

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

ADMINISTRATIVE PROCEEDING File
No. 2022-CFPB-0007

In the Matter of:

HELLO DIGIT, LLC

CONSENT ORDER

The Consumer Financial Protection Bureau (Bureau) reviewed the conduct of Hello Digit, Inc. in offering and providing consumers an automated-savings tool, which Digit marketed as a way to effortlessly save the “perfect” amount of money every time without thinking about it, and identified the following law violations: Digit engaged in deceptive acts and practices in violation of §§ 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B), by misrepresenting to consumers that its automated-savings tool saved the perfect amount every time, that it would reimburse all overdraft fees caused by the tool, and that Digit did not generate revenue from interest accrued on consumer funds held by Digit. Under §§ 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I.

Jurisdiction

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565.

II.

Stipulation

2. On December 22, 2021, Hello Digit, Inc. was acquired by Oportun Financial Corporation (Oportun). After this acquisition, Hello Digit, Inc. was merged into Hello Digit, LLC, a wholly owned subsidiary of Oportun. (Hello Digit, Inc. and its successor Hello Digit, LLC are collectively referred to as Digit or Company). Hello Digit, LLC is the successor-in-interest to Hello Digit, Inc. and the Respondent in this matter (Respondent, as defined below). Oportun's Board of Directors provides oversight for Respondent's activities.
3. Respondent has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated August 9, 2022 (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

4. The following definitions apply to this Consent Order:
 - a. "Affected Consumers" includes all users of Digit's automated-savings tool who incurred an overdraft fee caused by an autosave transfer for which they submitted a reimbursement request between January 1, 2017 and the Effective Date that was denied by Digit, because the request exceeded Digit's overdraft-fee reimbursement limit or the consumer did not reconnect their account to Digit.
 - b. "Board" means the duly elected and acting Board of Directors of Oportun, Respondent's parent company. The Board may delegate its responsibility to review submissions under this Consent Order to its Audit and Risk Committee (ARC). The ARC must report to the Board regarding this Consent Order no less than once per quarter.
 - c. "Complaint" means a verbal or written expression of dissatisfaction or a suggestion of wrongful conduct about products, services, or processes, that is made by, or on behalf of, a consumer.

- d. “Effective Date” means the date on which the Consent Order is entered on the administrative docket.
- e. “Enforcement Director” means the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau, or his or her delegate.
- f. “Marketing Materials” means signs, brochures, direct mail, web-site content, digital advertisements, social-media content or other consumer-facing materials that promote or provide information about Digit’s automated savings tool.
- g. “Permissible Refund Method” means (1) direct deposit or (2) a paper check.
- h. “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.
- i. “Respondent” means Hello Digit, LLC and its successors and assigns.
- j. “Terms and Conditions” means the documents that govern the contractual relationship between Respondent and consumers regarding Respondent’s automated-savings tool.

IV.

Bureau Findings and Conclusions

The Bureau finds the following:

5. Digit is a financial-technology company with its principal place of business in San Francisco, California.
6. Digit is a “covered person” under 12 U.S.C. § 5481(6).

Digit’s Business

7. Digit has offered and provided a personal-finance-management application to consumers since February 2015. Since its inception, Digit’s core offering is an automated-savings tool, which Digit markets as an “effortless way” for consumers to “save money without thinking about it.” As part of the sign-up process, Digit requires consumers to grant Digit access to their checking accounts. Digit partners with a fintech platform to link to consumers’ checking accounts, and then Digit uses its own proprietary algorithm to analyze consumers’ checking-account data to determine when and how much to save for each consumer.

8. Based on its algorithm, Digit initiates automatic electronic-fund transfers, called “autosaves,” to move money from consumers’ checking accounts to interest-bearing, “for the benefit of” accounts held in Digit’s name at third-party institutions (“Digit Savings Accounts”). The money transferred by Digit into Digit Savings Accounts goes toward goals set by the consumer (*e.g.*, vacations) or a default “Rainy Day Fund.”
9. To transfer funds, Digit uses the Automated Clearing House (ACH) network, which takes 1–3 days to process electronic-fund transfers.
10. Starting in April 2017, Digit began charging consumers a subscription fee of \$2.99 a month for its savings service. Digit increased the monthly fee to \$5 in mid-2019.

Digit Deceptively Marketed that It Saves the Perfect Amount and
Covers All Overdraft Fees Incurred by Digit Users

11. One of Digit’s messaging themes to consumers is that its automated-savings tool effortlessly saves “the perfect amount” for consumers through its algorithm. But Digit knows that it does not save the perfect amount every day—in fact, the Company’s autosaves frequently cause its users’ checking accounts to overdraft and incur overdraft fees charged by consumers’ banks.

12. Until at least mid-2020, Digit’s website headlined: “Save money, without thinking about it. Digit analyzes your spending and automatically saves the perfect amount every day, so you don’t have to think about it.” At other times, Digit billed itself as a company that “never transfers more than you can afford.”
13. Similarly, on the GooglePlay welcome screen to download Digit’s app, until late 2021 Digit represented to consumers: “Save Money. Pay off Debt. No Overdrafts.”
14. But since its inception, Digit knew that its algorithm was not “perfect” and had limitations that hampered the Company’s ability to precisely predict an appropriate amount to withdraw from consumers’ checking accounts. Digit also knew that its savings debits from consumers’ accounts routinely caused overdrafts, resulting in overdraft fees for consumers.
15. Digit was aware of the underlying reasons its algorithm triggers overdrafts, which include, among other things, (i) that Digit’s algorithm relies on consumers’ account transactions that Digit knows may be stale or inaccurate due to time lags in the banking system or inaccurate data being provided by third-party partners; and (ii) the fact that Digit cannot predict all customer, bank, and ACH behavior.

16. Digit receives complaints about overdrafts daily. Digit estimates that approximately 1–2% of Digit users experience overdrafts as a result of using the service, and the company has received nearly 70,000 overdraft-reimbursement requests since 2017.
17. In one instance, Digit’s customer support agent characterized a consumer’s complaint as “user incurred overdrafts, misled by the ‘no overdraft guarantee’ language at sign up.” In another instance, one consumer complained: “When I signed up for digit it said it was guaranteed to not overdraft your account. I just wanted to bring it to someone’s attention because I didn’t think that was supposed to happen.” A Digit customer support agent remarked of this complaint: “another user calling us out on that, [I] do feel like ‘no overdraft guarantee’ is misleading and should be changed.”
18. As a companion to Digit’s representation that it will always save “the perfect amount” for consumers, Digit also represented to consumers that, in the unlikely event that it caused an overdraft, the company would reimburse all overdraft fees incurred by Digit users.
19. Digit sometimes stated, without qualification, that it has a “no-overdraft guarantee . . . we believe [so] strongly in our ability to safely identify money you don’t need that if we overdraft your account, we’ll pay the fee.”

20. Similarly, Digit promoted its overdraft-reimbursement policy on the front page of its website and elsewhere, stating “[t]he fee is on us if Digit saves too much.”
21. Contrary to its representations regarding overdraft-fee reimbursement, Digit did not reimburse all overdraft fees that consumers incurred. In fact, until at least mid-2020, Digit’s policy was to reimburse consumers for no more than two instances of overdrafts caused by Digit autosaves.
22. If a consumer incurred an overdraft fee caused by a Digit autosave after having been reimbursed by Digit two prior times—something that occurred over a thousand times since 2017—Digit would refuse overdraft-fee reimbursement.
23. Also contrary to Digit’s representations that it would reimburse all overdraft fees, Digit did not reimburse any overdrafts caused by: (1) consumer-initiated transfers until at least March 2020; or (2) debiting of Digit’s monthly subscription fee until at least July 2018. Until mid-2020, Digit also did not reimburse overdrafts that occurred *after* an autosave, irrespective of the proximity of Digit’s withdrawal to the subsequent transaction that caused the overdraft.
24. In addition, Digit also required consumers to have an active Digit account and a checking account that was still connected to the app in order to

provide overdraft reimbursements. Sometimes users disconnect their checking account from the Digit app or cancel membership upon incurring an overdraft fee caused by Digit. In these circumstances, Digit refused to reimburse overdraft fees caused by its saves unless and until users reactivated their accounts and reconnected their checking accounts in the app.

25. Since 2017, Digit declined over 7,200 reimbursement requests, including: 728 requests to reimburse for overdrafts caused by Digit's subscription fees; 1,823 requests that Digit claimed were caused by customers initiating their own manual saving transactions; 600 requests because users did not reconnect accounts after unsubscribing from the service; 1,347 requests where Digit already twice reimbursed the consumer; and 1,852 requests where Digit deemed the overdraft to be unrelated to Digit's activity.
26. Digit's overdraft-reimbursement policies were the subject of consumer complaints. In an internal "user pushback" document, Digit identified as "common issues that receive user pushback" both that it was not providing "[o]verdraft reimbursements for users who have already reached the two instance max" and "users not wanting to reconnect checking/reactivate their Digit account for an overdraft reimbursement."

Digit Misrepresented How It Earned Interest on Consumer Funds

27. Digit deposits consumer funds in “for the benefit of” accounts in Digit’s name at third-party financial institutions (“Partner Banks”). These accounts are pooled and are not titled individually by consumer. Digit does not disclose to consumers the institutions at which their funds are held, and consumers have no interaction with the Partner Banks.
28. Since its inception, Digit has earned interest on its deposits at its Partner Banks. Some of this interest income is returned to consumers in the form of a so-called “savings bonus,” which is a fixed percentage (between 0.1% and 1% historically, depending on market conditions) of a consumer’s Digit Savings Account balance. The remainder is net interest revenue for Digit.
29. Shortly after Digit moved to a monthly subscription-fee model in April 2017, Digit defended the move by representing to consumers that it would no longer make money off interest earned on consumers’ funds: “It wasn’t an easy decision, but we really believe it helps us do right by you. Here’s why . . . ****We don’t keep your interest**** Saving with Digit now earns you 1% cash back annually. We no longer use the interest on your balance as a source of revenue. Instead, it’s added to the Savings Bonus you receive from us every 3 months.”

30. Digit repeated the same statement in a “Help Center” article that was on its website until at least July 2019, stating: “We also don’t collect revenue from the interest earned on your savings balance—that amount becomes the 1% annual Savings Bonus you get from us every 3 months.”
31. Some consumers questioned Digit about what happens to the interest earned on their money. In response to such inquiries and related complaints and questions, Digit stated:
 - a. “here’s the good news: we don’t keep your interest anymore. Now that we’ve moved to subscriptions, interest earned on your account balance is added to the 1% annual Savings Bonus you get every 3 months”;
 - b. “[w]e believe that you should earn the interest that is made from the funds you hold with us, which is one of the reasons on why we're making this change”;
 - c. “we’re sorry for any confusion, we don’t keep your interest or profit from it”; and
 - d. “[e]very quarter, you’ll be seeing the 1% savings bonus added to your checking account for using Digit. This is us giving the interest back to you.”

32. Contrary to Digit’s representations, Digit did earn interest from consumers’ funds it held and did not return the entirety of that interest to consumers in the form of a savings bonus.
33. Since 2017, Digit has retained significant net interest income from consumer funds held in Digit Savings Accounts after paying out savings bonuses to users.

Findings and Conclusions as to Misrepresentation about
Savings Amounts and Overdraft Reimbursements

34. The CFPB prohibits covered persons from engaging in any deceptive act or practice. 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). A representation or omission is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material.
35. In numerous instances since 2017, Digit told consumers that it would save the “perfect amount,” that it would only transfer amounts that consumers could afford, and that its service would result in “No Overdrafts.” Digit also represented to consumers that, in the unlikely event of overdrafts, it had a “no overdraft guarantee” and that “the fee is on us if we save too much.”
36. But in fact, Digit’s withdrawals from consumers’ accounts routinely caused overdrafts to consumers’ accounts and Digit did not reimburse consumers for all the overdraft fees that Digit’s autosaves caused.

37. Digit's representations are material because the likelihood that an automated-savings app will trigger bank fees is highly relevant to a consumer decision-making about whether to enroll in such a service.
38. Therefore, Digit's representations described in Paragraph 35 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 Misrepresentation about
Interest Earned by Digit on Consumer Funds

39. The CFPA prohibits covered persons from engaging in any deceptive act or practice. 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). A representation or omission is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material.
40. As early as mid-2017, Digit represented to consumers that it did not collect revenue from interest earned on consumers' funds held in Digit Savings Accounts, but instead returned that interest to consumers in the form of a savings bonus.
41. But Digit did, in fact, collect revenue from interest because it returned only a portion of the earned interest to consumers as a savings bonus.

42. Digit's representations were about a central characteristic of its service and were therefore material to consumers in deciding whether or not to sign up for the service.
43. Therefore, Digit's representations described in Paragraph 40 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).

CONDUCT PROVISIONS

V.

Prohibited Conduct

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

44. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not misrepresent in Marketing Materials or Terms and Conditions, expressly or impliedly:
- a. Whether Respondent's automated-savings tool will cause an overdraft fee;
 - b. Whether and in what circumstances Respondent will reimburse an overdraft fee caused by Respondent's automated-savings tool;

- c. Whether and in what circumstances Respondent retains or otherwise benefits from interest earned on consumer deposits from its automated savings tool; or
 - d. Any other fact that could be material to a consumer's decision to subscribe to or use Respondent's automated-savings tool.
45. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not require a consumer to connect their third-party bank account to an account of Respondent to obtain reimbursement under Respondent's overdraft-reimbursement policy. Respondent must reimburse consumers under its overdraft-reimbursement policy through a Permissible Refund Method. Respondent must reimburse consumers by direct deposit whenever feasible.

VI.

Compliance Plan

IT IS FURTHER ORDERED that:

46. Within 30 days of the Effective Date, Respondent must submit to the Enforcement Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's

offering and provision of its automated-savings tool complies with all applicable Federal consumer financial laws 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. a description of Respondent's overdraft-reimbursement policy for overdrafts caused by its automated-savings product;
 - c. Respondent's policies, procedures and controls related to its publication of Marketing Materials and Terms and Conditions;
 - d. Respondent's policies, procedures, and controls for its handling of Complaints related to its automated-savings tool; and
 - e. specific timeframes and deadlines for implementation of the steps described above.
47. The Enforcement Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct Respondent to revise it. If the Enforcement Director directs Respondent to revise the Compliance Plan, Respondent must revise and resubmit the Compliance Plan to the Enforcement Director within 20 days.
48. After receiving notification that the Enforcement 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:

49. The Board or the ARC pursuant to its authority delegated by the Board must review all submissions (including plans, reports, programs, policies, and procedures) required by this Consent Order prior to submission to the Bureau.
50. Although this Consent Order requires Respondent to submit certain documents for review or non-objection by the Enforcement 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 laws and this Consent Order.
51. In each instance that this Consent Order requires the Board to ensure adherence to, 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 Board directives related to this Section.

MONETARY PROVISIONS

VIII.

Order to Pay Redress

IT IS FURTHER ORDERED that:

- 52. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account an amount not less than \$68,145, for the purpose of providing redress to Affected Consumers as required by this Section.
- 53. Respondent must reimburse all Affected Consumers for all unreimbursed overdraft fees caused by Digit's automated-savings tool between January 1, 2017 and the Effective Date. Respondent must reimburse Affected Consumers through a Permissible Refund Method. Respondent must reimburse consumers by direct deposit whenever feasible.
- 54. Within 30 days of the Effective Date, Respondent must submit to the Enforcement Director for review and non-objection a comprehensive written plan for providing redress consistent with this Consent Order (Redress Plan).

The Enforcement Director will have the discretion to make a determination of non-objection to the Redress Plan or direct Respondent to revise it. If the Enforcement Director directs Respondent to revise the Redress Plan, Respondent must revise and resubmit the Redress Plan to the Enforcement Director within 15 days. After receiving notification that the Enforcement 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.

55. The Redress Plan must:
- a. describe in detail how Respondent proposes to identify whether an unreimbursed overdraft fee that is the subject of an overdraft-reimbursement request was caused by an auto-save transfer;
 - b. specify that Respondent will provide the redress described in this Section, and a notification explaining that Respondent's redress payment is in accordance with the terms of this Consent Order, to Affected Consumers within 15 days of the Enforcement Director's non-objection to the Redress Plan;
 - c. provide an exemplar of the notification described in subparagraph (b);
- and

- d. describe in detail how Respondent proposes to identify current mailing addresses for Affected Consumers for whom a redress payment by direct deposit is not feasible, which must include reasonable efforts to identify current addresses prior to mailing checks and once any redress checks are returned as undeliverable.
56. After completing the Redress Plan, if the amount of redress provided to Affected Consumers is less than \$68,145, 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 redress provided to Affected Consumers and \$68,145.
57. 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.

58. Respondent may not condition the payment of any redress to any Affected Consumer under this Consent Order on that Affected Consumer waiving any right.

IX.

Order to Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

59. Under § 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 \$2,700,000 to the Bureau.
60. 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.
61. 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 CFPA, 12 U.S.C. § 5497(d).
62. 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.
63. 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 monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action or because of any payment that the Bureau makes from the Civil Penalty Fund. 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.

X.

Additional Monetary Provisions

IT IS FURTHER ORDERED that:

64. 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.
65. 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.
66. 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.
67. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Enforcement 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

XI.

Reporting Requirements

IT IS FURTHER ORDERED that:

68. 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.
69. Within 7 days of the Effective Date, Respondent must:
 - a. 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;

- b. identify all businesses for which Respondent is the majority owner, or that Respondent directly or indirectly controls, by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; and
 - c. describe the activities of each such business, including the products and services offered, and the means of advertising, marketing, and sales.
70. Respondent must report any change in the information required to be submitted under Paragraph 68 above at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.
71. Within 90 days of receiving notice of non-objection to the Compliance Plan, and again one year after receiving notice of non-objection to the Compliance Plan, Respondent must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board, sworn to under penalty of perjury, which, at a minimum:
- a. lists each applicable paragraph and subparagraph of the 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 Redress Plan and Compliance Plan; and
- c. 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:

72. Within 7 days of the Effective Date, Respondent must submit to the Enforcement Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
73. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each member of the Board and to Respondent's and Oportun's executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have non-ministerial responsibilities related to the subject matter of the Consent Order.
74. 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, any future Board members and executive officers of Respondent or Oportun, as well as to any managers, employees, service providers, or other agents and representatives who will have non-ministerial responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.
75. 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.

76. 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 73-74 and a copy of all signed and dated statements acknowledging receipt of this Consent Order under Paragraph 75.

XIII.

Recordkeeping

IT IS FURTHER ORDERED that:

77. Respondent must create and retain 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, including any such materials used by a third party on Respondent's behalf; and
 - d. All consumer complaints and reimbursement requests, the results of Digit's auto-reimbursement tool, and any responses to consumer complaints and reimbursement requests.
78. Respondent must make the documents identified in Paragraph 77 available to the Bureau upon the Bureau's request.

XIV.

Notices

IT IS FURTHER ORDERED that:

79. 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* Hello Digit, Inc., File No. 2022-CFPB-0007,” and send them by overnight courier or first-class mail to the below address and contemporaneously by email to Enforcement_Compliance@cfpb.gov:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

XV.

Compliance Monitoring

IT IS FURTHER ORDERED that:

80. 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.
81. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview regarding: (a) this matter; (b) anything related to or associated with the conduct described in Section IV; or (c) compliance with the Consent Order. The person interviewed may have counsel present.
82. 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.

XVI.

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

83. 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 Enforcement Director.
84. The Enforcement 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 good cause justifies the modification. Any such modification by the Enforcement Director must be in writing.

ADMINISTRATIVE PROVISIONS

XVII.

IT IS FURTHER ORDERED that:

85. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau from taking any other action against Respondent, except as described in Paragraph 86. 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.
86. 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.

87. 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.
88. This Consent Order will terminate on the later of 5 years from the Effective Date or 5 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 initiated within 5 years of the Effective Date. 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. 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.
89. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.

90. 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.
91. 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 CFPB, 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.
92. 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.

93. 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 10th day of August, 2022.

Rohit Chopra

Rohit Chopra

Director

Consumer Financial Protection Bureau