Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

IN RE SYNCHRONY FINANCIAL

2018-MISC-Synchrony Financial-0001

DECISION AND ORDER ON COMBINED PETITION BY SYNCHRONY FINANCIAL TO SET ASIDE AND MODIFY THE AUGUST 28, 2018, CIVIL INVESTIGATIVE DEMAND

Synchrony Financial has filed a Petition with the Bureau seeking to set aside or modify a civil investigative demand (CID) that the Bureau served on it on August 29, 2018, and that the Bureau modified once already by a letter dated October 16, 2018. For the reasons set forth below, I grant the Petition in part and deny it in part. In particular, based on the recommendation of the Office of Enforcement, I withdraw two Requests of the CID (Written Reports 3 and 4), modify several others, and modify the dates by which Synchrony must comply. I also modify the CID's Notification of Purpose.

FACTUAL BACKGROUND

On August 29, 2018, the Bureau issued a CID to Synchrony Financial seeking information about the marketing and servicing of deferred-interest financing through credit cards. As explained in the CID's Notification of Purpose, the Bureau seeks:

> to determine whether banks or other persons have engaged or are engaging in unlawful acts and practices in connection with the marketing and servicing of deferred-interest credit cards in violation of §§ 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536; the Truth in Lending Act, 15 U.S.C. § 1601 et seq., and its implementing Regulation Z; or any prior orders issued by the Bureau.

The Bureau also seeks to "determine whether Bureau action to obtain legal or equitable relief would be in the public interest." As originally issued, the CID contained four Interrogatories, five Requests for Documents and Tangible Things, and four Requests for Written Reports. The CID set October 15, 2018, as the date for compliance.

The Bureau's rules require that Synchrony meet with a Bureau investigator and confer regarding compliance. 12 C.F.R. § 1080.6(c).[1] As a result of this process, on October 16, the Bureau issued a letter that both modified Synchrony's compliance obligation, and substantially extended the time for compliance. However, six days later, Synchrony filed its Combined Petition to Set Aside and Petition to Modify the CID that is at issue here.[2] It has not complied with any of the CID's Requests.

LEGAL DETERMINATION

Synchrony's Petition raises three arguments: 1) the CID's Notification of Purpose is too vague; 2) the CID seeks information that "appears unconnected to any possible violation of law" that the Bureau could be investigating; and 3) the CID imposes an "enormous burden" that is "excessive." Synchrony argues that the first two arguments justify setting aside the CID, and that the third argument justifies either setting it aside or modifying it. As to the first argument, I exercise my discretion to modify the Notification so that it describes in greater detail the conduct the Bureau is investigating, as well as the applicable provisions of law. I reject Synchrony's second argument because Synchrony fails to show that the CID seeks information that is irrelevant to any lawful purpose set forth in the CID's Notification. As to the third argument, Synchrony has failed to make an adequate showing of burden that would justify setting aside, or modifying, the CID. Nonetheless, based on recommendations from the Bureau's Office of Enforcement, I have decided to eliminate several of the Requests altogether, modify others, and extend Synchrony's compliance schedule.

I. Compliance with 12 U.S.C. § 5562(c)(2)

The Consumer Financial Protection Act of 2010 (CFPA) requires that the Bureau's CIDs "state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation." 12 U.S.C. § 5562(c)(2). Synchrony argues that the CID did not comply with § 5562(c)(2), and for that reason, it should be set aside. First, Synchrony contends that the Notification does not adequately apprise it of the conduct the Bureau is investigating because it "references only lawful activity [and] is insufficient to apprise Synchrony of the nature of the [Bureau's] investigation." Pet. at 16. Second, Synchrony claims that the Notification does not provide it with sufficient information regarding the provisions of law that are at issue because it "merely gesture[s] at various statutes without providing further

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[1] It is not altogether clear whether Synchrony "meaningfully engaged" in the meet-and-confer process described in the Bureau's rules. A failure to do so would justify denial of Synchrony's petition. 12 C.F.R. § 1080.6(c)(3). Nonetheless, without waiving any right to raise that failure if Synchrony does not to comply with the CID as modified by this Decision and Order, I will address each of the arguments raised in Synchrony's Petition.

[2] This is the second CID that the Bureau has issued to Synchrony. The first one was issued on May 9, 2017, and, in response, Synchrony also filed a petition to modify or set aside. The Bureau granted that petition in part and denied it in part.

detail about the purported violations." Pet. 17. Synchrony cites *CFPB v. Accrediting Council for Independent Colleges and Schools* ("*ACICS*"), 854 F.3d 683 (D.C. Cir. 2017), and *CFPB v. Source for Public Data, L.P.*, 903 F.3d 456 (5th Cir. 2018), in support of its arguments. Pet. 16-17.

On April 23, 2019, I issued a statement advising the public that the Bureau has changed its practices so that notifications of purpose contained in CIDs provide the recipients of CIDs with even more information regarding the focus of Bureau investigations. Consistent with this approach, and in order to provide Synchrony with a better understanding of the information the Bureau seeks, I am exercising the discretion afforded by section 1052(f)(1) of the Consumer Financial Protection Act, 12 U.S.C. § 5562(f)(1) and 12 C.F.R. § 1080.6(e)(4) to modify the notification of purpose contained in Synchrony's CID as follows:

> The purpose of this investigation is to determine whether banks or associated persons, in connection with the marketing and servicing of deferred-interest financing, have: (1) made false or misleading representations to consumers or taken advantage of consumers' lack of understanding that interest accrues during a deferred-interest promotion in a manner that is unfair, deceptive, or abusive in violation of Sections 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536; or (2) improperly advertised deferred-interest financing, or allocated payments, in a manner that violated Regulation Z, 12 C.F.R. Part 1026, principally §§ 1026.16 and 1026.53, implementing the Truth in Lending Act, 15 U.S.C. § 1601, et seq. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Synchrony's arguments based on the original, unmodified notification of purpose do not provide a basis for setting aside or further modifying the CID, as the modified notification of purpose clearly satisfies the statutory standard. *See, e.g., CFPB v. Heartland Campus Sols. ECSI*, 474 F. App'x 44, 48 n.3 (3d Cir. 2018) ("Congress required [the Bureau] to identify only the type of conduct that may violate the law and the law being violated.").

II. Relevance

Synchrony argues that the CID should be set aside in its entirety because it is premised on "several unfounded factual and legal assumptions," and thus "seeks information that lacks reasonable relevance to a legitimate investigative purpose." It complains that the CID is premised on the "assumption that oral misrepresentations not only exist but are sufficiently numerous and harmful to justify this massive endeavor." It also contends that the Bureau has yet to articulate any theory whereby Synchrony could be liable for misrepresentations made at the point of sale because the individuals who interact with consumers are not Synchrony's responsibility. Further, Synchrony points out that the Bureau has not identified any problem with the written disclosures that consumers receive, which it suggests are the extent of its responsibility. Synchrony makes two other complaints: "If the BCFP's intent is to pursue an enforcement action even though Synchrony is compliant with federal law governing deferred interest promotions, such an enforcement action would be ultra vires"; and "the information

sought is not tailored to uncover information related to purported oral misrepresentations." Pet. 18-19. Synchrony also argues that, to the extent the CID seeks information regarding events that occurred as far back as 2013, it seeks information that is outside the statute of limitations period. Synchrony cites *Gabelli v. SEC*, 568 U.S. 442 (2013), and contends that no discovery rule applies to the CFPA's statute of limitations, but even if one does, the Bureau has long possessed sufficient information to discover any violation that Synchrony might have committed. According to Synchrony, information regarding transactions that occurred more than three years ago "will not provide any insight into whether any actionable oral misrepresentation was made or anything about the policies and procedures of Synchrony relevant to conduct within the limitations period." Pet. 19-21.

"'[T]he standard for judging relevancy in an investigatory proceeding is more relaxed than in an adjudicatory one.'" *Resolution Trust Corp. v. Walde*, 18 F.3d 943, 947 (D.C. Cir. 1994), quoting *FTC v. Invention Submission*, 965 F.2d 1086, 1090 (D.C. Cir. 1992). The test is whether the information requested is "not plainly incompetent or irrelevant to any lawful purpose of the agency." *Invention Submission*, 965 F.2d at 1089 (quotation marks omitted). "So long as the material the [agency] seeks is relevant to the investigation, the boundary of which may be defined quite generally ... the district court must enforce the agency's demand." *FTC v. Church & Dwight Co.*, 665 F.3d 1312, 1316 (D.C. Cir. 2011) (emphasis in original, internal quotation marks omitted). Further, "[t]he relevance of the material sought by the [agency] must be measured against the scope and purpose of the [agency's] investigation, as set forth in the [agency's] resolution." *FTC v. Texaco*, 555 F.2d at 874. Thus, "in light of the broad deference we afford the investigating agency, it is essentially the respondent's burden to show that the information is irrelevant." *Invention Submission*, 965 F.2d at 1090.

Synchrony has not met its burden to show that the information sought by the CID is irrelevant to the purposes of the Bureau's investigation. Most of Synchrony's arguments regarding relevance are general. It argues that oral misrepresentations related to deferred-interest financing are not relevant because no such representations were made to consumers (or, if they were, they were not so numerous as to merit the Bureau's attention), and that if such representations were made, Synchrony was not responsible for them. Pet.18, 23.[3] This argument goes to whether Synchrony complied with the law, not to whether the information the Bureau is seeking is relevant to determining whether a law violation occurred. "The principle ... that courts should not refuse to enforce an administrative subpoena when confronted by a fact-based claim regarding coverage or compliance with the law ... has been consistently reaffirmed by the Supreme Court." *EEOC v. Karuk Tribe Housing Auth.*, 260 F.3d 1071, 1076 (9th Cir. 2001), citing *Okla. Press Publ'g Co. v. Walling*, 327 U.S. 186, 216 (1946); *United States v. Morton Salt Co.*, 338 U.S. 632, 652-53 (1950); *United States v. Powell*, 379 U.S. 48, 57-58 (1964). The reason for this is that an agency "could not fulfill its investigative responsibilities, if ... it first had to make a finding of liability." *In re Sealed Case*, 42 F.3d 1412, 1416 (D.C Cir. 1994).

[3] Nothing in the CID's Notification of Purpose (as originally written or as modified) limits the Bureau's investigation to oral misrepresentations.

Synchrony objects to the fact that some of the Requests in the CID seek information regarding transactions that occurred in 2013, which, it contends is outside the statute of limitations. Pet. 20. But a CID is not limited merely to information that is actionable. Instead, what matters is whether the information is relevant to conduct for which liability can be lawfully imposed.[4] Even assuming that the CID does seek information regarding conduct outside the statute of limitations, such information may be essential to the Bureau's ability to develop a complete understanding of Synchrony's practices and operations.

Synchrony also complains that the Bureau has failed to show a "particularized reason" for seeking the information requested by the CID. Pet. 20. This objection is without basis, as an agency "has no obligation to establish precisely the relevance of the material it seeks in an investigative subpoena by tying that material to a particular theory of violation.... [I]t is essentially the respondent's burden to show that the information is irrelevant." *Church & Dwight*, 665 F.3d at 1318 (cleaned up).

Synchrony argues that the Bureau does not need information regarding transactions that occurred in 2013 because it already has enough information to assess whether Synchrony violated the law – "if a violation has not yet been discovered, ... it is unreasonable to expect that one will be discovered now ...." Pet. 20. However, it is not for Synchrony to structure the course of the Bureau's investigation. Moreover, as explained above, it is no defense to a CID for the recipient to claim that its conduct complied with the law. *See EEOC v. Karuk Tribe Housing Auth.*, and other cases cited *supra.*

Finally, in the section of its petition discussing the burden imposed by the CID, Synchrony raises two additional arguments regarding relevance. Apparently referring to Request for Documents 5, which seeks training materials used by Synchrony, Synchrony complains the Bureau has not raised any issue with respect to training. Pet. 23. Training materials are relevant to the Bureau's investigation. As modified by the Bureau's October 16 letter, Interrogatory 3 seeks information regarding individuals at 13 companies who were required by Synchrony to receive training regarding Synchrony's deferred-interest financing. Interrogatory 1 seeks information regarding the Synchrony employees who provided that training. Document request 5 requires Synchrony to provide the training materials used in any of that training. Earlier in its petition, Synchrony faults the Bureau for failing to demonstrate a connection between Synchrony and the representations (or misrepresentations) regarding Synchrony's

[4] Synchrony's argument is based, in part, on a misunderstanding of the statute of limitations in 12 U.S.C. § 5564(g)(1), which provides that actions to enforce that CFPA's prohibition of unfair, deceptive, or abusive acts or practices must be brought no more than three years *after the date of discovery* of the violation. (*Gabelli v. SEC*, *supra*, involved a statute of limitations that was not tied to the date of discovery.) Since this statute of limitations begins to run on the date of discovery of a violation, it is not possible during an investigation to make blanket statements as to whether particular conduct falls outside the statute of limitations.

deferred-interest financing that were made by employees of various merchants at the point of sale. Pet. 18. Information regarding any training that Synchrony provided to the employees who made those representations at the point of sale would be relevant to establishing such a connection.[5]

I understand that Enforcement, having considered information that Synchrony provided in its Petition, recommends modifying the CID to withdraw Requests for Written Reports 3 and 4. Accordingly, I withdraw those two Requests from the CID, and I need not address Synchrony's arguments regarding them, *see* Pet. 30.[6]

III. Burden

The third portion of Synchrony's Petition challenges the burden imposed by the CID. Synchrony supports its burden argument with declarations from six Synchrony employees. Pet. Exhs. B-G. Synchrony cites Pet. Exhs. D-F, and contends that, with respect to Document Requests 1 and 2, it will take "weeks of work" to identify the accounts with responsive complaints; it will then take "300 person-weeks" to find and produce the responsive communications; and it will then require additional time to locate communications between Synchrony and the retailers regarding those complaints. Pet. 24-27.[7] To limit its burden, Synchrony suggests that the Bureau should restrict Document Requests 1 and 2 to escalated

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[5] Synchrony also complains that training materials "were produced in response to the First CID." Pet. 23. However, the August 29, 2018, CID requests only those training materials not produced in response to the first CID.

[6] Synchrony suggests that it is improper for the Bureau to collect information regarding online sales because no oral misrepresentations could have been made in connection with those sales. Pet. 24. As explained above, however, this investigation is not limited to oral misrepresentations. Even if the investigation were so limited, information regarding online sales would still be sufficiently relevant at this stage of the investigation. For example, a comparison of the payment patterns of those consumers who obtained deferred-interest financing online (where there was no possibility of oral misrepresentations) with the patterns of those who obtained the financing in stores (where such misrepresentations were a possibility) could provide a useful analysis that could help identify the presence of oral misrepresentations. *See Texaco*, 555 F.2d at 877 (requiring, for comparison purposes, disclosure of information from a company that could not have been involved in the conspiracy that was the focus of the investigation).

[7] *See also* Pet. Exh. C (claiming that Synchrony had not previously retrieved a large number of complaints from its system, but predicting that to do so could "slow down" the system and would "seriously impair" its ability to handle customer inquiries); Pet. Exh. D (explaining that it takes two to three minutes to retrieve a complaint, but that retrieving a large number could pose a "substantial burden" on "her team").

complaints[8] (or to a small subset of those complaints that are responsive); or that the Bureau should hold Document Request 2 in abeyance until after the Bureau reviews its response to Document Request 1. Pet. 27-28.

Synchrony contends that it will need 11 months to complete Written Report 1, and 13 months to complete Written Report 2. Pet. Exh. A.[9] It also argues that completing Written Reports 1, 2, and 4 would "interfere with work needed to run Synchrony's business."[10] Pet. 28. When the Bureau modified the CID by letter of October 16, it sought to limit Synchrony's burden with respect to Written Report 1. It provided a sampling procedure, so that, with respect to the merchants that had a large number of accounts with deferred-interest financing, Synchrony's report could include only 5% of the accounts that would otherwise have been responsive. However, Synchrony argues that this sampling protocol would actually increase the amount of time required to respond. Pet. 28.[11]

The standard for judging burden is set forth in *FTC v. Texaco*:

> the question is whether the demand is unduly burdensome or unreasonably broad. Some burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency's legitimate inquiry and the public interest. The burden of showing that the request is unreasonable is on the subpoenaed party. Further, that burden is not easily met where, as here, the agency inquiry is pursuant to a lawful purpose and the requested documents are relevant to that purpose. Broadness alone is not sufficient justification to refuse enforcement of a subpoena. Thus courts have refused to modify investigative subpoenas unless compliance threatens to unduly disrupt or seriously hinder normal operations of a business.

555 F.2d at 882 (emphasis in original). *See FTC v. Jim Walter Corp.*, 651 F.2d 251, 258 (5th Cir. 1981) (an administrative subpoena "is not unreasonably burdensome unless compliance threatens to unduly disrupt or seriously hinder normal operations of a business"); *United States v.*

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[8] Escalated complaints include only those complaints that are forwarded to Synchrony by a government agency, a member of Congress, a designated list of Synchrony board members, officers and retailer CEOs, a state attorney general or other United States or state governmental body, the Better Business Bureau, the Synchrony ombudsperson, or the media. Pet. Exh. B.

[9] *See also* Pet. Exh. F (explaining that Synchrony has only "a handful of data analysts who can perform this work," and further claiming that "[a]dding outside analysts or even data analysts from within Synchrony would not make the process more efficient as they would lack the base level of knowledge needed to accomplish this project").

[10] As explained above, the Bureau has withdrawn its request for Written Report 4.

[11] Synchrony also contends that it would take it 10 months to complete Written Report 3. As explained above, the Bureau has withdrawn that Request from the CID.

Chevron U.S.A., Inc., 186 F.3d 644, 649 (5th Cir. 1999) (denying claim of undue burden where "Chevron offers no explanation … why, relative to Chevron's size, the compliance cost and effort 'unduly disrupt or seriously hindered normal operations'"); *FTC v. Texaco*, 555 F.2d at 881-883 (enforcing CID against, among others, Standard Oil, even though it claimed compliance costs of $4 million).[12]

Synchrony has failed to show that it would be unduly burdened by complying with the CID. Although Synchrony requests that every specification in the CID be either withdrawn or modified, Pet. Exh. A, none of the declarations that it has supplied mentions Interrogatories 1-3, or Document Requests 3 and 5.[13] Accordingly, it has made no showing of burden with respect to those Requests. Synchrony's declarations are primarily focused on Document Requests 1 and 2, and Interrogatory 4. The declarations represent that Synchrony has little experience in conducting the sort of search and retrieval necessary to respond to those requests. One declaration discusses the burden imposed by Written Reports 1 and 2, and claims that it would take approximately a year to complete either of those reports. Pet. Exh. F. The declaration also states that Synchrony has "only a handful of data analysts" who can perform the sort of work necessary to comply with the Written Reports. But the declaration does not disclose whether Synchrony intends to assign all of those analysts, or only a subset of them, to preparing the reports. Pet. Exh. F at 9.[14] The declaration also claims that "[a]dding outside analysts or even data analysts from within Synchrony would not make the process more efficient as they would lack the base level of knowledge needed to accomplish the project." *Id.* But the declaration does

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[12] Synchrony argues that the relevant test for burden should be whether "'the burden outweighs the likely benefit.'" Pet. 21, quoting *Prasad v. George Washington Univ.*, 323 F.R.D. 88, 91 (D.D.C. 2017). However, *Prasad* did not involve a CID, but instead addressed the factors a court must consider when assessing the scope of discovery in a civil case pursuant to Fed. R. Civ. P. 26(b)(1). That rule includes a variety of factors, most of which do not apply here: "the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." In particular, when the Bureau is conducting a pre-complaint investigation, there is no action, amount in controversy, parties, or issues to resolve. The Bureau's CIDs are law enforcement investigative tools, not civil discovery devices. Thus, *Prasad* and Rule 26(b) are inapposite. *See United States v. Markwood*, 48 F.3d 969, 982 (6th Cir. 1995) ("the Federal Rules of Civil Procedure were written for post-complaint litigation").

[13] The Bureau's letter of October 16 withdrew Document Request 4.

[14] Indeed, the same declarant filed a declaration in support of Synchrony's petition to set aside and modify the Bureau's May 2017 CID. That declaration stated that Synchrony has "only a handful of data analysts" who could perform the work necessary to comply with the CID. In that declaration, the declarant further stated that Synchrony would assign only two of those analysts to CID compliance.

not explain why, if the project will take "many months," Synchrony would not be able to provide those additional analysts with that "base level of knowledge."

In any event, none of this is evidence that compliance would inhibit Synchrony's normal operations. Although the declarations make estimates as to how much time it would take to comply with some of the CID's Requests, no declaration claims that compliance would cause the sort of disruption to Synchrony's day-to-day business necessary to support a finding of undue burden. Further, Synchrony does not compare the costs of compliance with the scope of its business. In fact, Synchrony is quite large. According to its own Fact Sheet, Synchrony has more than 16,000 employees.[15] And according to its 2018 Form 10-K, it has more than $91 billion in assets.[16] Given Synchrony's size, its estimates of the burden of complying with the CID "simply do not appear to ... pose a threat to the normal operations of ... [its] business[] considering [its] size." *FTC v. Rockefeller*, 591 F.2d 182, 190 (2d Cir. 1979). Absent this sort of showing, I must reject Synchrony's claim of burden.

Even though Synchrony has failed to demonstrate the sort of burden that would justify setting aside or modifying the CID, I have nonetheless decided to make certain modifications to Synchrony's compliance obligation that the Bureau's Enforcement counsel have recommended based on information in Synchrony's Petition. Accordingly, the CID directed to Synchrony Financial dated August 29, 2018, as modified by the Bureau's letter dated October 16, 2018, is further modified as follows:

1. Interrogatory 3 is limited so that, instead of applying to "training regarding the offering of Deferred Interest Promotions or the offering of any credit card through which Purchases can be made with a Deferred Interest Promotion," it will apply to "training regarding the offering of Deferred Interest Promotions."

2. Document Request 1 is clarified with respect to Synchrony's obligation to submit Complaints: when it provides "any notes by Synchrony about the content of consumer complaints made contemporaneously with receipt of the complaint...," Synchrony need only provide those notes from one of the systems, if those notes are maintained in multiple systems, so long as it provides a complete version of the notes (not a summary).

3. Document Request 2 is modified so that, instead of applying to "communications with the 13 Identified Retailers that include one or more members of the client team for the Retailer connected with the Complaint regarding (a) any non-escalated complaints submitted in January 2016, January 2017, and January 2018, or (b) any escalated complaints submitted during the Applicable Period," it will now apply to "all written communications with the 13 Identified Retailers (a) that concern any escalated complaints submitted during the Applicable Period; or

[15] https://www.synchrony.com/financial-fact-sheet.html.

[16] https://otp.tools.investis.com/clients/us/ synchrony_financial/SEC/sec-show.aspx?Type=html&FilingId=12572450&CIK =0001601712&Index=10000, at 82.

(b) that both concern any non-escalated complaint that was produced in response to Document Request 1, and were submitted in January 2016, January 2017, and January 2018."

4. Written Report 1 was modified by the Bureau's letter of October 16 so that the report was limited to information regarding only 5% of the accounts implicated by the August 29 CID. Synchrony claims that this modification would increase its burden. Therefore, if Synchrony chooses, it may ignore the modification in the October 16 letter, and comply with Written Report 1 as described in the August 29, 2018, CID. In addition, Written Report 1, as modified by the Bureau's letter of October 16, currently provides that "For each private label credit card or dual card on which one or more purchases have been made using Deferred Interest financing (excluding cards offered through the CareCredit Sales Platform) between June 1, 2013 and June 1, 2016 …." This is modified as follows: "For each private label credit card or dual card on which one or more purchases have been made using Deferred Interest financing (excluding cards offered through the CareCredit Sales Platform) between June 1, 2015, and June 1, 2017, …."

Provision b. of Written Report 1 is modified to read: "Account-holder's FICO Score (or other credit scoring model used by Synchrony) that was obtained in the earliest Billing Cycle after the first purchase made with Deferred Interest between June 1, 2015, and June 1, 2017:"

Provision e. of Written Report 1 is modified from "For each Billing Cycle between April 1, 2013, and May 1, 2018, the following monthly data from the Billing Cycle:" to: "For each Billing Cycle between April 1, 2015, and October 31, 2018, the following monthly data from the Billing Cycle:"

5. Written Report 3 – Synchrony need not provide Written Report 3.

6. Written Report 4 – Synchrony need not provide Written Report 4.

The timing of Synchrony's production is modified as follows:

Interrogatory 1:	45 days after the date of this order.
Interrogatory 2:	one month after the date of this order.
Interrogatory 3:	45 days after the date of this order.
Interrogatory 4:	seven months after the date of this order.
Document Request 1:	four months after the date of this order.
Document Request 2:	four months after the date of this order.
Document Request 3:	two months after the date of this order.
Document Request 5:	45 days after the date of this order.

Written Report 1: seven months after the date of this order.

Written Report 2: seven months after the date of this order.

CONCLUSION

For the foregoing reasons, I grant Synchrony's Petition in part and deny it in part. In particular, the Requests for Written Reports 3 and 4 are withdrawn. Other provisions are modified as described above. As a result of modifications that I have made to the CID's notification of purpose, Synchrony's arguments regarding that notification do not provide a basis for setting aside the CID. Subject to these changes, and as modified by the letter of October 16, Synchrony is directed to comply in full with the CID dated August 29, and as modified by the letter of October 16 and this Order, according to the schedule set forth above.

Synchrony is welcome to engage in discussions with Bureau staff about any further suggestions for modifying the CID, or any further staggering of the production schedule, which may be adopted by the Assistant Director for Enforcement or Deputy Enforcement Director, as appropriate.

May 21, 2019

Kathleen L. Kraninger, Director