

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

ADMINISTRATIVE PROCEEDING

File No. 2018-BCFP-0008

In the Matter of:

**SANTANDER CONSUMER USA INC.**

**CONSENT ORDER**

The Bureau of Consumer Financial Protection (Bureau) has reviewed certain lending and marketing practices of Santander Consumer USA Inc. (Respondent, as defined below) and has identified the following law violations: (1) Respondent engaged in deceptive acts or practices in marketing its S-GUARD GAP add-on product, in violation of sections 1031 and 1036 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536; and (2) Respondent misrepresented to consumers the impact of receiving a loan extension, including by obscuring that the additional interest accrued during the extension period would be paid before any payments to principal when the consumer resumed making payments, in violation of sections 1031 and 1036 of the 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.

**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 November 5, 2018, (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

**III**  
**Definitions**

3. The following definitions apply to this Consent Order:
  - a. “Affected Consumer” means a GAP Consumer who continued to have an outstanding balance on his or her auto loan after the application of S-GUARD GAP proceeds because, at the time of purchase, the amount of the consumer’s loan exceeded 125% of the vehicle’s value.
  - b. “Board” means Respondent’s duly-elected and acting Board of Directors.
  - c. “Clearly and Prominently” means:

- i. In textual communications (e.g., printed publications or words displayed on the screen of an electronic device), the disclosure must be of a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background on which it appears;
  - ii. In communications disseminated orally or through audible means (e.g., radio or streaming audio), the disclosure must be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it;
  - iii. In communications made through interactive media such as the internet, online services, and software, the disclosure must be unavoidable and presented in a form consistent with subsection (i); and
  - iv. In all instances, the disclosure must be presented before the consumer incurs any financial obligation, in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication with the consumer.
- d. “Effective Date” means the date on which this Consent Order is issued.
  - e. “Extension” means an extension of the maturity date on a consumer’s auto loan, through which Respondent modifies the consumer’s loan status from “delinquent” to “current,” and restarts the time period that would otherwise be running toward default.

- f. “Extension Consumer” means a consumer who entered into an Extension with Respondent.
- g. “Extension Relevant Period” includes the period from July 21, 2011 to the date of this Consent Order.
- h. “GAP Consumer” means a consumer who purchased S-GUARD GAP.
- i. “GAP Relevant Period” includes the period from April 1, 2012 to June 1, 2017.
- j. “Regional Director” means the Regional Director for the Northeast Region for the Office of Supervision for the Bureau of Consumer Financial Protection, or his or her delegate.
- k. “Related Consumer Action” means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Respondent based on substantially the same facts as described in Section IV of this Consent Order.
- l. “Respondent” means Santander Consumer USA Inc., including when doing business as Chrysler Capital or RoadLoans.com, and its successors and assigns.
- m. “S-GUARD GAP” means the optional financial product that Respondent offered to consumers in connection with auto loans, which purported to “fill the gap” between the primary insurance payout and the outstanding amount of the auto loan in the event that the vehicle is a total loss, and any similar guaranteed-asset-protection product offered by Respondent under any name.

#### IV

##### **Bureau Findings and Conclusions**

The Bureau finds the following:

4. Respondent is a non-depository consumer financial services company headquartered in Dallas, Texas.
5. Respondent is a “covered person” as that term is defined by 12 U.S.C. § 5481(6).

##### **Findings and Conclusions as to Respondent’s Misrepresentations Regarding S-GUARD GAP**

6. During the GAP Relevant Period, Respondent marketed S-GUARD GAP as a means to cover the “gap” between a consumer’s primary auto insurance payout and the consumer’s outstanding auto loan balance in the event that a consumer suffered a total loss of his or her vehicle.
7. Respondent marketed S-GUARD GAP through telemarketing, print, and electronic media.
8. Respondent used the following language to market S-GUARD GAP: “Today comprehensive and liability insurance combined still don’t provide true full coverage. You have to fill the GAP.”
9. Respondent also used the following language to market S-GUARD GAP: “Your auto insurance may be inadequate to protect you financially in case of a total loss through accident or theft. If your loan balance is greater than the current cash value of your car, GAP (Guaranteed Asset Protection) can be a great way to protect you. Your insurance payout could end here. GAP takes care of the rest.”
10. Respondent’s S-GUARD GAP was actually subject to a loan-to-value (LTV) limitation of 125%. If, at the time of purchase, the consumer’s loan exceeded 125% of the vehicle’s value—a value determined by the smallest of three

potential values—Respondent would exclude that difference from any S-GUARD GAP proceeds.

11. In those situations, Respondent's S-GUARD GAP may not cover the consumer's outstanding auto loan balance in the event that a consumer suffered a total loss of his or her vehicle and the consumer's primary auto insurance was insufficient to cover the entire outstanding loan balance.
12. Respondent did not inform GAP Consumers at any time whether the LTV limitation applied to them.
13. Beginning at least April 1, 2012, Respondent sold S-GUARD GAP to approximately 44,180 consumers with LTVs above 125% at the time of the vehicle purchase.
14. Section 1036(a)(1)(B) of the CFPA prohibits "unfair, deceptive, or abusive" acts or practices. 12 U.S.C. § 5536(a)(1)(B).
15. As described in Paragraphs 6 through 13, in connection with the advertising, marketing, promoting, offering for sale, or sale of S-GUARD GAP, in numerous instances, Respondent has represented, expressly or impliedly, that S-GUARD GAP would provide "true full coverage" by waiving the full amount left outstanding on a consumer's loan after the primary auto insurance policy paid out.
16. In fact, S-GUARD GAP was subject to an LTV limitation of 125%. As a result, consumers who purchased S-GUARD GAP for a loan that had an LTV greater than 125% would not receive the "true full coverage" Respondent advertised.

17. Thus, Respondent's representations, as described in Paragraph 15, constitute deceptive acts or practices in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

**Findings and Conclusions as to Respondent's Misrepresentations  
Regarding Extensions**

18. During the Extension Relevant Period, Respondent offered Extensions through outbound telephone calls to consumers who had missed at least one payment on their auto loans. These outbound telephone calls were conducted by customer call representatives, whom Respondent directed to adhere to scripts that Respondent developed.
19. Respondent's scripts directed customer call representatives explaining the terms of Extensions to consumers to tell consumers that the loan maturity date would be extended and that "interest would continue to accrue."
20. Respondent's scripts further instructed call representatives that an Extension "mov[es] one or more monthly payments to the end of the loan." Respondent's customer call representatives then told consumers that the missed payments would be "moved to the end of the loan."
21. In Respondent's written Deferment and Extension Agreements provided to certain consumers, Respondent stated that it will "extend the maturity date of [the consumer's] Contract for the same number of months" as the months that Respondent extended the loan. In fact, the Extension Consumers would have to continue to pay back their loans beyond the number of months extended due to the interest accrued on the principal during the extension period.

22. Respondent's customer call representatives did not disclose how principal and interest would be allocated in payments following the extension period. Respondent's customer call representatives told consumers that payments, once resumed at the end of the extension period, would remain the same as before.
23. Respondent's scripts for offering Extensions stated that "interest would continue to accrue," but Respondent failed to explain to consumers when that interest would be paid or that the interest accrued during the extension period would have to be paid off in full before the consumer would be able to pay down any principal, resulting in slower principal reduction and more interest paid, even if the consumer made timely payments, over the life of the loan.
24. Respondent's customer call representatives did not disclose to Extension Consumers before enrollment the additional amount of interest that consumers would have to pay over the life of the loan by entering into Extensions.
25. Respondent's call representatives told consumers that interest continued to accrue during the Extension and that the loan maturity date would be extended, which likely created the misimpression that the interest would not be paid immediately upon a consumer's next scheduled payment. In fact, the next payment the consumer made would first be applied to the interest accrued on the unpaid amount financed from the date Respondent last received a payment from the consumer.
26. During the Extension Relevant Period, Respondent has enrolled consumers into more than 2.3 million Extensions.

27. Section 1036(a)(1)(B) of the CFPA prohibits “unfair, deceptive, or abusive” acts or practices. 12 U.S.C. § 5536(a)(1)(B).
28. As described in Paragraphs 18 through 26, in connection with the advertising, marketing, promoting, or offering of Extensions, in numerous instances, Respondent represented expressly or impliedly that the extended payment (including interest accrued during the extension period) would be added to the end of the consumer’s loan, and that the repayment period would be extended for the same number of months for which the Extension Consumers entered into an Extension.
29. In fact, the interest that accrued during a consumer’s Extension would be paid immediately after the Extension ended upon a consumer’s next scheduled payment, and Extension Consumers would have to continue to repay their loans for a greater number of months than the duration of the extension period.
30. Thus, Respondent’s representations, as described in Paragraph 28, constitute deceptive acts or practices in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

**ORDER**

**V**

**Conduct Provisions**

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

31. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale,

sale, or performance of any consumer financial product or service, may not misrepresent, or assist others in misrepresenting, expressly or impliedly:

- a. The benefits available to consumers through S-GUARD GAP;
  - b. The limitations associated with S-GUARD GAP;
  - c. The manner in which Extensions affect the payments otherwise due during the extension period to the end of the loan;
  - d. The effects of entering into an Extension on the allocation of principal and interest for loan payments following the extension period; or
  - e. Any other fact material to consumers concerning Extensions and S-GUARD GAP, such as: the total costs, and any restrictions, limitations, or conditions
32. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, must take the following affirmative actions:
- a. Clearly and Prominently disclose during enrollment calls, on its Extension authorization forms, and on Extension confirmation letters the following material terms of an Extension: the effect of an Extension on a consumer's loan maturity date, the application of payments between interest and principal when the consumer resumes making payments, that the interest accrued during the extension period will be paid before any payments to principal when the consumer resumes making payments, and that the Extension may delay repayment of principal, resulting in additional interest accruing over the life of the loan than if the consumer had not entered the Extension. Respondent shall not be required to disclose the additional

amount of interest that a consumer would have to pay over the life of the loan by entering into the Extension;

- b. Clearly and Prominently disclose in writing the material terms of S-GUARD GAP before the consumer agrees to enroll, including any LTV limitations and whether any LTV limitation applies to the consumer; and
- c. For consumers who purchased or enrolled in S-GUARD GAP during the GAP Relevant Period, Respondent must cease applying any limitation associated with the consumer's LTV ratio to S-GUARD GAP claims.

## VI

### Compliance Plan

**IT IS FURTHER ORDERED** that:

33. Within 60 days of the Effective Date, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's marketing, offering and providing of Extensions and S-GUARD GAP comply with the CFPA's prohibition on deceptive acts or practices, and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
  - a. Detailed steps for addressing each action required by this Consent Order;
  - b. Templates of all new or revised forms and marketing materials for S-GUARD GAP that Respondent seeks to send to consumers to comply with the terms of this Consent Order;
  - c. Templates of all new or revised Extension authorization forms and Extension confirmation letters that Respondent seeks to send to consumers to comply with the terms of this Consent Order;

- d. Detailed steps to enhance and strengthen Respondent's compliance management systems relating to the marketing, offering and providing of S-GUARD GAP and Extensions;
  - e. Detailed steps to enhance and strengthen Respondent's training and oversight of all agents, employees, and service providers involved in marketing, offering, and providing S-GUARD GAP and in offering Extensions to ensure that the terms of S-GUARD GAP and of Extensions are communicated Clearly and Prominently to consumers; and
  - f. Specific timeframes and deadlines for implementation of the steps described above.
34. To the extent Respondent no longer offers or provides S-GUARD GAP and/or Extensions, Respondent is not required to submit a Compliance Plan regarding such product or service; provided, however, that if Respondent elects to again offer the product or service while this Consent Order is in effect, it must submit to the Regional Director notice of its intention to do so at least 30 days prior to offering or providing that product or service.
35. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct Respondent to revise it. If the Regional Director directs Respondent to revise the Compliance Plan, Respondent must make the revisions and resubmit the Compliance Plan to the Regional Director within 15 days.
36. After receiving notification that the Regional Director has made a determination of non-objection to the Compliance Plan, Respondent must

implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

37. Within 60 days of the Effective Date, the Board (or a relevant committee thereof) must approve a written unfair, deceptive, and abusive acts or practices risk management program (Risk Management Program) for any consumer financial products or services related to auto loan origination or servicing offered by Respondent or through service providers, to prevent violations of sections 1031 and 1036 of the CFPA.
38. Respondent's internal audit department must conduct an annual assessment of Respondent's compliance with the Risk Management Program and the findings must be memorialized in writing. Within 10 days of completing each assessment, Respondent's internal audit department must provide its written findings to Respondent's Audit Committee and the Regional Director.
39. Within 90 days of the Effective Date, Respondent must develop training materials sufficient to implement the Risk Management Program, and incorporate the new training materials into the existing annual compliance training for appropriate employees.
40. The Board must ensure that there is oversight of the Risk Management Program required by this Section by Respondent's senior risk managers and senior management.

**VII**  
**Role of the Board**

**IT IS FURTHER ORDERED** that:

41. The Board (or a relevant committee thereof) must review all submissions (including plans, reports, programs, policies, and procedures) required by this Consent Order prior to submission to the Bureau.
42. Although this Consent Order requires Respondent to submit certain documents for the review or non-objection by the Regional Director, the Board will have the ultimate responsibility for proper and sound management of Respondent and for ensuring that Respondent complies with Federal consumer financial law and this Consent Order.
43. In each instance that this Consent Order requires the Board to ensure adherence to, or to perform certain obligations of Respondent, the Board must:
  - a. Authorize whatever actions are necessary for Respondent to fully comply with this Consent Order;
  - b. Require timely reporting by management to the Board on the status of compliance obligations; and
  - c. Require timely and appropriate corrective action to remedy any material non-compliance with any failures to comply with Board directives related to this Section.

## VIII

### Order to Pay Restitution

**IT IS FURTHER ORDERED** that:

44. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account \$1,980,873, for the purpose of providing restitution paid by check as described in paragraph 46 to Affected Consumers as required by this Section.
45. Within 45 days of the Effective Date, Respondent must submit to the Regional Director for review and non-objection a comprehensive written plan for providing restitution consistent with this Consent Order (Redress Plan). The Regional Director will have the discretion to make a determination of non-objection to the Redress Plan or direct Respondent to revise it. If the Regional Director directs Respondent to revise the Redress Plan, Respondent must make the revisions and resubmit the Redress Plan to the Regional Director within 15 days. After receiving notification that the Regional Director has made a determination of non-objection to the Redress Plan, Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.
46. The Redress Plan must:
  - a. Require Respondent to provide restitution to the approximately 3,493 accounts of Affected Consumers, estimated to be \$1,980,873 in payments by check and \$7,312,953 in statement credits, as follows:
    - a. For each Affected Consumer with a closed or open account with a zero balance who paid off his or her balance(s) after a total loss, a certified

or bank check to each Affected Consumer equal to the total amount the Affected Consumer paid to Respondent after the total loss, estimated to be \$1,356,841;

- b. For each Affected Consumer with a closed or open account with an outstanding balance (where Respondent has not charged off such Affected Consumer's account), and who made partial payments towards his or her balance(s) after a total loss, (a) a certified or bank check to the Affected Consumer equal to the total amount the Affected Consumer paid to Respondent after the total loss, estimated to be \$216,091, and (b) a statement credit reducing any outstanding balance to zero, estimated to be \$1,267,935 in statement credits. For each Affected Consumer's account that Respondent has sold, Respondent must take steps to reacquire the account and apply a statement credit reducing the balance to zero; if Respondent is unable to reacquire the account, Respondent must provide restitution as provided in the Redress Plan;
- c. For each Affected Consumer with a closed or open account (where Respondent has charged off such Affected Consumer's account), (a) a certified or bank check to the Affected Consumer equal to the total amount paid by the Affected Consumer on the account after the date of the total loss, estimated to be \$407,941, and (b) a statement credit reducing any outstanding balance to zero, estimated to be \$6,045,018 in statement credits. For each Affected Consumer's account that Respondent has sold, Respondent must take steps to reacquire the

account and apply a statement credit reducing the balance to zero; if Respondent is unable to reacquire the account, Respondent must provide restitution as provided in the Redress Plan; and

- d. For all Affected Consumers, Respondent shall correct any information furnished to any consumer reporting agency to show the Affected Consumer's account as paid in full or closed with zero balance as of the date of Respondent's S-GUARD GAP payment.
- b. Specify that Respondent must attempt to acquire from securitization trusts each Affected Consumer's account for purposes of applying statement credits, and that in the event that Respondent is unable to acquire an account, Respondent must provide \$100 in the form of a certified or bank check to the Affected Consumer in lieu of a statement credit.
- c. Describe the methodology used to determine the population of Affected Consumers;
- d. Describe the processes for issuing, delivering, and tracking payments to all Affected Consumers, including processes for handling any unclaimed funds;
- e. Describe the process for applying statement credits to reduce outstanding balances;
- f. Describe the process for reacquiring accounts sold or transferred to third parties, applying statement credits to reduce outstanding balances on those reacquired accounts, and the process for providing compensation in lieu of restitution to any Affected Consumers whose accounts Respondent is unable to reacquire;
- g. Describe the process for providing restitution for accounts in bankruptcy;

- h. Describe the process for correcting information furnished to consumer reporting agencies consistent with Paragraph 46(a)(iv), including how Respondent will correct trade lines for accounts subsequently sold or transferred to third-parties;
  - i. Describe the procedures for monitoring compliance with the Redress Plan;
  - j. Include the form of the letter (Notification Letter) to be sent notifying Affected Consumers of the restitution, which must include language explaining the manner in which the amount of restitution was calculated and a statement that the provision of the payment or statement credit is in accordance with the terms of this Consent Order;
  - k. Include the form of the envelope that will contain the Notification Letter;
  - l. Provide that Respondent must not include in any envelope containing a Notification Letter any materials other than the approved letter and check, unless Respondent has obtained written confirmation from the Regional Director that the Bureau does not object to the inclusion of such additional materials; and
  - m. Provide that Respondent must make reasonable attempts to obtain a current address for any Affected Consumer whose Notification Letter is returned for any reason, using the National Change of Address System, and requiring Respondent to promptly re-mail all returned letters to current addresses, if any.
47. Respondent may not condition the payment of any restitution to any Affected Consumer under this Consent Order on that Affected Consumer's waiving any right.

48. After completing the Redress Plan, if the amount of restitution provided by check to Affected Consumers is less than \$1,980,873, within 30 days of the completion of the Redress Plan, Respondent must pay to the Bureau, by wire transfer to the Bureau or to the Bureau's agent, and according to the Bureau's wiring instructions, the difference between the amount of restitution provided by check to Affected Consumers and \$1,980,873.
49. The Bureau may use these remaining funds to pay additional redress to Affected Consumers. If the Bureau determines, in its sole discretion, that additional redress is wholly or partially impracticable or otherwise inappropriate, or if funds remain after the additional redress is completed, the Bureau will deposit any remaining funds in the U.S. Treasury as disgorgement. Respondent will have no right to challenge any actions that the Bureau or its representatives may take under this Section.
50. Within 90 days of the completion of the Redress Plan, Respondent must submit to the Regional Director a report tracking Respondent's efforts to execute the Redress Plan, including identifying:
  - a. the population of Affected Consumers;
  - b. the amount and method of restitution to each Affected Consumer;
  - c. the status and amount of balances for Affected Consumers, including for accounts Respondent reacquired from third parties;
  - d. the status of payments or statement credits to each Affected Consumer; and
  - e. the amount and planned disposition of all unclaimed payments.

**IX**

**Order to Pay a Civil Money Penalty**

**IT IS FURTHER ORDERED** that:

51. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Respondent must pay a civil money penalty of \$2,500,000 to the Bureau.
52. Within 10 days of the Effective Date, Respondent must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.
53. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
54. Respondent must treat the civil money penalty paid under this Consent Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Respondent may not:
  - a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
  - b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Consent Order.

**X**

**Additional Monetary Provisions**

**IT IS FURTHER ORDERED** that:

55. In the event of any default on Respondent's obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.
56. Respondent must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Respondent.
57. Under 31 U.S.C. § 7701, Respondent, unless it already has done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.
58. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Regional Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondent paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

## XI Reporting Requirements

**IT IS FURTHER ORDERED** that:

59. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. Respondent must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.
60. Within 7 days of the Effective Date, Respondent must designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with Respondent.
61. Within 90 days of the Effective Date, and again one year after the Effective Date, Respondent must submit to the Regional Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board, or a relevant committee thereof, which, at a minimum:
  - a. Describes in detail the manner and form in which Respondent has complied with this Consent Order; and
  - b. Attaches a copy of each Order Acknowledgment obtained under Section XII, unless previously submitted to the Bureau.

## **XII**

### **Order Distribution and Acknowledgment**

**IT IS FURTHER ORDERED** that,

62. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its Board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of this Consent Order.
63. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section XI, to any future Board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of this Consent Order before they assume their responsibilities.
64. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

### **XIII**

#### **Recordkeeping**

**IT IS FURTHER ORDERED** that:

65. Respondent must create, or if already created, must retain for at least 5 years from the Effective Date, the following business records:
  - a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau;
  - b. All documents and records pertaining to the Redress Plan, described in Section VIII above;
  - c. Copies of all sales scripts, training materials, advertisements, websites, and other marketing materials relating to the subject of this Consent Order, including any such materials used by a third party on behalf of Respondent;
  - d. Documents sufficient to demonstrate the experience of consumers on each materially different version of each website on which Respondent, whether acting directly or through any sole proprietorship, partnership, limited liability company, corporation, subsidiary, branch, division, affiliate, or other entity, advertises, promotes, markets, offers for sale, sells, or provides Extensions or S-GUARD GAP; and
  - e. For each individual Affected Consumer and his or her enrollment in S-GUARD GAP, to the extent the information is within Respondent's custody or control as of the Effective Date or Respondent obtains the information under Paragraph 46(m): the consumer's name, address, phone number, and email address; amount paid; and the date on which S-GUARD GAP was purchased.

66. Respondent must retain the documents identified in Paragraph 65 for the duration of the Consent Order.
67. Respondent must make the documents identified in Paragraph 65 available to the Bureau upon the Bureau's request.

**XIV**  
**Notices**

**IT IS FURTHER ORDERED** that:

68. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re* Santander Consumer USA Inc., 2018-BCFP-0008," and send them either:

- a. By overnight courier (not the U.S. Postal Service), as follows:

Regional Director, Northeast Region  
Bureau of Consumer Financial Protection  
140 East 45th Street, 4th Floor  
New York, NY 10017; with an additional copy to

Director for Enforcement  
Bureau of Consumer Financial Protection  
1700 G Street, N.W.  
Washington, DC 20552; or

- b. By first-class mail to the below address and contemporaneously by email to Enforcement\_Compliance@cfpb.gov and any other email address as directed in writing by the Bureau:

Regional Director, Northeast Region  
Bureau of Consumer Financial Protection  
140 East 45th Street, 4th Floor  
New York, NY 10017; with an additional copy to

Director for Enforcement  
Bureau of Consumer Financial Protection

1700 G Street, N.W.  
Washington, DC 20552.

## **XV**

### **Cooperation with the Bureau**

**IT IS FURTHER ORDERED** that:

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

## **XVI**

### **Compliance Monitoring**

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

70. Within 14 days of receipt of a written request from the Bureau, Respondent must: submit additional Compliance Reports or other requested information, related to requirements of this Consent Order, which must be made under penalty of perjury; provide sworn testimony related to requirements of this Consent Order and Respondent's compliance with those requirements; or produce documents related to requirements of this consent order and Respondent's compliance with those requirements.
71. Respondent must permit Bureau representatives to interview about the requirements of this Consent Order and Respondent's compliance with those

requirements any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.

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

## **XVII**

### **Modifications to Non-Material Requirements**

**IT IS FURTHER ORDERED** that:

73. Respondent may seek a modification to non-material requirements of this Consent Order (e.g., reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.
74. The Regional Director may, in his or her discretion, grant reasonable extensions of time or otherwise modify non-material requirements of this Consent Order if he or she determines good cause justifies the modification. Any such modification by the Regional Director must be in writing.

## **XVIII**

### **Administrative Provisions**

75. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondent, except as described in Paragraph 76.
76. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them

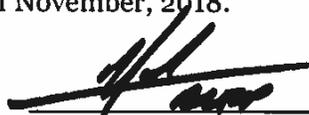
as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent and its affiliates, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.

77. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
78. This Consent Order will terminate 5 years from the Effective Date. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.
79. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
80. Should Respondent seek to transfer or assign all or substantially all of its operations that are subject to this Consent Order, Respondent must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order, with respect to any operations that may be transferred or assigned.
81. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount

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

82. This Consent Order and the accompanying Stipulation contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.
83. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED**, this 19 day of November, 2018.



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Mick Mulvaney  
Acting Director  
Bureau of Consumer Financial Protection