

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

ADMINISTRATIVE PROCEEDING
File No. 2024-CFPB-0014

In the Matter of:

CONSENT ORDER

Navy Federal Credit Union

The Consumer Financial Protection Bureau (Bureau) has reviewed the overdraft fee practices of Navy Federal Credit Union (Respondent, as defined below, or “Navy Federal”) and has identified the following violations of law:

- Respondent committed unfair acts and practices when it collected overdraft fees from consumers on transactions that had a sufficient balance at the time Respondent authorized the transaction but then later settled with an insufficient balance; and
- Respondent committed unfair acts and practices when it collected overdraft fees in situations where consumers reasonably believed, based on their available balances, that an Original Credit Transaction would have led to sufficient funds in their accounts to cover all debits

that posted that day without disclosing, until December 2020, that there was a cutoff time after which Original Credit Transactions would not post the same day.

Under §§ 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I. Overview

1. Navy Federal offers consumers an overdraft service on their checking accounts, which will pay for transactions (up to certain limits) even if consumers don't have sufficient funds in their account. After overdrafting, the consumer is required to repay Navy Federal the shortfall and may be charged a \$20 fee for each overdraft transaction, subject to certain limitations.

2. Consumers who swipe their debit card for a transaction or make an ATM withdrawal when they have enough in their available balance to cover the transaction reasonably assume they will not be charged any overdraft fees. But in some circumstances, Navy Federal does charge consumers overdraft fees for those transactions if consumers' accounts have insufficient funds at the time the transactions settle—and debit card transactions can settle days or even weeks later. These unanticipated overdraft fees have resulted in significant losses for consumers.

Navy Federal has collected millions of dollars of Authorized-Positive Overdraft Fees per year.

3. Navy Federal was aware that consumers are not likely to understand the details of how overdraft fees are assessed, due to the complexities of how various transactions are paid and the inherent uncertainties of when they are paid after being authorized. But Navy Federal continued to assess Authorized-Positive Overdraft Fees anyway, to consumers' detriment.

4. Respondent began refunding Authorized-Positive Overdraft Fees in January 2023.

5. Navy Federal also assessed unanticipated overdraft fees based on its practices regarding Original Credit Transactions, which have been available at Navy Federal since at least 2017. Original Credit Transactions are often used by person-to-person payment services, such as PayPal, Cash App, or Zelle. A consumer's available balance typically increases within minutes of receiving an Original Credit Transaction. Because transferred funds received after an internal Navy Federal cutoff time would not post until the next day, consumers who relied on the increased available balance for other transactions could incur overdraft fees. In 2017, the cutoff time was 10 A.M. Eastern. In September 2020, this cutoff was moved to 8 P.M. Eastern. Navy Federal did not disclose the existence of any cutoff time for Original Credit Transactions until December 2020.

6. Until December 2020, consumers who acted in reliance on an Original Credit Transaction received after the undisclosed cutoff and the corresponding increase in their available balances may have incurred overdraft fees they did not expect, as those funds would not be credited to the consumer's account (and therefore available to cover outgoing transactions) until the next day.

II.
Jurisdiction

7. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565.

III.
Stipulation

8. Respondent has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated November 5, 2024 (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.

IV.
Definitions

9. The following definitions apply to this Consent Order:

- a. “Affected Consumers” includes:
 - i. all consumers who were charged an Authorized-Positive Overdraft Fee between October 1, 2020 and December 31, 2022; and
 - ii. all consumers who were charged a Delayed Original Credit Transaction Fee through November 30, 2020.
- b. “Authorized-Positive Overdraft Fee” means an Overdraft Fee Respondent collected from a consumer for a transaction where the available balance had sufficient funds at the time Respondent authorized the transaction but insufficient funds when the transaction later settled.
- c. “Board” means Respondent’s duly-elected and acting Board of Directors.
- d. “Delayed Original Credit Transaction Fee” means an overdraft fee Respondent collected from a consumer for a transaction where the relevant account had insufficient funds at the time the transaction settled, but where the funds in the account would have been sufficient if the funds the consumer received via an Original Credit Transaction had been included at the time of settlement and where the settlement cutoff time was not disclosed.
- e. “Effective Date” means the date on which the Consent Order is entered on the administrative docket.

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

g. “Overdraft Fee” means the fee charged by Respondent when it pays checks, automated teller machine (ATM) withdrawals, point-of-sale debit card transactions, or Automated Clearing House (ACH) transactions presented against a consumer’s checking account when the consumer does not have enough money in the account to cover the transaction.

h. “Original Credit Transaction” means a transfer of funds by which a payment network is used to directly credit funds to a consumer’s account.

i. “Supervision Director” means the Assistant Director of the Office of Supervision for the Consumer Financial Protection Bureau, or their 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. “Relevant Period” includes from January 1, 2017 to the Effective Date.

l. “Respondent” means Navy Federal Credit Union and its successors and assigns.

V. **Bureau Findings and Conclusions**

The Bureau finds the following:

10. Respondent is an insured credit union chartered by the National Credit Union Administration. Its membership is open to individuals with ties to the armed forces, Department of Defense, or National Guard, and their families or household members. Respondent has assets greater than \$10,000,000,000 within the meaning of 12 U.S.C. § 5515(a).

11. Respondent is headquartered in Vienna, Virginia.

12. As of December 31, 2023, Respondent had over \$171 billion in assets and more than 13 million members. It is currently the largest retail credit union in the United States, with 355 branches worldwide, including 26 military bases overseas and 175 branches on or near military installations.

13. Respondent engages in deposit-taking activities and otherwise acts as a custodian of funds for personal, family, or household purposes of consumers. Such activities are “consumer financial product[s] or service[s]” under the CFPA. 12 U.S.C. § 5481(5), 15(A)(iv). Respondent is therefore a “covered person” under 12 U.S.C. § 5481(6).

*Respondent’s Checking Accounts,
Balance Calculations, and Transaction Processing*

14. Among other types of accounts, Respondent offers consumers checking accounts.

15. Respondent calculates two balances for each consumer’s checking account: a “ledger” balance (which Respondent refers to as a “current” balance) and an “available” balance.

16. Each night, Respondent processes the transactions received from merchants that day for settlement (referred to as “batch processing” or “posting”).

17. The current balance is the end-of-day balance after pending transactions submitted that day are batch processed. The current balance therefore updates only once per business day, after batch processing is complete. The available balance is the last current balance, plus or minus credits or debits that are pending, and can fluctuate during the day.

18. An account’s available balance will sometimes be lower than its current balance because of transactions that have been authorized but not yet settled. For example, if a consumer begins the day with a current balance of \$100 and then makes a \$40 debit card purchase, Respondent immediately lowers the account’s available balance to \$60. This action is referred to as a “hold,” but those funds are not placed in a separate account or otherwise set aside to cover the authorized transaction. The

current balance will not be reduced because of that transaction until Respondent pays the merchant at settlement, usually days later.

19. Respondent typically begins batch processing around 8 P.M. Eastern on each business day. Debit card transactions and other transactions (e.g., ATM withdrawals, ACH transfers) post to the consumer's account and are applied to the current balance in an order set by Respondent.

20. When a consumer uses a debit card to make a purchase, Respondent authorizes the transaction if the consumer has either a sufficient available balance to cover the transaction or sufficient applicable overdraft coverage. If Respondent authorizes the transaction, the consumer is able to complete the purchase. The merchant then sends the transaction to Respondent for settlement (*i.e.*, payment to the merchant) at a later time.

21. Merchants typically send transactions to Respondent for settlement between one and three days after authorization, but merchants sometimes take longer to submit transactions. It is up to the merchant when to send a transaction for settlement, and merchants' timing varies.

22. Consumers do not control, and have no way to know, when a particular transaction they executed will settle because the merchant controls this process.

23. Since February 2017, Navy Federal's disclosures have stated that an “[a]ssessment of overdraft fees is determined based on the account's current balance

after the close of each business day, and not based on the available balance at the time a transaction is authorized.”

24. In February 2018, Navy Federal supplemented its disclosures to state that “even though a transaction has been authorized, it still might result in an overdraft if you initiate other transactions that are processed before it,” and that consumers should “not consider a transaction authorization as a guarantee there will be sufficient funds in your account to cover the transaction when it posts.”

Respondent’s Optional Overdraft Protection Service

25. Respondent offers several options to consumers with checking accounts to permit payments when those accounts become overdrawn, including Optional Overdraft Protection Service (which it brands as “OOPS”), a fee-based overdraft product.

26. Throughout the Relevant Period, during its nightly batch processing, if a consumer had opted in to the Optional Overdraft Protection Service, Respondent assessed a \$20 Overdraft Fee if a transaction had insufficient funds at the time it settled, except that Respondent would not assess an Overdraft Fee on transactions of \$5 or less or if the amount the consumer was overdrawn after all transactions cleared was less than \$15. At the beginning of the Relevant Period, Respondent assessed a maximum of three Overdraft Fees per consumer per day. In July 2021, Respondent limited the maximum number of assessments to one per consumer per day.

27. Between 2017 and 2020, Respondent collected an average of \$236 million per year in Overdraft Fees.

Respondent Charged Authorized-Positive Overdraft Fees to Consumers

28. For consumers who have opted into Optional Overdraft Protection Services, Respondent assesses Overdraft Fees based on an account's current balance when the transaction settles. If an account's current balance is not sufficient to cover the transaction at the time it settles during batch processing (subject to the limitations described in Paragraph 26), Respondent charges the \$20 Overdraft Fee. Respondent assesses these fees even if the consumer had sufficient funds in their available balance at the time the transaction was authorized. Fees incurred in this scenario are referred to as Authorized-Positive Overdraft Fees because they result from transactions that are authorized based on a positive available balance but settle with a negative current balance.

29. For example, a consumer with Optional Overdraft Protection Service coverage might begin the day with a \$100 available balance and a \$100 current balance. The consumer might then make one \$50 debit card purchase at one merchant (lowering their available balance to \$50), and then a \$120 debit card purchase at a second merchant (lowering their available balance to -\$70). The consumer would reasonably anticipate incurring one overdraft fee. But if the second merchant happens to submit its transaction for settlement on an earlier day than the

first merchant, the consumer may be charged two overdraft fees, despite that the consumer's available balance was more than enough to cover the first transaction when it was authorized. The consumer would have no way to know which order the transactions will be submitted for settlement.

30. During the Relevant Period, Authorized-Positive Overdraft Fees represented nearly 20% of all Overdraft Fees charged by Respondent.

31. Throughout the Relevant Period, Respondent received complaints in which consumers expressed anger and confusion about Overdraft Fees charged even though their available balances were high enough to cover the transactions at the time they were authorized. During calls with Respondent's member service representatives, many consumers disclosed that they understood "hold" to mean that funds were actually set aside to cover the authorized transaction, or that they believed that the funds transfer to the merchant instantaneously, rather than through a later settlement process.

32. In internal documents one of Respondent's employees referenced Authorized-Positive Overdraft Fees as a leading cause of consumer frustration, a source of consumer confusion, and "a huge pain point with members."

33. In January 2023, Respondent began to refund Authorized-Positive Overdraft Fees to consumers after they are incurred.

*Respondent Charged Overdraft Fees Related to
Delayed Posting of Original Credit Transactions*

34. Since no later than 2017, Respondent has allowed consumers to access their checking accounts to send or receive Original Credit Transactions. Consumers may use these services, such as PayPal, Cash App, or Zelle, to make and receive payments to and from other individuals or businesses, even if they bank somewhere else.

35. A consumer's available balance typically increases within minutes of receiving an Original Credit Transaction. But the consumer's current balance does not increase until the transaction is included in batch processing.

36. Prior to September 2020, funds received by Respondent's members via Original Credit Transaction would post on the same day only if received before 10 A.M. (Eastern). While a consumer receiving an Original Credit Transaction after that cutoff time would see their available balance increase almost immediately, the funds would not post to their account until the following business day. Respondent never disclosed to consumers the existence of this 10 A.M. Eastern cutoff.

37. Many consumers receiving an Original Credit Transaction after the cutoff and observing the increase in their available balance would reasonably believe the funds were available for their immediate use. If a transaction posting that day would have been covered by the Original Credit Transaction had it been available,

but instead caused an overdraft because the Original Credit Transaction was received after 10 A.M. Eastern, the consumer would receive an unanticipated Overdraft Fee.

38. Respondent was aware as early as June 2018 that its undisclosed Original Credit Transaction cutoff time was causing consumers to be charged unexpected Overdraft Fees. In June 2018, Respondent began investigating the issue.

39. In September 2020 Respondent implemented system changes that formally moved the Original Credit Transaction cutoff from 10 A.M. Eastern to 8 P.M. Eastern. It remained the case that Original Credit Transactions received after the 8 P.M. cutoff would not post until the following business day. Respondent still did not disclose the new 8 P.M. Eastern cutoff.

40. Only in December 2020 did Respondent amend its disclosures for the first time to notify consumers of any cutoff time for Original Credit Transaction.

41. Until Respondent made this disclosure, consumers would have had no way of knowing, and no reason to suspect, that Original Credit Transaction funds appearing in their available balance were not available for their immediate use unless the Original Credit Transaction occurred before an undisclosed cutoff time. Consumers had no reasonable ability to avoid unanticipated Overdraft Fees they were charged when they attempted to use those funds.

42. In December 2019, Respondent took some steps to address Delayed Original Credit Transaction Fees. Respondent refunded Delayed Original Credit

Transaction Fees incurred between 2017 and late 2019 that related to Original Credit Transactions received after 10 A.M. Eastern. Respondent also put in place a temporary, forward-looking fix under which it provided next-day refunds of Delayed Original Credit Transaction Fees that related to transactions received before 8 P.M. Eastern. Respondent ultimately refunded to consumers approximately \$3.4 million in overdraft fees charged due to delayed posting of Original Credit Transactions.

43. In September 2020, Respondent instituted a permanent fix whereby Respondent posts all Original Credit Transactions received before 8 P.M. Eastern during the night's batch processing.

*Findings and Conclusions as to Respondent's
Unfair Acts or Practices Regarding Authorized-Positive Overdraft Fees*

44. Section 1036(a)(1)(B) of the CFPB prohibits “unfair, deceptive, or abusive” acts or practices. 12 U.S.C. § 5536(a)(1)(B).

45. During the Relevant Period, Respondent collected Optional Overdraft Protection Services Fees on transactions where consumers had sufficient funds when they executed the transactions that Respondent authorized.

46. Respondent’s collection of Authorized-Positive Overdraft Fees caused substantial injury because consumers paid at least \$80,189,100 in such fees during the Relevant Period.

47. Authorized-Positive Overdraft Fees were not reasonably avoidable because they were caused by counter-intuitive, complex practices that consumers

did not understand or control and were contrary to consumers' reasonable expectations.

48. The substantial injury caused by Respondent's collection of Authorized-Positive Overdraft Fees was not outweighed by countervailing benefits to consumers or competition.

49. Respondent's collection of Authorized-Positive Overdraft Fees constituted unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531(a) and (c)(1), and 5536(a)(1)(B).

50. These practices resulted in approximately \$80.2 million in harm to Affected Consumers.

*Findings and Conclusions as to Respondent's
Unfair Acts or Practices Regarding Delayed Original Credit Transaction Fees*

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

52. During the Relevant Period, funds received through an Original Credit Transaction after the cutoff did not post until the next day. But Original Credit Transactions did immediately increase the consumer's available balance. Respondent collected overdraft fees in situations where consumers reasonably believed, based on their available balances, that an Original Credit Transaction would have led to sufficient funds in their accounts to cover all debits that posted

that day. Before December 2020, Respondent did not disclose that there was a cutoff time after which Original Credit Transactions would not post the same day.

53. These practices resulted in Overdraft Fees that consumers did not anticipate and could not have reasonably avoided because consumers reasonably expected the funds to post immediately, and Respondent did not disclose the fact that funds received after a cutoff time would not be posted until the next business day.

54. Respondent's collection of Delayed Original Credit Transaction Fees caused substantial injury because consumers paid overdraft fees during the Relevant Period that they would not have been charged had the Original Credit Transaction funds been available for immediate use.

55. The substantial injury caused by Respondent's collection of Delayed Original Credit Transaction Fees was not outweighed by countervailing benefits to consumers or competition.

56. Respondent's collection of Delayed Original Credit Transaction Fees constituted unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531(a) and (c)(1), and 5536(a)(1)(B).

57. Respondent's practices described herein resulted in at least \$4,000,000 in harm to Affected Consumers.

VI.
Conduct Provisions

Prohibited Conduct

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

58. 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 sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531 and 5536, and are prohibited from:

- a. collecting Authorized-Positive Overdraft Fees; and
- b. collecting Delayed Original Credit Transaction Overdraft Fees.

Affirmative Requirements

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

59. Respondent must create, implement, and maintain policies, procedures, and system changes consistent with the Compliance Plan to ensure consumers are not assessed Authorized-Positive Overdraft Fees or Delayed Original Credit Transaction Overdraft Fees.

VII.
Compliance Plan

IT IS FURTHER ORDERED that:

60. Within 60 days of the Effective Date, Respondent must submit to the Enforcement Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's overdraft

service complies 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.

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

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

VIII.
Role of the Board and Executives

IT IS FURTHER ORDERED that:

63. Respondent's Board has the ultimate responsibility for ensuring that Respondent complies with this Consent Order.

64. Respondent's Chief Executive Officer and Respondent's Board or a committee thereof must review all plans and reports required by this Consent Order prior to submission.

65. One year and two years 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 Board has taken to reasonably assess whether Respondent is complying with the Redress Plan, 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, 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 XIII, unless previously submitted to the Bureau.

66. 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, 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, 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

IX. **Order to Pay Redress**

IT IS FURTHER ORDERED that:

67. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account at least \$80,689,100, for the purpose of providing redress to Affected Consumers as required by this Section.
68. Respondent must provide redress to Authorize-Positive Affected Consumers for the total amount of Authorized-Positive Overdraft Fees they were charged, and to Delayed Original Credit Transaction Affected Consumers for the total amount of Delayed Original Credit Transaction Overdraft Fees they were charged, except:

- a. to the extent any such fees have already been refunded;

b. fees that displaced other overdraft fees (except for Authorized-Positive or Delayed Original Credit Transaction Fees) that would have occurred but for Respondent's daily cap on such fees; and

c. fees that were included in account balances that were charged off when the customer's account was closed where Respondent has not and will not transfer, sell, or otherwise collect on those balances.

69. Within 60 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 revise 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.

70. The Redress Plan must:

a. Describe Respondent's methodology used to identify all Affected Consumers and determine the amount of redress that Respondent will provide to each Affected Consumer to comply with Paragraph 68;

b. Include a final list of all Affected Consumers and the amount of the refund that Respondent will provide to each Affected Consumer to comply with Paragraph 68;

c. Include the form of the notification (Redress Notice) and envelope notifying Affected Consumers who are entitled to redress of their right to redress; the Redress Notice must include a statement that the payment is made in accordance with the terms of this Consent Order as well as the contact information established under Paragraph 86(b) for questions from Affected Consumers regarding the redress payments; Respondent must not include in any envelope or communication containing a Redress Notice any materials other than the approved Redress Notice and Redress Checks, unless Respondent has written confirmation from the Enforcement Director that the Bureau does not object to the inclusion of such additional materials;

d. Describe the process for providing redress to Affected Consumers, and must include the following requirements:

- i. Respondent must create a process for responding to questions from Affected Consumers about redress payments and provide appropriate personnel and other necessary resources to support that process;
- ii. Respondent must provide redress to each Affected Consumer by direct deposit whenever feasible, and when direct deposit is

unsuccessful or not feasible, by paper check (Redress Check), in the amount of the refund specified by Paragraph 68. Respondent must send such checks by United States Postal Service first-class mail, address correction service requested, to the most recent address for the consumer;

iii. Prior to sending Redress Notices and Redress Checks or direct deposits (as applicable), Respondent must make reasonable attempts to obtain a current address for each Affected Consumer by using, at a minimum, the National Change of Address System (NCAS), any databases maintained by Respondent that are reasonably accessible by Respondent, and skip-tracing. If no updated address is obtained through such methods, Respondent may mail the Redress Notice and the Redress Check to the consumer's last known mailing address.

iv. If a Redress Check or Redress Notice is returned to Respondent as undeliverable, Respondent must make additional reasonable attempts to contact the Affected Consumer and obtain a current address using a commercially available database other than the NCAS by attempting to contact the Affected Consumer at their last known email address or phone number. Respondent must promptly remail all returned Redress Checks and the Redress Notice to each Affected Consumer's current addresses, if any, obtained through such reasonable attempts.

v. If a Redress Check that Respondent has attempted to send to an Affected Consumer is returned to Respondent, Respondent must retain the redress amount of such Affected Consumer for a period of one hundred and eighty (180) days from the date the check was mailed or re-mailed, whichever is later, during which period such amount may be claimed by such Affected Consumer upon appropriate proof of identity.

e. Set forth all procedures, deadlines, and timeframes for completing each step of the Redress Plan, consistent with the terms of this Consent Order; and

f. Identify, including role and function, Respondent's officers, agents, servants, employees, and attorneys responsible for executing administration of the Redress Plan.

71. Respondent must mail all Redress Checks and Redress Notices and execute all direct deposits within 45 days after the Enforcement Director has made a determination of non-objection to the Redress Plan.

72. 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 73.

73. If the amount of redress provided to Affected Consumers is less than \$80,689,100 within 90 days after submitting the Redress Report to the Bureau, 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 Affected Consumers and \$80,689,100.

74. 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.

75. Respondent may not condition the payment of any redress to any Affected Consumer under this Consent Order on that Affected Consumer waiving any right.

X.
Order to Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

76. Under § 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, Respondent must pay a civil money penalty of \$15,000,000 to the Bureau.

77. 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.

78. 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).

79. 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.

80. 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 60 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:

81. 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.

82. 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.

83. 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.

84. 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.

COMPLIANCE PROVISIONS

XII. **Reporting Requirements**

IT IS FURTHER ORDERED that:

85. 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 30 days after the development.

86. 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, and postal addresses as points of contact for consumers with inquiries related to consumer relief under the Consent Order.

87. Respondent must report any change in the information required to be submitted under Paragraph 85 at least 30 days before the change or as soon as practicable after learning about the change, whichever is sooner.

XIII.
Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

88. 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.

89. 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.

90. 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 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.

91. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

92. 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 has been delivered under the Section of this Order titled “Order Distribution and Acknowledgment” and a copy of all signed and dated statements acknowledging receipt of this Consent Order under Paragraph 89.

XIV.
Recordkeeping

IT IS FURTHER ORDERED that:

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

- a. all documents and records necessary to demonstrate full compliance with the Compliance Plan, Redress Plan, and 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. all consumer complaints and refund requests (whether received directly or indirectly, such as through a third party), and any responses to those complaints or requests.

94. 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.

95. Respondent must make the documents identified in Paragraph 93 available to the Bureau upon the Bureau's request.

XV.
Notices

IT IS FURTHER ORDERED that:

96. 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 Navy Federal Credit Union*, File No. 2024-CFPB-0014," and send them to the following email: Enforcement_Compliance@cfpb.gov addressed as follows:

ATTN: Supervision Director
Consumer Financial Protection Bureau
Office of Supervision

ATTN: Enforcement Director

Consumer Financial Protection Bureau
Office of Enforcement

XVI.
Cooperation with the Bureau

IT IS FURTHER ORDERED that:

97. 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 30 days of receiving a written request from the Bureau.

XVII.
Compliance Monitoring

IT IS FURTHER ORDERED that:

98. 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.

99. 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 V; or (c) compliance with the Consent Order. The person interviewed may have counsel present.

100. 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:

101. 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.

102. 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 they determine good cause justifies the modification. Any such modification by the Supervision Director must be in writing.

XIX.
ADMINISTRATIVE PROVISIONS

IT IS FURTHER ORDERED that:

103. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau from taking any other action against Respondent, except as described in Paragraph 104. 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.

104. 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.

105. 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.

106. 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.

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

108. 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.

109. 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.

110. 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.

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

IT IS SO ORDERED, this 7th day of November, 2024.

Rohit Chopra

Rohit Chopra
Director
Consumer Financial Protection Bureau