

**#2016-045**

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

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**In the Matter of:**

HSBC Bank USA, N.A.  
McLean, Virginia

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) AA-EC-2015-101  
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**CONSENT ORDER**

The Comptroller of the Currency (“Comptroller”), through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), has conducted an examination of HSBC Bank USA, N.A., McLean, Virginia (“Bank”) and its affiliate HSBC Bank Nevada, N.A., Las Vegas, Nevada (collectively, “HSBC” or “Banks”). The OCC has identified deficiencies in the Bank’s practices that resulted in violations of Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a)(1), related to billing practices with regard to a credit protection product, and has informed the Bank of the findings resulting from the examination.

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of a Consent Order, dated April 12, 2016, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Cease and Desist Order (“Order”) by the OCC. The Bank has begun corrective action with respect to the practices addressed in this Order, and is committed to taking all necessary and appropriate steps to remedy the practices and violations of law identified by the OCC.

## ARTICLE I

### COMPTROLLER'S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

(1) From January 2004 to March 2012, the Banks and a credit protection product vendor, on behalf of the Banks, marketed and sold CreditKeeper, a credit protection product, to customers of the Banks. The CreditKeeper product included credit monitoring services.

(2) Customers of the Banks who enrolled in the CreditKeeper product were required to provide sufficient personal verification information and, between June 2010 and May 2012, consent before their credit bureau reports could be accessed. Customers of the CreditKeeper product were provided the materials necessary to submit this information and, between June 2010 and May 2012, consent. Customers could not receive the credit monitoring services of the CreditKeeper product in which they were enrolled until the information and, between June 2010 and May 2012, consent were submitted.

(3) Between January 2004 and May 2012, the Banks, through their vendors, billed CreditKeeper customers for the full fee of the product, even though not all customers were receiving the credit monitoring services of the product.

(4) Between January 2004 and May 2012, the Banks retained a portion of the fees paid by the CreditKeeper customers, including fees paid by customers who were not receiving the credit monitoring services.

(5) By reason of the foregoing billing practices for the CreditKeeper product as described in Paragraphs (1) to (4) of this Article, the Bank engaged in unfair practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a)(1).

(6) The Banks' violation of Section 5 of the FTC Act is part of a pattern of misconduct that resulted in financial gain to the Banks.

(7) Pursuant to the authority vested in the OCC by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), the OCC hereby ORDERS that:

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) The Board shall appoint and maintain an active Compliance Committee of at least three (3) directors, of which a majority shall not be employees or officers of the Bank or any of its subsidiaries or affiliates. The Compliance Committee shall be responsible for monitoring and overseeing the Bank's compliance with the provisions of this Order. The Compliance Committee shall maintain minutes of its meetings at which compliance with this Order is discussed.

(2) Within one hundred twenty (120) days of the effective date of this Order, and thereafter within thirty (30) days after the end of each quarter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail the actions taken to comply with Articles III through X of this Order, and the results and status of those actions. The progress report shall include information sufficient to validate compliance with this Order.

(3) Upon receiving the Compliance Committee's report, the Board shall forward a copy of the report, with any additional comments by the Board, to the Examiner-in-Charge within ten (10) days of the first Board meeting following receipt of such report, unless additional time is granted by the Examiner-in-Charge through a written determination of no supervisory objection.

(4) The OCC may, in writing, discontinue the requirement for written progress reports required by Paragraphs (2) and (3) of this Article, or modify the reporting schedule set forth in Paragraphs (2) and (3) of this Article.

### ARTICLE III

#### COMPREHENSIVE ACTION PLAN

(1) Within ninety (90) days of this Order, the Bank shall submit to the Examiner-in-Charge, for review and written determination of no supervisory objection by the Deputy Comptroller for Large Bank Supervision (“Deputy Comptroller”), an acceptable plan containing a complete description of the actions that are necessary and appropriate to achieve compliance with Articles IV through X of this Order (“Action Plan”). In the event the Deputy Comptroller asks the Bank to revise the Action Plan, the Bank shall promptly make necessary and appropriate revisions and resubmit the Action Plan to the Examiner-in-Charge for review and determination of no supervisory objection by the Deputy Comptroller.

(2) The Action Plan shall specify qualified Bank personnel responsible for overseeing the execution of each element of the Action Plan and timelines for completion of each of the requirements of Articles IV through X of this Order. The timelines in the Action Plan shall be consistent with any deadlines set forth in this Order, unless modified by written agreement with the Deputy Comptroller.

(3) Upon receiving written notice of no supervisory objection from the Deputy Comptroller, the Board shall ensure that the Bank implements and thereafter adheres to the Action Plan. Following implementation of the Action Plan, the Bank shall not take any action that will cause a significant deviation from, or material change to the Action Plan, unless and

until the Bank has received a prior written determination of no supervisory objection from the Deputy Comptroller.

(4) The Board shall ensure that the Bank achieves and thereafter maintains compliance with this Order, including, without limitation, successful implementation of the Action Plan. The Board shall further ensure that, upon implementation of the Action Plan, the Bank achieves and maintains a program to comply with Section 5 of the FTC Act, and its implementing regulations. In each instance in this Order in which the Board is required to ensure adherence to or undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) Require the timely reporting by Bank management of such actions directed by the Board to be taken under this Order;
- (b) Follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (c) Require corrective action be taken in a timely manner for any non-compliance with such actions.

#### ARTICLE IV

##### COMPLIANCE WITH LAW

(1) The Board shall ensure that the Bank, its officers, agents and service providers immediately cease and desist from engaging in violations of Section 5 of the FTC Act related to the Bank's credit protection products, and the Board shall specifically ensure that the Bank take all steps necessary to eliminate any and all violations of Section 5 of the FTC Act for such products and to maintain future compliance with the requirements of the FTC Act.

## ARTICLE V

### CONSUMER REIMBURSEMENT FOR UNFAIR BILLING PRACTICES

(1) The Bank shall complete full reimbursement, as defined in Paragraph (3) of this Article, in accordance with the Reimbursement Plan required by Article VI of this Order, to all Eligible Customers as defined in Paragraph (2) of this Article.

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

- (a) “Eligible Customer” is any Credit Protection Customer who, between January 2004 and May 2012, was enrolled in a Credit Protection Product and who was Unprocessable during any portion of his or her enrollment.
- (b) “Credit Protection Customer” is a customer of the Banks who enrolled in a Credit Protection Product.
- (c) “Credit Protection Product” refers to CreditKeeper, a credit protection product marketed and sold to certain HSBC customers by the Banks or the Credit Protection Vendor.
- (d) “Credit Protection Vendor” refers to any of the Banks’ vendors, including Affinion Group Holdings, Inc. and its subsidiary Trilegiant Corporation (and its predecessor Cendant Membership Services, Inc.), that provided marketing, sales, delivery, servicing, and/or fulfillment of CreditKeeper to customers of the Banks.
- (e) “Credit Protection Product Fees” are the fees charged by the Banks or the Credit Protection Vendor for a Credit Protection Product.
- (f) “Reimbursement End Date” is the date on which the Eligible Customer’s Unprocessable status with the Banks ended.

- (g) “Reimbursement Start Date” is the date on which the Eligible Customer first entered Unprocessable status.
- (h) “Unprocessable” refers to the status of a Credit Protection Customer who, at a given time, was being billed for a Credit Protection Product but was not receiving the proper credit monitoring benefits of the product.

(3) The reimbursement amount paid to each Eligible Customer shall include, as applicable to each Eligible Customer:

- (a) The sum of:
  - (i) The full amount of Credit Protection Product Fees paid by an Eligible Customer from his or her Reimbursement Start Date through his or her Reimbursement End Date;
  - (ii) The full amount of any overlimit fees, as calculated pursuant to the methodology in the Reimbursement Plan, paid by an Eligible Customer from his or her Reimbursement Start Date through his or her Reimbursement End Date because the amount of the Credit Protection Product Fees resulted in the Eligible Customer exceeding his or her credit limit;
  - (iii) The amount of the estimated finance charges, as calculated pursuant to the methodology in the Reimbursement Plan, paid by an Eligible Customer on Credit Protection Product Fees from his or her Reimbursement Start Date through his or her Reimbursement End Date;

- (iv) The amount of any fees or charges, as calculated pursuant to the methodology in the Reimbursement Plan, that are associated with or similar to the fees and charges in items (i) through (iii) of this Paragraph; and
  - (v) The amount of interest, as calculated pursuant to the methodology in the Reimbursement Plan, an Eligible Customer would have earned on the sum of the amounts in items (i) through (iv) of this Paragraph.
- (b) Less any amount of fees and/or charges described in section (a) of this Paragraph that was previously refunded or credited by the Banks or the Credit Protection Vendor.

## ARTICLE VI

### REIMBURSEMENT PLAN

- (1) Within one hundred twenty (120) days of this Order, the Bank shall develop a Board-approved reimbursement plan (“Reimbursement Plan”) and submit it to the Examiner-in-Charge for prior determination of no supervisory objection by the Deputy Comptroller. The Reimbursement Plan shall include the following:
- (a) A description of the methods used and the time necessary to compile a list of potential Eligible Customers;
  - (b) A description of the methods used to calculate the amount of reimbursement to be paid to each Eligible Customer as required by Paragraph (1) of Article V of this Order;

- (c) A description of the procedures for issuance and tracking of reimbursement payments to Eligible Customers, including procedures for locating Eligible Customers whose contact information has changed;
- (d) With regard to Eligible Customers who receive the reimbursement required by Paragraph (1) of Article V of this Order, a description of procedures:
  - (i) for reporting updated balances, as applicable, to each credit reporting agency to which the Banks had previously furnished balance information for the account; and
  - (ii) with regard to accounts sold to unaffiliated third parties, for requesting such third parties to report updated balances, as applicable, to each credit reporting agency to which the Banks or the third party had previously furnished balance information for the account; and
- (e) A description of the procedures for monitoring compliance with the Reimbursement Plan.

(2) The Bank represents that it has completed a plan to reimburse certain Eligible Customers for certain product fees, associated fees, and charges they paid, and has reimbursed certain Eligible Customers pursuant to that plan. This plan shall be documented as part of the Reimbursement Plan required by this Article, shall be subject to the requirements of this Article, and shall include an accounting of amounts the Bank has already reimbursed to Eligible Customers.

(3) Upon receipt of a determination of no supervisory objection to the Reimbursement Plan, the Board shall ensure that the Bank implements and adheres to the Reimbursement Plan. Any proposed changes to or deviations from the approved Reimbursement Plan shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection by the Deputy Comptroller.

## ARTICLE VII

### ASSESSMENT OF REIMBURSEMENT

(1) Within ninety (90) days from the completion of reimbursement under the Reimbursement Plan, as detailed in Article VI, the Bank's Internal Audit department shall review and assess compliance with the terms of the Reimbursement Plan ("Reimbursement Review").

(2) The Reimbursement Review shall include an assessment of the Reimbursement Plan and the methodology used to determine the population of Eligible Customers, the amount of reimbursement for each Eligible Customer, the procedures used to issue and track reimbursement payments, the procedures used for reporting and requesting the reporting of updated balances to the credit reporting agencies, and the work of any independent consultants that the Bank has used to assist and review its execution of the Reimbursement Plan.

(3) The Reimbursement Review shall be summarized in a written report (the "Reimbursement Review Report"), which shall be completed within sixty (60) days of completion of the Reimbursement Review. Within ten (10) days of its completion, the Reimbursement Review Report shall be submitted to the Examiner-in-Charge and the Board.

(4) Any (including all draft and finalized) communications, workpapers, or work product related to the Reimbursement Review shall be made available to the OCC immediately upon request of the Examiner-in-Charge.

## ARTICLE VIII

### THIRD PARTY MANAGEMENT FOR OPTIONAL ADD-ON PRODUCTS

(1) For the purposes of this Article and this Order, “Third Party” refers to any third party that provides marketing, sales, delivery, servicing, and/or fulfillment of services for consumer products offered, pursuant to a contractual obligation to the Bank, as optional add-on products to Bank credit cards and/or as optional add-on products to other consumer products of the Bank.

(2) Within ninety (90) days of this Order, the Bank shall submit its written policy governing the management of Third Parties (“Third-Party Management Policy”) to the Examiner-in-Charge for prior determination of no supervisory objection. At a minimum, the Third-Party Management Policy shall require:

- (a) An analysis, to be conducted by the Bank prior to the Bank entering into a contract with the Third Party, of the ability of the Third Party to perform the marketing, sales, delivery, servicing, and fulfillment of services for the product(s) in compliance with all applicable consumer protection laws and Bank policies and procedures.
- (b) For new and renewed contracts, a written contract between the Bank and the Third Party, which sets forth the responsibilities of each party, especially:

- (i) The Third Party's specific performance responsibilities and duty to maintain adequate internal controls over the marketing, sales, delivery, servicing, and fulfillment of services for the product(s);
  - (ii) The Third Party's responsibilities and duty to provide adequate training on applicable consumer protection laws and Bank policies and procedures to all Third Party employees or agents engaged in the marketing, sales, delivery, servicing, and fulfillment of services for the product(s);
  - (iii) Granting the Bank the authority to conduct periodic onsite reviews of the Third Party's controls, performance, and information systems as they relate to the marketing, sales, delivery, servicing, and fulfillment of services for the product(s); and
  - (iv) The Bank's right to terminate the contract if the Third Party materially fails to comply with the terms specified in the contract, including the terms required by this Paragraph.
- (c) Periodic onsite review by the Bank of the Third Party's controls, performance, and information systems.

(3) Upon receipt of a determination of no supervisory objection to the Third-Party Management Policy submitted pursuant to Paragraph (2) of this Article, the Board shall ensure that the Bank implements and adheres to the Third-Party Management Policy. Any proposed changes or deviations from the approved Third-Party Management Policy shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection.

(4) The Bank's Internal Audit department shall periodically conduct an assessment of the Bank's adherence to the Third-Party Management Policy. The initial assessment shall occur within one hundred twenty (120) days after the Bank's receipt of a determination of no supervisory objection to the Third-Party Management Policy, and periodically thereafter but at least annually thereafter, and the findings shall be memorialized in writing. Within thirty (30) days of completing each assessment, Internal Audit shall provide its written findings to the Audit Committee and the Examiner-in-Charge.

(5) The Board shall ensure that there is oversight of the Third-Party Management Policy required by this Article by the Bank's senior risk managers and senior management.

## ARTICLE IX

### RISK MANAGEMENT PROGRAM AND OVERSIGHT

(1) Within ninety (90) days of this Order, the Bank shall develop a written enterprise-wide risk management program ("Risk Management Program") for all consumer products offered by the Bank or through Third Parties as optional add-on products to Bank credit cards and/or as optional add-on products to other consumer products of the Bank, to the Bank's customers, including, but not limited to, the Bank's credit cardholders and other consumers of the Bank's consumer products (collectively, "Bank Customers"). The Board shall approve and ensure the Bank submits this Risk Management Program to the Examiner-in-Charge for prior determination of no supervisory objection. At a minimum, the Risk Management Program shall require:

- (a) A written comprehensive assessment, to be conducted on an annual basis, of the unfair and deceptive practices ("UDAP") risk for these products and

for changes to these products, including, but not limited to the UDAP risk of the governance, control, marketing, sales, delivery, servicing, and fulfillment of services for new products and existing products, including the UDAP risk of marketing and sales practices.

- (b) The development and implementation of written policies and procedures to effectively manage, prevent, detect, and mitigate, on an on-going basis, the risks identified in the written assessment required by Paragraph (1)(a) of this Article.
- (c) The recording of all telephone calls in which these products are marketed or sold by the Bank or through a Third Party to Bank Customers, which recordings shall be retained for a period of at least twenty-five (25) months from the date of the call.
- (d) The recording of all telephone calls in which a Bank Customer enrolled in such product marketed or sold by the Bank or through a Third Party indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the product, which recordings shall be retained for a period of at least twenty-five (25) months from the date of the call.
- (e) Comprehensive written procedures for providing appropriate training on applicable consumer protection laws and Bank policies and procedures, including but not limited to unfair or deceptive practices, to appropriate Bank employees and Third Party call agents who market, sell, or service products during in-bound or out-bound telephone calls or who engage in retention efforts during telephone calls in which a Bank Customer

indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the product.

- (f) Comprehensive written procedures for providing appropriate training on applicable consumer protection laws and Bank policies and procedures, including, but not limited to, Section 5 of the FTC Act, to appropriate Bank employees and Third Party employees or agents monitoring telephone calls.
- (g) Comprehensive written policies and procedures for identifying and reporting any violation of applicable consumer protection laws and Bank policies and procedures by Bank employees and Third Party employees or agents, in a timely manner, to a specified executive risk manager at the Bank. The manager to whom such reports are made shall be independent of the unit overseeing the sales and marketing of the products.
- (h) Independent telephone call monitoring by qualified personnel who have training in identifying and reporting violations of applicable consumer protection laws and Bank policies and procedures, including, but not limited to, Section 5 of the FTC Act.
- (i) Reporting, on at least a monthly basis by the independent unit responsible for conducting the monitoring required by Paragraph (1)(h) of this Article, of its findings from the telephone call monitoring to a specified executive risk manager who is independent of the unit overseeing the sales and marketing of these products.

(j) Written policies and procedures to ensure that risk management, internal audit, and corporate compliance programs have the requisite authority and status within the Bank so that appropriate reviews of these products marketed or sold by the Bank or through Third Parties may occur and deficiencies are identified and properly remedied.

(2) Upon receipt of a determination of no supervisory objection to the Risk Management Program submitted pursuant to Paragraph (1) of this Article, the Board shall ensure that the Bank implements and adheres to the Risk Management Program. Any proposed changes to or deviations from the approved Risk Management Program shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection.

(3) The Bank's Internal Audit department shall periodically conduct an assessment of the Bank's compliance with the Risk Management Program. Such assessments shall occur within one hundred twenty (120) days after the Bank's receipt of a determination of no supervisory objection to the Risk Management Program, and periodically but at least annually thereafter, and the findings shall be memorialized in writing. Within ten (10) days of completing each assessment, Internal Audit shall provide its written findings to the Audit Committee and the Examiner-in-Charge.

(4) Within ninety (90) days of this Order, the Bank shall develop training materials relating to identifying and responding to unfair and deceptive practices and incorporate the new training materials into the existing annual compliance training for appropriate employees.

(5) The Board shall ensure that there is oversight of the Risk Management Program required by this Article by the Bank's senior risk managers and senior management.

## ARTICLE X

### CONSUMER COMPLIANCE INTERNAL AUDIT PROGRAM

(1) Within ninety (90) days of this Order, the Bank shall develop a written Consumer Compliance Internal Audit Program for all consumer products offered to Bank Customers by the Bank or through Third Parties as optional add-on products to Bank credit cards and/or as optional add-on products to other consumer products of the Bank. The Audit Committee shall ensure that the Bank submits this Consumer Compliance Internal Audit Program to the Examiner-in-Charge for prior no supervisory objection. At a minimum, the Consumer Compliance Internal Audit Program shall include:

- (a) Written policies and procedures for conducting audits of the Bank's compliance with consumer protection laws and regulations, including but not limited to Section 5 of the FTC Act. These policies and procedures shall specify the frequency, scope, and depth of these audits.
- (b) Written policies and procedures for expanding its sampling when exceptions based on potential violations of consumer protection laws and regulations are detected.

(2) Upon receipt of a determination of no supervisory objection to the Consumer Compliance Internal Audit Program submitted pursuant to Paragraph (1) of this Article, the Audit Committee shall ensure that the Bank implements and adheres to the Consumer Compliance Internal Audit Program. Any proposed changes to or deviations from the Consumer Compliance Internal Audit Program shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection.

## ARTICLE XI

### APPROVAL, IMPLEMENTATION, AND REPORTS

(1) The Bank shall submit the written plans, programs, policies, and procedures required by this Order for review and determination of no supervisory objection to the Deputy Comptroller or the Examiner-in-Charge within the applicable time periods set forth in Articles IV through X. The Board shall ensure that the Bank submits the plans, programs, policies, and procedures to the Deputy Comptroller or Examiner-in-Charge for prior written determination of no supervisory objection. In the event the Deputy Comptroller or Examiner-in-Charge asks the Bank to revise the plans, programs, policies, or procedures, the Bank shall promptly make necessary and appropriate revisions and resubmit the materials to the Deputy Comptroller or Examiner-in-Charge for review and determination of no supervisory objection. Upon receiving written notice of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge, the Board shall ensure that the Bank implements and thereafter adheres to the plans, programs, policies, and procedures.

(2) During the term of this Order, the required plans, programs, policies, and procedures shall not be amended or rescinded in any material respect without a prior written determination of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge.

(3) During the term of this Order, the Bank shall revise the required plans, programs, policies, and procedures as necessary to incorporate new, or changes to, applicable legal requirements and supervisory guidelines.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plans, programs, policies, and procedures required by this Order.

(5) All communication regarding this Order shall be sent to:

(a) Kris A. McIntire  
Deputy Comptroller  
Large Bank Supervision  
Office of the Comptroller of the Currency  
400 7th Street S.W.  
Washington, DC 20219

and/or

(b) Ronald H. Frake  
Examiner-in-Charge  
National Bank Examiners  
10 East 40th Street, 14th Floor  
New York, NY 10016

or such other individuals or addresses as directed by the OCC.

## ARTICLE XII

### OTHER PROVISIONS

(1) Although this Order requires the Bank to submit certain actions, plans, programs, and policies for the review or prior written determination of no supervisory objection by the Deputy Comptroller or the Examiner-in-Charge, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) If, at any time, the OCC deems it appropriate in fulfilling the responsibilities placed upon it by the several laws of the United States to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the OCC from so doing.

(3) This Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the OCC, based on the practices and violations of law described in the Comptroller's Findings set forth in Article I of this Order. The OCC releases and discharges the

Bank from all potential liability for a cease and desist order that has been or might have been asserted by the OCC based on the practices and violations described in Article I of this Order, to the extent known to the OCC as of the effective date of this Order. Nothing in the Stipulation or this Order, however, shall prevent the OCC from:

- (a) Instituting enforcement actions, other than a cease and desist order, against the Bank based on the findings set forth in Article I of this Order;
- (b) Instituting enforcement actions against the Bank based on any other findings;
- (c) Instituting enforcement actions against the Bank's institution-affiliated parties based on the findings set forth in Article I of this Order, or any other findings; or
- (d) Utilizing the findings set forth in Article I of this Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in the Stipulation or this Order shall affect any right of the OCC to determine and ensure compliance with the terms and provisions of the Stipulation or this Order.

(4) This Order is and shall become effective upon its execution by the OCC, through the Comptroller's duly authorized representative, whose hand appears below. The Order shall remain effective and enforceable, except to the extent that, and until such time as, any provision of this Order shall be amended, suspended, waived, or terminated in writing by the OCC, through the Comptroller's duly authorized representative.

(5) Any time limitations imposed by this Order shall begin to run from the effective date of this Order, as shown below, unless the Order specifies otherwise. The time limitations

may be extended in writing by the Deputy Comptroller for good cause upon written application by the Board. Any request to extend any time limitation shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with the time limitation, and shall be accompanied by relevant supporting documentation. The Deputy Comptroller's decision regarding the request is final and not subject to further review.

(6) The terms and provisions of this Order apply to the Bank and its subsidiaries, even though those subsidiaries are not named as parties to this Order. The Bank shall integrate any activities done by a subsidiary into its plans, policies, programs, and processes required by this Order. The Bank shall ensure that its subsidiaries comply with all terms and provisions of this Order.

(7) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding on the United States, the OCC, or any officer, employee, or agent of the OCC. Without limiting the foregoing, nothing in this Order shall affect any action against the Bank or its institution-affiliated parties by a bank regulatory agency, the United States Department of Justice, or any other law enforcement agency.

(8) The terms of this Order, including this Paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 12 day of April 2016.

/s/  
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Kris A. McIntire  
Deputy Comptroller  
Large Bank Supervision

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

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**In the Matter of:**

HSBC Bank USA, N.A.  
McLean, Virginia

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AA-EC-2015-101

**STIPULATION AND CONSENT TO THE ISSUANCE  
OF A CONSENT ORDER**

**WHEREAS**, the Office of the Comptroller of the Currency (“OCC”), based upon information derived from the exercise of its regulatory and supervisory responsibilities, intends to issue a cease and desist order to HSBC Bank USA, N.A., McLean, Virginia (“Bank”), pursuant to 12 U.S.C. § 1818(b), for the Bank’s violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), related to billing practices with regard to a credit protection product;

**WHEREAS**, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Board of Directors, has agreed to execute this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation”), that is accepted by the OCC, through the duly authorized representative of the Comptroller of the Currency (“Comptroller”);

**NOW, THEREFORE**, in consideration of the above premises, it is stipulated by the Bank that:

## ARTICLE I

### JURISDICTION

(1) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) The Bank is a “national banking association” within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*

(3) The OCC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain this cease and desist action against the Bank pursuant to 12 U.S.C. § 1818(b).

## ARTICLE II

### CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order by the OCC.

(2) The terms and provisions of the Consent Order apply to the Bank and all of its subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.

(3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the OCC through the Comptroller’s duly authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by

the Bank under its supervisory powers, including 12 U.S.C. § 1818(b), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the OCC, or by its officers, employees, or agents, to cause or induce the Bank to consent to the issuance of the Consent Order and/or execute this Stipulation.

(6) The Bank expressly acknowledges that no officer, employee, or agent of the OCC has statutory or other authority to bind the United States, the United States Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer, employee, or agent of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities.

(7) The Consent Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the OCC, based on the practices and violations of law described in the Comptroller's Findings set forth in Article I of the Consent Order. The OCC releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the OCC based on the practices and violations described in Article I of the Consent Order, to the extent known to the OCC as of the effective date of the Consent Order. Nothing in this Stipulation or the Consent Order, however, shall prevent the OCC from:

- (a) Instituting enforcement actions, other than a cease and desist order, against the Bank based on the findings set forth in Article I of the Consent Order;
- (b) Instituting enforcement actions against the Bank based on any other findings;

- (c) Instituting enforcement actions against the Bank's institution-affiliated parties based on the findings set forth in Article I of the Consent Order, or any other findings; or
- (d) Utilizing the findings set forth in Article I of the Consent Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in this Stipulation or the Consent Order shall affect any right of the OCC to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

### ARTICLE III

#### WAIVERS

- (1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:
  - (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
  - (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
  - (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (h), and 12 C.F.R. Part 19;
  - (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;

- (e) Any and all claims for fees, costs, or expenses against the OCC, or any officer, employee, or agent of the OCC, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;
- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

#### ARTICLE IV

##### ELIGIBLE BANK – OTHER PROVISIONS

- (1) As a result of the Consent Order:
  - (a) The Bank is an “eligible bank” pursuant to 12 C.F.R. § 5.3(g)(4) for the purposes of 12 C.F.R. Part 5 regarding rules, policies, and procedures for corporate activities, unless otherwise informed in writing by the OCC;
  - (b) The Bank is not subject to the limitation of 12 C.F.R. § 5.51(c)(6)(ii) for the purposes of 12 C.F.R. § 5.51 requiring OCC approval of a change in directors and senior executive officers, unless otherwise informed in writing by the OCC;

- (c) The Bank is not subject to the limitation on golden parachute and indemnification payments provided by 12 C.F.R. § 359.1(f)(1)(ii)(C) and 12 C.F.R. § 5.51(c)(6)(ii), unless otherwise informed in writing by the OCC;
- (d) The Bank’s status as an “eligible bank” remains unchanged pursuant to 12 C.F.R. § 24.2(e)(4) for the purposes of 12 C.F.R. Part 24 regarding community and economic development, unless otherwise informed in writing by the OCC; and
- (e) The Consent Order shall not be construed to be a “written agreement, order, or capital directive” within the meaning of 12 C.F.R. § 6.4, unless the OCC informs the Bank otherwise in writing.

## ARTICLE V

### CLOSING

(1) The provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the OCC from taking any other action affecting the Bank if, at any time, the OCC deems it appropriate to do so to fulfill the responsibilities placed upon it by the several laws of the United States of America.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the OCC to enforce the terms of the Consent Order, and nothing in this Stipulation or the Consent Order constitutes, nor shall the Bank contend that it constitutes, a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions

that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of HSBC Bank USA, N.A., McLean, Virginia, have hereunto set their hands on behalf of the Bank.

/s/  
\_\_\_\_\_  
Phillip D. Ameen

4 March 2016  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Kevin M. Blakely

3/7/16  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Patrick J. Burke

\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Rhydian H. Cox

\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
William R. P. Dalton

03/04/16  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Nancy G. Mistretta

3/4/16  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Jane C. Sherburne

3-7-16  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Thomas K. Whitford

3/4/16  
\_\_\_\_\_  
Date