, email, physical, and postal address, job title or position, dates of service, and, if applicable, the reason for termination.

i. All documents and records must be maintained in their original electronic format. Data should be centralized, and maintained in such a way that access, retrieval, auditing and production are not hindered.

72. Respondent must make the documents identified in Paragraph 71 available to

the Bureau upon the Bureau's request.

#### XIV.

#### Notices

**IT IS FURTHER ORDERED** that:

73. 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 Atlantic Union Bank*, File No. 2023-CFPB-0017," and send them by email to Enforcement\_Compliance@cfpb.gov:

ATTN: Supervision Director  
Consumer Financial Protection Bureau  
Office of Supervision Policy

ATTN: Enforcement Director  
Consumer Financial Protection Bureau  
Office of Enforcement

#### XV.

#### Cooperation with the Bureau

**IT IS FURTHER ORDERED** that:

74. Respondent must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each 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.

75. Unless otherwise prohibited by law or regulation, Respondent must state in the letter to consumers described in paragraph 39(a) that they can file a complaint with the Bureau and provide the applicable telephone, website, and mailing information to do so.

## XVI.

### **Compliance Monitoring**

**IT IS FURTHER ORDERED** that:

75. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
76. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview regarding: (a) this matter; (b) anything related to or associated with the conduct described in Section IV; or (c) compliance with the Consent Order. The person interviewed may have counsel present.
77. 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.

**XVII.**

**Modifications to Non-Material Requirements**

**IT IS FURTHER ORDERED** that:

78. 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 Supervision Director.
79. The Supervision Director may, in their 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 Supervision Director must be in writing.

**XVIII.**

**ADMINISTRATIVE PROVISIONS**

**IT IS FURTHER ORDERED** that:

80. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau from taking any other action against Respondent. Further, for the avoidance of doubt, the provisions of this Consent Order do not bar, estop, or otherwise prevent any other person or governmental agency from taking any action against Respondent.
81. This Consent Order is intended to be, and will be construed as, a final Consent

Order issued under § 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.

82. This Consent Order will terminate on the later of 5 years from the Effective Date or 5 years from the most recent date that the Bureau initiates an action alleging any violation of the Consent Order by Respondent, if such action is initiated within 5 years of the Effective Date. If such action is dismissed or the relevant adjudicative body rules that Respondent did not violate any provision of the Consent Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Consent Order will terminate as though the action had never been filed. 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.
83. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
84. 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.

85. 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 §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.
86. 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.
87. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED**, this 6th day of December, 2023.

*Rohit Chopra*  
Rohit Chopra  
Director  
Consumer Financial Protection Bureau