

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

**ADMINISTRATIVE PROCEEDING**

File No. 2013-CFPB-0009

**In the Matter of**

**GE Capital Retail Bank,  
CareCredit LLC**

**CONSENT ORDER**

The Consumer Financial Protection Bureau has reviewed the business practices of GE Capital Retail Bank (the Bank) and its affiliate CareCredit LLC (CareCredit) (collectively, Respondent) relating to its health-care credit-card program operating under the CareCredit name, and has identified violations of sections 1031 and 1036 of 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 (Order).

**I**

**JURISDICTION**

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

**II**

**STIPULATION**

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated December 6, 2013 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Order by the

Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, without admitting or denying any of the below findings of fact or conclusions of law, except that Respondent admits that the Bureau has jurisdiction over it and the subject matter of this action.

### III

#### DEFINITIONS

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

3. “CareCredit Card” shall mean the consumer credit card issued and marketed by Respondent primarily for health-care services, including dental, veterinarian, cosmetic, vision, and audiology services, that may be used by consumers only with Enrolled Providers.
4. “Effective Date” shall mean the date on which the Order is entered.
5. “Enrolled Provider” shall mean any provider that has a contract with Respondent permitting it to accept CareCredit Cards as financing for services offered to consumers.
6. “Termination Date” shall mean the date by which the redress process described in Section V(B) below shall terminate, which shall be 18 months after the Effective Date.
7. “Respondent” shall mean GE Capital Retail Bank and its affiliate, CareCredit LLC.

### IV

#### FINDINGS AND CONCLUSIONS

The Bureau finds the following:

8. The Bank, formerly known as GE Money Bank, is a federally-chartered savings association, and CareCredit is a California limited-liability company; both are indirect subsidiaries of General Electric Capital Corporation (GE Capital).
9. Respondent issues the CareCredit Card, which is marketed primarily for health-care services, including dental, veterinarian, cosmetic, vision, and audiology services. The CareCredit Card is a “consumer financial product or service” as that term is defined in section 1002(5) of the

CFPA. 12 U.S.C. § 5481(5).

10. Respondent is a “covered person” as that term is defined in section 1002(6) of the CFPA. 12 U.S.C. § 5481(6).

11. The Bank is an insured depository institution with assets greater than \$10,000,000,000 within the meaning of 12 U.S.C. § 5515(a).

#### **A. CareCredit Card Financing Options**

12. Consumers can use the CareCredit Card only with Enrolled Providers. Enrolled Providers offer consumers the CareCredit Card to finance the cost of health-care services. Dental practices comprise approximately 55 percent of Respondent’s CareCredit business.

13. Respondent has approximately 175,000 Enrolled Providers and approximately 4,100,000 active CareCredit cardholders.

14. From 2009 through the Effective Date, Respondent provided two types of financing options for the CareCredit Card, which Respondent described in marketing materials as:

- a. “No Interest if Paid in Full Within 6, 12, 18, or 24 months” (the Promotional Option); and
- b. “14.9 percent APR and Fixed Monthly Payments Required Until Paid in Full” on qualifying purchases made with the CareCredit Card (the Fixed Payment Option).

15. The Promotional Option is for a defined period. If the consumer does not pay the original balance in full within the promotional period, Respondent charges 26.99 percent interest on the consumer’s declining balance from the date of the consumer’s original purchase. A 26.99 percent interest rate then applies to the account balance going forward. This type of financing arrangement is typically called a deferred-interest promotion.

16. Approximately 85 percent of CareCredit consumers choose the Promotional Option

over the Fixed Payment Option.

17. Consumers apply for and open a CareCredit Card through one of two channels: the “Provider Channel” and the “Consumer Channel.”

18. When consumers open a CareCredit Card through the Consumer Channel, they do so online, often at their own homes, and they typically are not billed for dental or other health-care services at the same time as card enrollment. These consumers receive their initial disclosures directly from Respondent.

19. When consumers open a CareCredit Card through the Provider Channel, they apply for and enroll in the card in an Enrolled Provider’s office. Enrolled Providers give consumers application materials, convey information about the CareCredit Card, and facilitate the submission of the application to Respondent. Aside from the printed application and other written disclosures, which are prepared by Respondent, any additional information the consumer receives regarding the card’s terms typically comes from an Enrolled Provider’s staff member, such as an office manager or receptionist. Consumers open the card and are billed for their dental or other health-care services that are typically performed at that time or shortly thereafter. Respondent promptly issues payment to the Enrolled Provider for the services charged to the CareCredit Card.

#### **B. Insufficient Training and Monitoring of the Provider Channel**

20. The Bureau’s investigation determined that in some cases Respondent insufficiently trained Enrolled Providers on delivering material information to consumers about the Promotional Option’s terms. In some cases, Respondent also failed to sufficiently monitor Enrolled Providers’ compliance with Respondent’s policies and the law.

21. The Bureau’s investigation found that in some instances, by virtue of the facts described in Paragraph 20, Enrolled Providers and their office staff improperly completed CareCredit Card application information and submitted the application on behalf of consumers.

Some Enrolled Providers conveyed the terms of the Promotional Option to consumers orally, sometimes incorrectly. For example, contrary to Respondent's policies, some Enrolled Providers:

- a. told consumers that the CareCredit Card was "interest free for 12 months," as opposed to being a deferred-interest promotion; and
- b. failed to provide consumers with the proper written disclosures or otherwise inform consumers that the interest rate would be 26.99 percent at the end of the promotional period.

22. Some consumers did not receive the written disclosures creditors are required to provide before account opening under Regulation Z, 12 C.F.R. § 1026.5, 1026.6.

23. Even if a consumer enrolling in the Promotional Option through the Provider Channel received proper, written disclosures, some Enrolled Providers, contrary to Respondent's policies, orally provided contradictory or misleading information about the card, causing consumers to misunderstand the Promotional Option.

### **C. Insufficient Materials**

24. In addition, where the Enrolled Providers provided incorrect information to consumers, the consumer-facing materials that Respondent provided to its Enrolled Providers were not adequate to counteract the effects of the incorrect information that consumers received, such as a clear explanation that the 26.99 percent interest would accrue from the date of purchase and be charged to the consumer's account if the original balance was not paid within the promotional period.

25. The consumer-facing materials used by Respondent to explain the card's terms, coupled with the lack of sufficient procedures to ensure that the Enrolled Providers adequately communicated those terms to consumers, resulted in certain consumers misunderstanding the card's terms and the steps to take to avoid deferred interest, penalties, and fees.

26. Some consumers who enrolled in Respondent's Promotional Option through the Provider Channel paid deferred interest because they lacked information about the terms of the CareCredit Card.

27. Accordingly, some consumers incurred substantial debt that was costly, unanticipated, and not reasonably avoidable.

#### **D. Unfair and Deceptive Practices in Respondent's Provider Channel**

28. As described above, Respondent's failure to adequately train and monitor all Enrolled Providers, and Respondent's failure to ensure that material disseminated by the Enrolled Providers was capable of counteracting erroneous information given to consumers, caused substantial injury to consumers that was not reasonably avoidable, and was not outweighed by countervailing benefits to consumers or to competition. These practices therefore violated section 1031(c)(1) of the CFPA's prohibition on unfair acts or practices. 12 U.S.C. §§ 5531, 5536(a)(1)(B). By virtue of these facts, Respondent engaged in these unfair acts or practices.

29. As described above, certain Enrolled Providers, in offering Respondent's CareCredit Card to consumers, (i) told consumers that the CareCredit Card's Promotional Option was a "no-interest" credit card rather than a deferred-interest card, and (ii) failed to inform consumers selecting the Promotional Option that interest would accrue at a rate of 26.99 percent from the date of purchase if the balance was not paid before the promotional period ended. These were material misrepresentations and omissions of fact, likely to mislead consumers, and constituted deceptive and misleading statements and practices in violation of section 1031(a)(1) of the CFPA's prohibition on deceptive acts or practices. 12 U.S.C. §§ 5531, 5536(a)(1)(B). Respondent's operation of the Provider Channel resulted in these deceptive and misleading acts and practices.

**ORDER**

**IT IS HEREBY ORDERED** that Respondent shall cease and desist the unfair and deceptive acts or practices described above and shall take affirmative actions set forth below in Paragraphs 30 through 51 and described in Attachments A-1 through A-5, which constitutes the Remedial Monitoring Plan.

**IT IS HEREBY ORDERED** that Respondent shall, within the timeframes set forth below, implement the following Remedial Monitoring Plan to prevent further violations of sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536 (the prohibitions on deceptive and unfair acts or practices).

**IT IS HEREBY ORDERED** that Respondent shall set aside \$27,700,000 in a Reimbursement Fund to be distributed to consumers in the Appeal Group and the Deferred Interest Group, as set forth below in Paragraphs 52 through 55, in the manner set forth in Paragraphs 56 through 83, with any remaining funds to be used by the Bureau in its sole discretion for such equitable relief or to be transferred to the United States Treasury. Respondent shall also set aside an Auxiliary Fund in the amount of \$6,400,000 for the same purpose, except that any remaining funds shall return to Respondent.

**IT IS HEREBY ORDERED** that Respondent shall bear all costs related to the Remedial Monitoring Plan, Reimbursement Fund, Auxiliary Fund, and Credit Bureau Rehabilitation Plan set forth below in Section V(A)-(B).

**A. Remedial Monitoring Plan**

**Transparency Principles**

30. Respondent's Enrolled Provider contracts shall include "Transparency Principles," (Attachment A-1), requiring that Enrolled Providers accurately describe the terms of the CareCredit

Card to consumers. Within 60 days from the Effective Date, Respondent shall submit to the Bureau for approval a cover letter to Enrolled Providers indicating that the Transparency Principles will become a material part of the contract with the Enrolled Provider and that continued participation in the CareCredit Card program, including acceptance of CareCredit Cards as payment, will constitute consent by the Enrolled Provider to the terms of the Transparency Principles. Within 60 days of Bureau approval, Respondent shall send the Bureau-approved cover letter with the Transparency Principles to Enrolled Providers.

**Charges in Advance of Treatment**

31. Respondent's Enrolled Provider contracts shall prohibit charges for services not yet rendered, unless those services (i) include orthodontic services, or are custom products ordered by the consumer, or (ii) are intended to be and are completed, or out-of-pocket costs incurred, within 30 days of the applicable charge. For all services other than those in (i) above, if services are not completed within 30 days, the consumer is entitled to a refund or account credit for all such services not yet completed.

**Charges in the Provider Channel over \$1,000**

32. For any consumer who wishes to submit a new CareCredit application for dental or audiology charges over \$1,000, the Enrolled Provider will require the consumer to apply directly with Respondent and will provide the consumer with a toll-free number for that purpose. This requirement shall not apply to (i) transactions that occur more than three days after an application is completed in the Provider Channel, (ii) applications in the Provider Channel other than for dental and audiology services, or (iii) applications completed in the Consumer Channel. Respondent will provide the toll-free number to Enrolled Providers for this purpose within 120 days of the Effective Date. During the phone application process, Respondent shall inform the consumer of the terms and conditions of the financing by using an approved script, which is attached to the Order as

Attachment A-2. Respondent's Enrolled Provider contracts shall be amended to require this process. Respondent will not materially change the language of Attachment A-2 for three years without the Bureau's approval unless required by law, in which case Respondent shall provide at least 30 days advance notice to the Bureau of any anticipated change.

33. In the event an Enrolled Provider fails to follow the procedure set forth in Paragraph 32 for a newly-enrolled consumer, Respondent shall provide that consumer with an unqualified right to reverse the covered dental or audiology transaction from his or her account, even if services are in fact rendered.

#### **Enhancements to Disclosures**

34. Within 120 days of the Effective Date, Respondent shall include a revised cover page to its printed application, (*see* Attachment A-3), which is approved by the Bureau, and shall disseminate it to all Enrolled Providers with instructions to replace any existing applications with the new application. Respondent's Enrolled Provider contracts shall require Enrolled Providers to maintain the signature page for six years. For a period of three years, Respondent will not materially change the language in the cover page of Attachment A-3 without approval of the Bureau, unless required by law, in which case Respondent shall provide at least 30 days advance notice to the Bureau of any anticipated change. Respondent may change the annual percentage rate without the Bureau's approval.

35. Additionally, within 120 days of the Effective Date, to the extent the disclosures as set forth in the cover page to the printed application (*see* Attachment A-3) are applicable to the Consumer Channel, Respondent shall use its best efforts to ensure that they are prominently displayed on CareCredit's website along with the application.

#### **Additional Enhancements**

36. Other than for consumers who incur charges described in Paragraphs 32-33, starting

within 90 days of the Effective Date, Respondent shall make best efforts to call consumers within 48 hours, and in no event longer than 72 hours (Welcome Call), from the submission of any new CareCredit application in the Provider Channel resulting in a same-day charge on a new account. The Welcome Call shall provide consumers with (i) the amount of the initial transaction and how the consumers can find additional details about their account, (ii) notice that for the services charged, those services must be performed within 30 days, and (iii) for consumers who applied for the Promotional Option, that interest at the rate of 26.99 percent (or the applicable interest rate at that time) will be incurred from the date of purchase and charged if the original balance is not paid by the end of the promotional period. A copy of an approved script for the Welcome Call is attached to this Order as Attachment A-4.

37. In each of the two billing statements that are sent before the end of the promotional period, there shall be a clear and prominent warning of the promotional period's expiration. (*See* Attachment A-5).

38. Within 120 days of the Effective Date, for consumers who opt out of paper billing statements, Respondent shall use its best efforts to send an email in each of the two billing cycles before the end of the promotional period, clearly advising in the text of the email that the promotional period is expiring. In addition, in those same two cycles, the billing statements available to consumers who opt out of paper billing statements shall be substantially similar to the statement set forth in Attachment A-5.

#### **Enrolled Provider Training**

39. Respondent shall enhance its training curriculum for Enrolled Providers, including a web-based training program explaining the terms and conditions of the CareCredit Card, applicable elements of this Order, and the requirements of the Transparency Principles. Respondent's web-based training program shall prevent Enrolled Providers from skipping pages, and include post-

training testing, which the Enrolled Provider must pass to qualify. Respondent shall provide new training materials, including the web-based training, to the Bureau for approval within 60 days of the Effective Date. Respondent shall retrain all Enrolled Providers within 18 months after the Bureau's approval of such training materials (Training Deadline).

40. Respondent shall obtain a written certification or digital acknowledgement that the Enrolled Provider took the new training, which it shall retain for four years. Thereafter, Respondent shall require retraining every two years, and keep certifications or acknowledgements of such retraining for at least four years.

41. For any Enrolled Provider who fails to have at least one employee complete the training by 30 days after the Training Deadline, Respondent shall suspend that Enrolled Provider's ability to process CareCredit applications until the training is completed.

#### **Rebates to Enrolled Providers**

42. Respondent shall not give kickbacks, rebates, compensation, or in-kind services to any Enrolled Provider in exchange for an Enrolled Provider's new loan volume. This provision does not prevent Respondent from basing prospective pricing in Enrolled Provider contracts on historical volume.

#### **Use of Paid Endorsements**

43. Respondent shall not use any paid endorsements to professional associations in any consumer-facing marketing or related consumer-facing materials.

#### **Termination of Certain Enrolled Providers**

44. Except for Enrolled Providers described in Paragraph 45 below, Respondent shall terminate any Enrolled Provider who has a chargeback rate of more than five percent of its financing transactions within a one-year period.

45. For Enrolled Providers with fewer than 20 CareCredit transactions every six months

and more than one chargeback in the same period, Respondent shall monitor such Enrolled Providers and take appropriate actions, up to and including termination, where warranted.

46. As part of the annual report described in Section VI of the Order, Respondent shall review with the Bureau Enrolled Provider performance to determine whether additional suspensions or terminations are warranted based on complaints, monitoring, chargebacks, and other information.

#### **Prompt Complaint Resolution, Refunds, and Rescission**

47. Respondent shall use its best efforts to resolve consumer complaints within 30 days of the date the consumer contacts Respondent, and use its best efforts issue refunds, credits, and chargebacks where appropriate within 45 days of receiving a complaint. For purposes of this Order, a complaint is any CareCredit cardholder-initiated dispute about his or her account.

48. Respondent shall accept complaints from consumers by telephone or in writing. Both oral and written complaints will be used to assess and monitor Enrolled Providers' adherence to their CareCredit contracts, as amended by this Order.

49. While a balance is being carried, Respondent will not impose fees or interest on the disputed balance, or send an account to collection as a result of a consumer's failure to pay a disputed balance while a complaint is pending. Respondent may require any complaint to be filed within 60 months of the date of the consumer's transaction, but shall not otherwise impose any time limits for the filing of complaints.

50. When a consumer claims that an Enrolled Provider omitted or misrepresented the CareCredit Card's terms and conditions in connection with the opening of an account in the Provider Channel, Respondent shall require the Enrolled Provider to forward the consumer's signature page (*see* Attachment A-3) and a signed sales receipt. If the Enrolled Provider does not forward these materials to Respondent, Respondent shall close the account, rescind the transaction, and charge back any amount incurred on the account. If the Enrolled Provider forwards a signature

page (*see* Attachment A-3) but no sales receipt, Respondent shall refund any disputed amount charged to the account.

51. Respondent agrees to maintain and to implement standardized procedures for tracking all complaints and, within 45 days of the Effective Date, shall provide to the Bureau a written description of these procedures, which will provide the basis of the complaint reporting in CareCredit's annual report to the Bureau, as set forth in Section VI below.

**B. Consumer Redress Process**

**Consumers Eligible for Redress Process**

52. Respondent shall identify all consumers who contacted Respondent to dispute a charge incurred between January 1, 2009 and nine months after the Effective Date, and whose dispute was resolved in favor of the Enrolled Provider or Respondent. Such consumers shall include those who enrolled through either the Provider Channel or the Consumer Channel, and who used the card for any type of transaction. For purposes of this Order, these consumers will be referred to as the "Appeal Group." Consumers who are eligible for remediation under the Assurance of Discontinuance entered into by Respondent and the New York Attorney General on June 3, 2013 (New York AOD) are not included in the Appeal Group.

53. Respondent shall inform the Appeal Group that they are entitled to appeal Respondent's previous determination of their dispute and may be entitled to reimbursement. The notice shall explain the procedures to submit certification that the individual: (i) did not receive some or all of the products or services for which the individual was charged; (ii) was promised a credit refund by the Enrolled Provider that is not yet reflected on the individual's CareCredit statement; (iii) did not authorize the CareCredit application or charge; or (iv) was not adequately informed that they would owe interest if the balance was not paid in full upon expiration of the promotional period, the rate of interest, or that the applicable interest accrues on the outstanding

balance during the promotional period from the purchase date. Certifications based on disputes that fall outside these four categories will not be reviewed under this Order.

54. Respondent shall identify all consumers who (i) enrolled through the Provider Channel, (ii) completed a deferred-interest transaction for dental or audiology services between January 1, 2009 and December 31, 2012, and (iii) were assessed interest on such promotion, as long as the interest was assessed by nine months after the Effective Date. Such consumers shall be identified as the “Deferred Interest Group.” The Deferred Interest Group shall not include: (i) consumers who initiated more than one deferred-interest transaction, where the second transaction occurred after the expiration of the promotional period for the first deferred-interest transaction on the account; (ii) consumers whose deferred interest was charged off, waived, or not paid; (iii) consumers who are included in the Appeal Group; or (iv) consumers who are eligible for remediation under the New York AOD.

55. Respondent shall inform the Deferred Interest Group that they are entitled to file a dispute with Respondent and may be entitled to reimbursement if they were not adequately informed and did not understand: (i) that they would owe interest if their balance was not paid in full upon expiration of the promotional period; (ii) their applicable interest rate; or (iii) that the applicable interest rate accrues on the outstanding balance during the promotional period from the purchase date.

#### **Notification and Certification Process for Review**

56. Respondent will send Bureau-approved notices to the Appeal Group. (*See Attachment A-6.*) The notices shall be sent by U.S. Mail. For those consumers with open accounts who have elected to receive correspondence relating to their account (e.g., statements) by email, notices shall be also sent by email. The notices shall include:

- a. A statement that the consumer may submit a claim if one of the four

categories identified in Paragraph 53 is applicable.

- b. A form for the consumer to complete, sign, and return, which sets forth the category for relief forming the basis of the claim, and the dates of the charges that the consumer believes were improper. The form may be submitted by return mail.
- c. A statement that CareCredit has 30 days from receipt of the submission to issue reimbursement, or submit the claim to an independent adjudicator for review (Independent Adjudicator).
- d. A statement that the consumer must respond within 90 days of receipt for their appeal to be reconsidered. The statement must include an address to which the consumer shall send a response.
- e. A prepaid return envelope.
- f. A statement requesting the consumer's mailing address for receipt of any reimbursement.
- g. For mailed notifications of a claim, a statement on the outer envelope, in 16-point or larger red font, that the consumer may be owed money.

Notifications of a claim made through email must include a statement in the subject line of the email that the consumer may be owed money. The email must also alert the consumer that a notice containing a prepaid return envelope will be mailed to the consumer.

57. Respondent will send Bureau-approved notices to the Deferred Interest Group, (Attachment A-7). The notices shall be sent by U.S. Mail. For those consumers with open accounts who have elected to receive correspondence relating to their account (e.g., statements) by email, notices shall be also sent by email. The notices shall include:

- a. A statement that the consumer may submit a claim if the categories identified in Paragraphs 54-55 are applicable.
- b. A form for the consumer to complete, sign, and return, which sets forth the dates of the charges that the consumer believes were improper, and the basis for the consumer's claim that they were not adequately informed and did not understand: (i) that they would owe interest if their balance was not paid in full upon expiration of the promotional period; (ii) their applicable interest rate; or (iii) that the applicable interest rate accrues on the outstanding balance during the promotional period from the purchase date. The form may be submitted by return mail.
- c. A statement that CareCredit has 60 days from receipt of the reply to approve the consumer's entitlement to any reimbursement, or submit the claim to the Independent Adjudicator for review.
- d. A statement that the consumer must respond within 90 days of receipt for their dispute to be considered. The statement must include an address to which the consumer shall send a response.
- e. A prepaid return envelope.
- f. A statement requesting the consumer's mailing address for receipt of any reimbursement.
- g. For mailed notifications of a claim, a statement on the outer envelope, in 16-point or larger red font, that the consumer may be owed money.

Notifications of a claim made through email must include a statement in the subject line of the email that the consumer may be owed money. The email must also alert the consumer that a notice containing a prepaid return

envelope will be sent to the consumer

58. The Independent Adjudicator shall be agreed upon by the Bureau and Respondent within 60 days of the Effective Date.

59. Within 60 days after the agreement on the Independent Adjudicator, Respondent shall send the notices to consumers within the Appeal Group and Deferred Interest Group to the last-known address and, for consumers with open accounts who have elected to receive correspondence relating to their account (e.g., statements) by email, the last-known email address.

60. If additional consumers meet the requirements to be part of the Appeal Group or the Deferred Interest Group *after* Respondent sends the initial notices to the Appeal Group and Deferred Interest Group, Respondent shall send additional notices in the same manner as set forth above on an ongoing basis to such consumers. Respondent shall use its best efforts to ensure that such additional notices are sent within 30 days from the date upon which the consumer meets the requirements to be part of the Appeal Group or Deferred Interest Group.

61. Respondent shall make reasonable efforts to ensure the notices are received, including contacting the United States Post Office for forwarding addresses for notices returned as undeliverable.

#### **Review Process, Reimbursement Fund, and Auxiliary Fund**

62. Once a certified appeal or certified dispute (collectively, Certifications) is received from a consumer in either the Appeal Group or the Deferred Interest Group, Respondent shall not assess any interest on the disputed balance on the consumer's CareCredit Card until a decision is made by either Respondent or the Independent Adjudicator.

63. Respondent shall ensure it has adequate staff to handle queries, claims, and Certifications pertaining to this Order.

64. Consumers within the Appeal Group and the Deferred Interest Group include those

with open CareCredit accounts and those with closed accounts with and without a balance.

65. Respondent's reimbursement determinations shall include all requested amounts that have not been previously reimbursed by Respondent, which shall include any interest, fees, or penalties paid by the consumer, and nine percent annual interest from the date of the first disputed charge to the date reimbursement is issued. The Independent Adjudicator's reimbursement determinations shall include the amount of reimbursement determined to be owed, which shall include any interest, fees, or penalties imposed by Respondent, and nine percent annual interest added to the reimbursement amount from the date on which the Independent Adjudicator determines reimbursement should have been made. Whether made by Respondent or the Independent Adjudicator, reimbursement determinations will be referred to as "Reimbursement Awards" in this Order.

66. Respondent shall issue Reimbursement Awards as follows:

- a. For any consumer with an open CareCredit account, Respondent shall issue a statement credit or send a reimbursement check made payable to the consumer and mailed to the consumer's address as set forth in the consumer's Certification;
- b. For any consumer with a closed or inactive (\$0 balance) CareCredit account, Respondent shall send a reimbursement check made payable to the consumer and mailed to the consumer's address as set forth in the consumer's Certification;
- c. If the consumer is deceased, and the active account balance is greater than the Reimbursement Award, Respondent will provide a statement credit to the account; otherwise, a reimbursement check will be sent to the consumer's estate; for accounts with an estate, the Reimbursement Award will be

determined based on the status of the estate; and

d. With respect to any bankruptcy, estate, and accounts in litigation,

Respondent shall make the Reimbursement Award in accordance with applicable law.

67. Within 30 days of receipt of a Certification from an Appeal Group member, Respondent shall either (i) issue a Reimbursement Award, or (ii) refer the consumer's Certification to the Independent Adjudicator to review the facts and claim set forth in the Certification for a decision on the appeal. The Independent Adjudicator shall use its best efforts to render a decision within 60 days of the Independent Adjudicator's receipt of the Certification.

68. After the Independent Adjudicator renders a decision, the Independent Adjudicator shall promptly notify Respondent of the decision. After learning of the Independent Adjudicator's decision, Respondent shall use its best efforts to notify the Appeal Group consumer of the decision within 30 days. If the Independent Adjudicator determines that the consumer in the Appeal Group is entitled to a Reimbursement Award, Respondent shall send the Reimbursement Award with such notification.

69. Within 60 days receipt of a Certification from a Deferred Interest Group member, Respondent shall either (i) make a determination to issue a Reimbursement Award, or (ii) refer the consumer's Certification to the Independent Adjudicator to review the facts and claims for a decision on the dispute. The Independent Adjudicator shall use its best efforts to render a decision within 60 days of the Independent Adjudicator's receipt of the Certification.

70. After all determinations have been made with respect to Certifications submitted by Appeal Group and Deferred Interest Group members – whether by Respondent or the Independent Adjudicator – Respondent shall calculate the Reimbursement Award of each Deferred Interest Group member in accordance with Paragraphs 65 and 76 and issue the Reimbursement Awards in

accordance with Paragraph 66.

71. Respondent shall continue to cooperate with the Bureau and promptly resolve all consumer complaints that the Bureau submits to it, or otherwise come to its attention.

72. All Certifications must be submitted and reviewed and all Reimbursement Awards made by Respondent or the Independent Adjudicator by the Termination Date.

**Reimbursement Fund and Auxiliary Fund**

73. Respondent shall set aside \$27,700,000 to reimburse consumers in the Appeal Group and the Deferred Interest Group who submit Certifications and for whom Respondent or the Independent Adjudicator rule in their favor (Reimbursement Fund).

74. In addition to the Reimbursement Fund, Respondent shall set aside an additional \$6,400,000 to reimburse consumers in the Appeal Group and the Deferred Interest Group who submit Certifications and for whom Respondent or the Independent Adjudicator rule in their favor (Auxiliary Fund). The Auxiliary Fund will be utilized only after the Reimbursement Fund is fully utilized.

75. Any Reimbursement Award, whether determined by Respondent or the Independent Adjudicator, shall be paid to members of the Appeal Group within 30 days after Respondent's decision on the consumer Certification, or Respondent's notice of the Independent Adjudicator's decision on the consumer's Certification. Any Reimbursement Award, whether determined by Respondent or the Independent Adjudicator, shall be paid to members of the Deferred Interest Group by the Termination Date.

76. If Reimbursement Awards to consumers in the Deferred Interest Group collectively exceed the amount of money remaining in the Reimbursement Fund and the Auxiliary Fund, each consumer in the Deferred Interest Group shall receive a pro rata share of their Reimbursement Award.

77. Within 30 days after the Termination Date, if the funds in the Reimbursement Fund are not exhausted, Respondent shall be ordered to pay to the Bureau, in the form of a wire transfer to the Bureau or to such agent as the Bureau may direct, and in accordance with wiring instructions to be provided by counsel for the Bureau, the difference between the amount of redress in the form of Reimbursement Awards provided to consumers in the Appeal Group and the Deferred Interest Group, and the amount remaining in the Reimbursement Fund (the Unused Reimbursement Funds). Any unused funds in the Auxiliary Fund shall return to Respondent.

78. The Bureau may apply any Unused Reimbursement Funds for such other equitable relief, including consumer information remedies, as determined to be reasonably related to the violations described in Section IV of this Order. Any funds not used for such equitable relief shall be deposited in the United States Treasury. Respondent shall have no right to challenge any actions that the Bureau or its representatives may take pursuant to this paragraph.

79. Respondent shall bear all costs, separate and apart from the amount it sets aside in the Reimbursement Fund and Auxiliary Fund, related to the notification, processing, and resolution of Certifications submitted to the Independent Adjudicator, including the cost of the Independent Adjudicator.

80. The notice and claims process described in this Order is designed to fully compensate consumers for the violations of law cited herein. Redress provided by Respondent shall not limit consumers' rights.

81. Respondent shall not attach any conditions to the reimbursement provided to consumers, including requiring consumers to waive any rights.

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

become due and payable.

83. Except to the extent any unused funds in the Auxiliary Fund are returned to Respondent pursuant to Paragraph 77, Respondent shall relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law, and no part of the funds shall be returned to Respondent.

#### **Credit Bureau Rehabilitation Plan**

84. Within 90 days of the Effective Date, Respondent shall develop a notice and remediation plan for the purpose of providing credit bureau rehabilitation to certain consumers. This plan, which must be approved by the Bureau, shall apply to consumers who would otherwise have been eligible for the Deferred Interest Group except that their CareCredit accounts were charged off by Respondent and the total amount of payments on their account at time of charge off was less than the promotional purchase amount.

## **VI**

### **COMPLIANCE PROVISIONS**

#### **A. Reporting Requirements**

85. Respondent shall establish, at its own expense, a compliance monitor for the Consumer Redress Process (Compliance Monitor). The Compliance Monitor must be mutually agreed upon between the Bureau and Respondent. The Compliance Monitor shall review and verify that Respondent adheres to all aspects of the Consumer Redress Process described in Section V(B).

86. For every six months after the Effective Date until the Termination Date, the Compliance Monitor shall prepare a detailed written report verifying Respondent's compliance with the Consumer Redress Process (Redress Report). The Redress Report shall also include a list of the consumers Respondent sent notices to, a list of consumers who submitted a Certification, whether each consumer received a Reimbursement Award and, if so, whether it was at the determination of

Respondent or the Independent Adjudicator, whether the Reimbursement Award was a credit to a consumer's account or a cash disbursement, and whether the consumer was part of the Appeal Group or the Deferred Interest Group.

87. Within 30 days after the Termination Date and distribution of all Reimbursement Awards as set forth in Section V, Respondent shall submit a report to the Bureau setting forth a list of the consumers who submitted a Certification, whether each consumer received a Reimbursement Award and, if so, whether it was at the determination of Respondent or the Independent Adjudicator, whether the Reimbursement Award was a credit to a consumer's account or a cash disbursement, and whether the consumer was part of the Appeal Group or the Deferred Interest Group. The report will provide a detailed accounting of all reimbursement to consumers and an accounting of funds remaining, if any, in the Reimbursement Fund, and to be paid to the Bureau as set forth in Paragraph 77.

88. For each of the next three years following the Termination Date, Respondent shall submit an annual report to the Bureau describing the results of the measures that Respondent undertakes as set forth in Section V of this Order concerning complaint-handling, monitoring, and enforcement, including but not limited to information relating to termination and suspension of Enrolled Providers.

89. Respondent and the Compliance Monitor shall follow a comprehensive plan that is designed to ensure Respondent's relevant conduct complies with all terms of the Order (Compliance Plan). The Compliance Plan, which must be submitted to the Bureau within 45 days of the Effective Date, shall include:

- a. detailed steps for addressing each action required by this Order; and
- b. to the extent not already prescribed in this Order, specific timeframes and deadlines for implementation of the steps described above.

90. The Enforcement Director, or someone acting on the Enforcement Director's behalf, shall have the discretion to make a determination of non-objection to the Compliance Plan or direct Respondent to revise it. In the event that the Enforcement Director directs Respondent to revise the Compliance Plan, Respondent shall make the revisions and resubmit the Compliance Plan to the Enforcement Director within 30 days.

91. Upon notification that the Enforcement Director has made a determination of non-objection to the Compliance Plan, Respondent shall implement and adhere to the steps, recommendations, deadlines, and timeframes set forth in the Compliance Plan.

92. Respondent shall notify the Bureau of any change that may affect obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the proposed filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. To the extent any of the above described events will result in Respondent having a new name, Respondent may seek, and the Bureau agrees to consider, an extension of the deadlines set forth in Paragraphs 30, 32, 34 and 35.

#### **B. Order Distribution and Acknowledgement**

93. Within 30 days of the Effective Date, Respondent shall deliver a copy of this Order to each of its Board members and executive officers, as well as to any managers, supervisors, or other management-level agents and representatives who have responsibilities related to the subject matter of the Order.

94. For three years from the Effective Date, Respondent shall deliver a copy of this Order to any business entity resulting from any change in structure as set forth in the Reporting Requirements in Paragraphs 85-92, any future Board members and executive officers, as well as to

any managers, supervisors, or other management-level agents and representatives who will have responsibilities related to the subject matter of the Order before they assume their responsibilities.

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

#### C. Recordkeeping

96. Respondent shall create and retain, for at least three years from the Effective Date, and make available to Bureau representatives upon request, the following business records: (i) all documents and records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Bureau; (ii) all documents and records pertaining to the Remedial Monitoring Plan, Reimbursement Fund, and Auxiliary Fund, as set forth in Section V above; and (iii) copies of all scripts used by Respondent's representatives in enrolling consumers, training materials, advertisements, websites, and other marketing materials relating to the CareCredit Card.

#### D. Notices

97. Unless otherwise directed in writing by a Bureau representative, Respondent shall provide all submissions, requests, communications, consents, or other documents relating to this Order in writing and by overnight courier (not the United States Postal Service) with the subject line of the documents beginning: In re GE Capital Retail Bank, File No. 2013-CFPB-0009, as set out below.

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

Regional Director of Supervision,  
West Region

Consumer Financial Protection Bureau  
301 Howard Street  
Suite 1200  
San Francisco, CA 94105.

**E. Compliance and Extensions of Time**

98. Upon a written showing of good cause, the Enforcement Director may, in his discretion, modify any non-material provisions of this Order (e.g., reasonable extensions of time). Any such modification by the Enforcement Director shall be in writing.

**F. Role of the Board**

99. With the exception of documents required to be submitted for Bureau approval pursuant to Paragraphs 30, 32, 34, 39, 84, and 89, the Board shall review all material submissions (including plans, reports, programs, policies, and procedures) required by this Order before submission to the Bureau.

100. Although this Order requires Respondent to submit certain documents for the review or non-objection by the Enforcement Director, the Board shall have the ultimate responsibility for proper and sound management of Respondent and for ensuring that Respondent complies with Federal consumer financial law and this Order.

101. In each instance in this Order in which the Board is required to ensure adherence to, or undertake to perform certain obligations of Respondent, the Board shall:

- a. authorize and adopt such actions on behalf of Respondent as may be necessary for Respondent to perform its obligations and undertakings under the terms of this Order;
- b. require the timely reporting by Respondent management of such actions directed by Respondent management to be taken under the terms of this Order; and

- c. require corrective action be taken in a timely and appropriate manner in the case of any material non-compliance with such actions.

## VII

### ADMINISTRATIVE PROVISIONS

102. Except as set forth in Paragraph 107, below, the provisions of this Order shall not bar, estop, or otherwise prevent the Bureau, or any other federal or state agency or department, from taking any other action against Respondent.

103. This Order is intended to be, and shall be construed to be, a final order issued under 12 U.S.C. § 5563(b), and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.

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

105. This Order is applicable to every state in the United States, except the State of New York. Compliance with the New York AOD constitutes compliance with this Order with respect to all consumers located in and all activities conducted in the State of New York, except that the redress relating to the Deferred Interest Group must be conducted pursuant to this Order for consumers located in the State of New York.

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

107. This Order constitutes a settlement of the administrative proceeding against Respondent contemplated by the Bureau, based on the conduct described in Section IV (Findings and Conclusions) of this Order. The Bureau releases and discharges Respondent from all potential liability (other than as set forth in this Order) for a cease and desist or other order or civil money

penalty that has been or might have been asserted by the Bureau based on Respondent's conduct, as described in Section IV of this Order, to the extent such practices occurred before the Effective Date and are known to the Bureau as of the Effective Date of the Order. Notwithstanding the foregoing, the practices described in Section IV of this Order may be used by the Bureau 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 shall not preclude or affect any right of the Bureau to determine and ensure compliance with the terms and provisions of the Order, or to seek penalties for any violations thereof.

108. The provisions of this Order shall be binding upon Respondent, and if Respondent is disposed of, spun-off, or sold, such sale, spin-off, or disposition will be contingent upon the new entity or purchaser's agreement to abide by the terms of this Order and all obligations imposed on or undertaken by Respondent herein as long as the CareCredit Card is offered by the new entity or purchaser.

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

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

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

**IT IS SO ORDERED**, this 10 th day of December, 2013.



Richard Cordray  
Director  
Consumer Financial Protection Bureau