

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

ADMINISTRATIVE PROCEEDING File
No. 2020-BCFP-0019

In the Matter of:

Washington Federal Bank, N.A.

CONSENT ORDER

The Bureau of Consumer Financial Protection (Bureau) has reviewed the data-collection, recording, and reporting practices of Washington Federal Bank, N.A. (Respondent, as defined below) and has identified the following law violations: Respondent's mortgage-loan data for 2016 and 2017 contained errors in violation of the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. §§ 2801–2810, its implementing regulation, Regulation C, 12 C.F.R. pt. 1003,¹ and § 1036(a)(1)(A) of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. § 5536(a)(1)(A). Under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

¹ All references to Regulation C are to the version in effect during the Relevant Period.

I.

Jurisdiction

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, and § 2804 of HMDA, 12 U.S.C. §§ 2804(b) & (d).

II.

Stipulation

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated October 19, 2020 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

III.

Definitions

3. The following definitions apply to this Consent Order:
 - a. “Board” means Respondent’s duly elected and acting Board of Directors.

- b. “Covered Loans” are applications for, originations of, and purchases of home-purchase loans, home-improvement loans, and refinancings that Respondent is required to report on a HMDA Loan/Application Register for each calendar year under HMDA and Regulation C.
- c. “Effective Date” means the date on which the Consent Order is entered on the administrative docket.
- d. “HMDA Data” are mortgage-loan data submitted in accordance with HMDA, 12 U.S.C. § 2803, and Regulation C, 12 C.F.R. § 1003.4.
- e. “HMDA Loan/Application Register” or “HMDA LAR” is the compilation of information about each applicant or borrower, reported on a loan-by-loan, application-by-application basis, in accordance with HMDA and Regulation C.
- f. “Regional Director” means the Regional Director for the West Region for the Office of Supervision for the Bureau of Consumer Financial Protection, or his or her delegate.
- g. “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.

- h. “Relevant Period” includes the period from January 1, 2016, to December 31, 2017.
- i. “Respondent” means Washington Federal Bank, N.A., and its successors and assigns.

IV.

Bureau Findings and Conclusions

The Bureau finds the following:

- 4. Respondent is a federally insured, for-profit national bank headquartered in Seattle, Washington.
- 5. Respondent is an insured depository institution with total assets greater than \$10,000,000 within the meaning of 12 U.S.C. § 5515(a). Respondent’s total assets as of December 31, 2016, were about \$14,873,654,000; its total assets as of December 31, 2017, were about \$15,584,013,000.
- 6. Respondent is a “covered person” under 12 U.S.C. § 5481(6).
- 7. Respondent originated more than \$1 billion in 2016 and \$1 billion again in 2017 in home-purchase loans, including refinancings of home-purchase loans.
- 8. On December 31st of both 2016 and 2017, Respondent had a branch office that was approved by a federal agency in a Metropolitan Statistical Area (MSA) for HMDA-reporting purposes.

9. In 2016 and 2017, Respondent received applications for, originated, or purchased over five Covered Loans related to properties in multiple MSAs or Metropolitan Divisions.
10. Respondent is a federally insured or regulated entity. 12 C.F.R. § 1003.2.
11. Respondent is a depository institution required to report HMDA data as defined in Regulation C, 12 C.F.R. § 1003.2.
12. Including refinancings of home-purchase loans, Respondent originated more than 3,484 home-purchase loans in 2016 and 3,284 home-purchase loans in 2017.
13. Respondent reported data on over 7,000 Covered Loans on each of its 2016 and 2017 HMDA LARs. On March 1, 2017, Respondent submitted its 2016 HMDA LAR. On March 1, 2018, Respondent submitted its 2017 HMDA LAR, and on May 24, 2018, resubmitted its 2017 LAR.
14. Respondent's 2016 HMDA LAR submission and 2017 HMDA LAR submission and resubmission to the Bureau included significant errors that exceeded the applicable thresholds.
15. An internal audit of Respondent's 2016 HMDA LAR identified 40 files containing errors in a review of 100 files, a 40% error rate.
16. A Bureau review of 84 files in Respondent's initial 2017 HMDA LAR identified 58 errors in 27 files, a 32% sample error rate.

17. With respect to Respondent's resubmitted 2017 HMDA LAR, the Bureau reviewed 81 files and identified 21 errors in 13 files, a 16% sample error rate.
18. These sample error rates indicate the presence of large numbers of errors in the LAR that exceed the applicable thresholds.
19. The 2016 HMDA errors were caused by a lack of appropriate staff, insufficient staff training, and ineffective quality control.
20. The 2017 HMDA errors are directly related to weaknesses in Respondent's compliance-management system (CMS), especially in the areas of Board and management oversight, monitoring, and policies and procedures.
21. In connection with its 2017 LAR resubmission, Respondent imposed an incorrect policy, which directly led to the errors in its resubmitted LAR.
22. Respondent failed to put in place an adequate system of monitoring controls that could promptly identify and correct weaknesses and violations in the 2016 and 2017 HMDA LAR.
23. The occurrence of errors in many different fields, rather than concentrated in one or two fields, indicates broad CMS failures and a lack of adequate resources, because the errors were not caught, and the errors cannot be directly attributed to one or two systemic failures.

24. The Bureau entered a consent order against Respondent on October 9, 2013, finding that Respondent violated HMDA and Regulation C. The 2013 consent order required Respondent to review, correct, and resubmit its 2011 HMDA LAR and imposed a \$34,000 penalty.
25. Respondent continued, after the Bureau's 2013 consent order, to report inaccurate HMDA data with error rates that exceed applicable thresholds.
26. Respondent has not maintained a CMS with procedures reasonably adapted to avoid HMDA LAR errors, and thus the errors are intentional and not bona fide errors.

**Bureau Findings and Conclusions as to
Violations of HMDA and Regulation C**

27. As implemented by Regulation C, HMDA requires covered institutions to collect and report mortgage-loan data regarding applications for, originations of, and purchases of home-purchase loans, home-improvement loans, and refinancings for each calendar year. 12 U.S.C. §§ 2802(3), (5), 2803; 12 C.F.R. §§ 1003.2 (definition of "financial institution"), 1003.4(a), (b).
28. Respondent is required to collect and report data on Covered Loans in compliance with HMDA and Regulation C. 12 U.S.C. §§ 2802(3), (5), 2803; 12 C.F.R. §§ 1003.2 (definition of "financial institution"), 1003.4(a), (b).

29. Respondent's 2016 HMDA LAR submission and 2017 HMDA LAR submission and resubmission to the Bureau included significant errors that exceeded the applicable thresholds.
30. Between at least January 1, 2016, and December 31, 2017, Respondent did not maintain procedures reasonably adapted to avoid errors in its HMDA LAR.
31. Respondent knew or should have known of the inadequacies of its HMDA compliance mechanisms and the substantial risk of HMDA reporting errors in its 2016 and 2017 LAR submissions and 2017 resubmission.
32. Respondent's HMDA-reporting errors are not bona fide errors within the meaning of Regulation C, 12 C.F.R. § 1003.6(b).
33. Respondent's 2016 and 2017 submissions and 2017 resubmission contained errors, in violation of HMDA, 12 U.S.C. § 2803, and Regulation C, 12 C.F.R. §§ 1003.4, 1003.5.

Findings and Conclusions as to Violations of the CFPA

34. Section 1036(a)(1)(A) of the CFPA prohibits a covered person from offering or providing to a consumer any financial product or service not in conformity with "Federal consumer financial law" or otherwise committing any act or omission in violation of a "Federal consumer financial law." 12 U.S.C. § 5536(a)(1)(A); 12 U.S.C. § 5481(12), (14).

35. Respondent's HMDA and Regulation C violations, described above, constitute violations of § 1036(a)(1)(A) of the CFPA, 12 U.S.C. § 5536(a)(1)(A).

CONDUCT PROVISIONS

V.

Develop a HMDA Compliance-Management System

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

36. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not violate § 304(a), (b), or (h) of HMDA, 12 U.S.C. § 2803(a), (b), (h), or §§ 1003.4(a)-(b) or 1003.5(a) of Regulation C, 12 C.F.R. §§ 1003.4(a)-(b), 1003.5(a).
37. Within 60 days of the Effective Date, Respondent shall retain one or more independent consultants, with specialized experience in HMDA compliance, not subject to any conflict of interest, and acceptable to the Regional Director, to conduct a review of Respondent's program to manage compliance with HMDA.
- a. The review shall include all systems, programs, policies, and procedures to ensure the accuracy of, and to prevent, identify, and correct errors in, HMDA data.

- b. Within 120 days of the Effective Date, the independent consultant shall submit to Respondent a written report detailing the findings of the review (Consultant Report).
38. Respondent must take the following affirmative actions:
- a. develop and implement a HMDA compliance-management system including policies, procedures, and internal controls to ensure compliance with the data-collection and reporting requirements in HMDA and Regulation C;
 - b. develop and implement a compliance audit program to regularly test HMDA data integrity; and
 - c. develop and maintain operating policies and training procedures to ensure that personnel understand HMDA standards and reporting requirements under HMDA and Regulation C.

VI.

Compliance Plan

IT IS FURTHER ORDERED that:

39. Within 60 days of receiving the Consultant Report, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's collection, recording, and reporting of HMDA Data and HMDA policies,

procedures, and CMS comply with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan), along with a copy of the Consultant Report. The Compliance Plan must include, at a minimum:

- a. detailed steps to be taken by Respondent's directors, officers, employees, and agents to correct any deficiencies identified in the Consultant Report and to implement its recommendations and a detailed explanation for why any recommendation is not being implemented;
 - b. detailed steps for addressing each action required by this Consent Order; and
 - c. specific timeframes and deadlines for implementation of the affirmative actions required by this Consent Order.
40. 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 requested revisions and resubmit the revised Compliance Plan to the Regional Director within 15 days of the date that the Regional Director directs Respondent to revise the Compliance Plan.
41. 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.

VII.

Role of the Board

IT IS FURTHER ORDERED that:

42. The Board must review all documents (including plans, reports, programs, policies, and procedures) required by this Consent Order before submission to the Bureau.
43. Although this Consent Order requires Respondent to submit certain documents for 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 the laws that the Bureau enforces, including Federal consumer financial law and this Consent Order.
44. In each instance that this Consent Order requires the Board to ensure adherence to the Consent Order, or perform certain obligations of Respondent, the Board must:
 - a. authorize whatever actions are necessary for Respondent to fully comply with the 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 Civil Money Penalties

IT IS FURTHER ORDERED that:

- 45. Under § 1055(c) of the CFP A, 12 U.S.C. § 5565(c), by reason of the violations of law and regulation 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 \$200,000 to the Bureau.
- 46. 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.
- 47. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by § 1017(d) of the CFP A, 12 U.S.C. § 5497(d).
- 48. Respondent, for all purposes, must treat the civil money penalty paid under this Consent Order as a penalty paid to the government. Regardless of how

the Bureau ultimately uses those funds, Respondent may not:

- a. claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
 - b. seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Consent Order.
49. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondent may not argue that Respondent is entitled to, nor may Respondent benefit by, any offset or reduction of any compensatory or monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Respondent based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, Respondent must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau, and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.

50. 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.
51. 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.
52. Under 31 U.S.C. § 7701, Respondent, unless it already has done so, must furnish to the Bureau its taxpayer-identification numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.
53. 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.

COMPLIANCE PROVISIONS

IX.

Reporting Requirements

IT IS FURTHER ORDERED that:

54. 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.
55. Within 7 days of the Effective Date, Respondent must designate at least one telephone number and email, physical, and postal addresses as points of contact that the Bureau may use to communicate with Respondent.
56. Respondent must report any change in the information required to be submitted under Paragraph 55 at least 30 days before the change or as soon as practicable after learning about the change, whichever is sooner.

57. Within 90 days of the Effective Date, and again at least annually, Respondent must submit to the Regional Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board, which, at a minimum:
- a. lists each applicable paragraph and subparagraph of the Consent Order and describes in detail the manner and form in which Respondent has complied with each such paragraph and subparagraph of the Consent Order;
 - b. describes in detail the manner and form in which Respondent has complied with the Compliance Plan; and
 - c. attaches a copy of each Consent Order acknowledgment obtained under Section X, unless previously submitted to the Bureau.

X.

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

58. Within 7 days of the Effective Date, Respondent must submit to the Regional Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
59. 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 the Consent Order.

60. For the duration of the Consent Order, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section IX, 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 the Consent Order, before they assume their responsibilities.
61. 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.
62. Within 90 days of the Effective Date, Respondent must provide the Bureau with a list of all persons and their titles to whom this Consent Order was delivered through that date under Paragraphs 59-60 and a copy of all signed and dated statements acknowledging receipt of this Consent Order under Paragraph 61.

XI.

Recordkeeping

IT IS FURTHER ORDERED that:

63. Respondent must create, or if already created must retain for the duration of the Consent Order, all documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau.
64. Respondent must retain the documents identified in Paragraph 63 for the duration of the Consent Order.
65. Respondent must make the documents identified in Paragraph 63 available to the Bureau upon the Bureau's request.

XII.

Notices

IT IS FURTHER ORDERED that:

66. 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 Washington Federal Bank, N.A., File No. 2020-BCFP-0019," and send them by overnight courier or first-class mail to the below address and contemporaneously email to Enforcement_Compliance@cfpb.gov:

Regional Director, Bureau West Region
Consumer Financial Protection Bureau
301 Howard Street, Suite 1200
San Francisco, CA 94105.

XIII.

Compliance Monitoring

IT IS FURTHER ORDERED that:

67. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
68. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.
69. 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.

XIV.

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

70. 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.

71. The Regional Director may, in his or her discretion, modify any non-material requirements of this Consent Order (e.g., reasonable extensions of time and changes to reporting requirements) if he or she determines that good cause justifies the modification. Any such modification by the Regional Director must be in writing.

XV.

Administrative Provisions

72. 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 73. Further, for the avoidance of doubt, the provisions of this Consent Order do not bar, estop, or otherwise prevent any other person or governmental agency from taking any action against Respondent.
73. 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 determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.

74. This Consent Order is intended to be, and will be construed as, a final consent order issued under § 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
75. This Consent Order will terminate 10 years from the Effective Date or 10 years from the most recent date that the Bureau initiates an action alleging any violation of the Consent Order by Respondent. If such action is dismissed or the relevant adjudicative body rules that Respondent did not violate any provision of the Consent Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Consent Order will terminate as though the action had never been filed. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted. 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.

76. Should Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, Respondent must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.
77. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under § 1055(c) of the CFP A, 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.
78. 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.
79. 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 24th day of October, 2020.



Kathleen L. Kraninger

Director

Bureau of Consumer Financial
Protection