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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	COMPLAINT
)	
)	
SYNCHRONY BANK, formerly known as)	Case No. 2:14-CV-00454
GE CAPITAL RETAIL BANK,)	
)	Magistrate Judge Brooke C. Wells
Defendant.)	

1. The United States of America brings this action against Synchrony Bank, formerly known as GE Capital Retail Bank (the Bank), for discriminating on the basis of national origin by denying approximately 108,000 borrowers who had a “Spanish-preferred” indicator on their accounts or a mailing address in Puerto Rico the opportunity to participate in two credit card debt-repayment programs. The United States brings this action to enforce provisions of the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, and its implementing regulation, Regulation B, 12 C.F.R. Part 1002 (Regulation B).

2. This Court has jurisdiction pursuant to 15 U.S.C. § 1391e(h) and 28 U.S.C. § 1345. Venue is proper in this District under 28 U.S.C. § 1391.

PARTIES

3. The United States is authorized to initiate a civil action in federal district court whenever a matter is referred to the Attorney General pursuant to 15 U.S.C. § 1691e(g) or the Attorney General has reasonable cause to believe that a pattern or practice in violation of ECOA has occurred. 15 U.S.C. § 1691e(h).

4. Defendant Synchrony Bank, previously named GE Capital Retail Bank, is a federal savings bank incorporated in the State of Utah with a principal place of business in the State of Utah. This name change became effective on June 2, 2014. As of March 2014, the Bank had total assets worth \$39.8 billion, and it is subject to examination for compliance with federal consumer financial laws, including ECOA and Regulation B by the Consumer Financial Protection Bureau (CFPB).

5. The Bank’s lending activity is concentrated in credit cards, particularly credit cards used to finance purchases of consumer goods.

6. Defendant is a creditor within the meaning of ECOA, 15 U.S.C. § 1691a(e), and Regulation B, 12 C.F.R. § 1002.2(l). Defendant regularly participates in the decision to extend credit through the issuance of credit cards.

INVESTIGATION

7. In 2012, during the course of the CFPB's supervisory quarterly monitoring, the Bank self-identified and reported to the CFPB that it had excluded borrowers with "Spanish-preferred" indicators on their accounts or with mailing addresses in Puerto Rico from two credit card debt-repayment programs: the "Statement Credit Offer" and the "Settlement Offer."

8. From May 2013 through November 2013, the CFPB conducted a review of these exclusions for compliance with ECOA and Regulation B.

9. After providing the Bank with an opportunity to respond to the results of the CFPB's review, the CFPB determined it had reason to believe that the Bank had engaged in a pattern or practice of lending discrimination on the basis of national origin in violation of ECOA, 15 U.S.C. § 1691(a)(1).

10. On March 3, 2014, the CFPB referred the Bank to the United States Department of Justice pursuant to ECOA, 15 U.S.C. § 1691e(g) and the December 6, 2012 Memorandum of Understanding between the Department of Justice and the CFPB.

11. Based on the CFPB referral, the Department of Justice has engaged in an investigation under ECOA of the Bank's exclusion of borrowers with a "Spanish-preferred" indicator on their accounts or a mailing address in Puerto Rico from the Statement Credit Offer and the Settlement Offer. The Department of Justice and the CFPB coordinated their investigations of the Bank.

FACTUAL ALLEGATIONS

12. From at least March 2010 to March 2012, the Bank implemented the “Statement Credit Offer” – a program offering borrowers a credit to their account if they met certain criteria. Under the offer, borrowers with (i) balances greater than \$700, (ii) three payments past due, (iii) a credit bureau score below 670, and (iv) an amount due greater than \$150 were eligible for a credit on their statement ranging from \$25 to \$100. The Bank sent letters in English to eligible borrowers stating “[d]uring a quality assurance audit your account was identified to participate in an account credit offer. GE Capital Retail Bank would like to offer you an account credit.” To accept the Statement Credit Offer, the borrower had to contact the Bank and make three payments to bring the account current. The Statement Credit Offer was discontinued by the Bank in March 2012.

13. In the first quarter of 2009, the Bank initiated a program, referred to as the “Settlement Offer.” Under the program, the Bank sent out letters in English to eligible borrowers offering to settle the borrower’s credit card debt if they paid a percentage of their remaining account balance, ranging from 25% to 55%. Borrowers were eligible for the offer if they had (i) balances greater than \$200, (ii) certain internally-developed risk score thresholds, (iii) four or more payments past due, and (iv) no payments made in the previous 90 days. The Settlement Offer program remains in effect.

14. Between January 2009 and March 2012, the Bank sent the Statement Credit Offer and the Settlement Offer letters to approximately 400,000 unique borrowers.

15. From at least March 2010 to March 2012, the Bank did not provide the Statement Credit Offer to otherwise eligible borrowers with a “Spanish-preferred” indicator on their accounts or with a mailing address in Puerto Rico. Additionally, from at least January 2009 to

March 2012, the Bank did not provide the Settlement Offer to otherwise eligible borrowers with either a “Spanish-preferred” indicator on their accounts or with a mailing address in Puerto Rico.

16. The term “Spanish-preferred” is a notation in a borrower’s account indicating a preference for communications relating to the account in Spanish rather than English.

17. The Bank’s general practice is to provide Spanish language communications to borrowers with a “Spanish-preferred” indicator on their account if such communications are available in Spanish; if Spanish language communications are not available, the Bank’s general practice is to provide those borrowers with communications in English.

18. The Bank’s exclusions affected approximately 108,000 otherwise eligible borrowers with a “Spanish-preferred” indicator on their accounts or with a mailing address in Puerto Rico.

19. According to the 2010 U.S. Census data, 75% of Hispanics five years of age and older speak Spanish at home. In addition, 99% of the residents of Puerto Rico are Hispanic. According to 2011 American Community Survey data, nationwide 34% of Hispanics five years of age and older speak Spanish at home and speak English “less than very well”; that number for non-Hispanic whites is less than one quarter of a single percentage point (0.22%).

20. Both the Statement Credit Offer and the Settlement Offer relate to an aspect of a credit transaction, including the Bank’s collections procedures for settling and resolving the outstanding debts of its existing borrowers. These procedures include the Bank’s regular participation in the decision to grant its credit card borrowers the right to incur and defer debt.

21. The Bank’s exclusion of otherwise eligible borrowers with a “Spanish-preferred” indicator on their accounts and borrowers with a mailing address in Puerto Rico from the Statement Credit Offer and the Settlement Offer constitutes discrimination based upon national origin. The exclusion was not justified by a legitimate business need. Nor was it justified by a

legitimate business need that cannot reasonably be achieved as well by means that have less disparate impact on Hispanic borrowers.

22. As a result of the exclusion, Hispanic borrowers experienced higher debt levels and longer periods of debt; some of these Hispanic borrowers may have suffered additional consequential economic damages, including increased risk of credit problems, default, and repossession; having their accounts closed or “charged-off” and sold to a third party; and other damages, including emotional distress. They are aggrieved as defined in the Equal Credit Opportunity Act, 15 U.S.C. § 1691e, and have suffered injury and damages as a result of the Bank’s conduct.

23. The Bank’s policy or practice to exclude otherwise eligible borrowers with a “Spanish-preferred” indicator on their accounts and borrowers with a mailing address in Puerto Rico from the Statement Credit Offer and the Settlement Offer was intentional, willful, or implemented with reckless disregard for the rights of Hispanic borrowers.

EQUAL CREDIT OPPORTUNITY ACT VIOLATIONS

24. The Bank’s policies and practices, as alleged herein, constitute discrimination against borrowers with respect to credit transactions on the basis of national origin in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1).

25. The Bank’s policies and practices, as alleged herein, constitute a pattern or practice of resistance to the full enjoyment of rights secured by the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f.

26. ECOA empowers this Court to grant such relief as may be appropriate, including actual and punitive damages and injunctive relief. 15 U.S.C. § 1691e(h).

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court enter an ORDER that:

(1) Declares that the policies and practices of the Defendant constitute violations of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

(2) Enjoins the Defendant and its agents, employees, successors, and assigns, and all other persons in active concert or participation with Defendant, from:

(A) Discriminating on the basis of national origin against any person with respect to any aspect of its credit transactions;

(B) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendant's unlawful conduct to the position they would have been in but for the discriminatory conduct; and

(C) Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any such discriminatory conduct in the future; to eliminate, to the extent practicable, the effect of the Bank's unlawful practices; and to implement policies and procedures to ensure that all borrowers have an equal opportunity to seek, obtain, and manage credit cards on a non-discriminatory basis and with non-discriminatory terms and conditions; and

(3) Awards equitable relief and monetary damages to all the victims of the Defendant's discriminatory policies and practices for the injuries caused by the Defendant, including direct economic costs, consequential damages, and other damages, pursuant to 15 U.S.C. § 1691e(h).

The United States pray for such additional relief as the interests of justice may require.

Dated: June 18th, 2014

Respectfully submitted,

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