

Exhibit A2

1 **EDELSBERG LAW, P.A.**

2 Scott Edelsberg (SBN: 330090)
3 Adam Schwartzbaum (*Pro Hac Vice*)
4 1925 Century Park East, Suite 1700
5 Los Angeles, CA 90067
6 Telephone: (305) 975-3320
scott@edelsberglaw.com
adam@edelsberglaw.com

7 **SHAMIS & GENTILE, P.A.**

8 Edwin E. Elliott (*Pro Hac Vice*)
9 14 NE 1st Avenue, Suite 705
Miami, FL 33132
10 Telephone: (305) 479-2299
edwine@shamisgentile.com

11 *Counsel for Plaintiffs and the Proposed*
12 *Class*

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14

15 **UNITED STATES DISTRICT COURT**

16

17 **SOUTHERN DISTRICT OF CALIFORNIA**

18

19 **JEFFREY STEPHENSON and BILLY**
20 **SMITH II**, individually, on behalf of
themselves and all others similarly
situated

21 Plaintiffs,

22 v.

23 **NAVY FEDERAL CREDIT UNION,**

24 Defendant.

25 Case No: 3:23-cv-01851-WQH-KSC

26

27 **SECOND AMENDED CLASS**
ACTION COMPLAINT

28 [DEMAND FOR JURY TRIAL]

1 Plaintiffs Jeffrey Stephenson and Billy Smith II (“Plaintiffs”) bring this action on
2 behalf of themselves and all others similarly situated against Defendant Navy Federal
3 Credit Union (“NFCU” or “Defendant”), and state:

4 **I. NATURE OF THE ACTION**

5 1. Every year, more than 2 million consumers fall victim to financial fraud.¹

6 2. Plaintiff Stephenson is one such victim. Immediately after Plaintiff
7 Stephenson learned that his son’s debit card was stolen out of his school backpack, he
8 alerted NFCU to the loss and submitted a fraud claim with substantial factual proof
9 identifying nearly \$1,000 in unauthorized charges.

10 3. One day later, NFCU summarily denied Plaintiff Stephenson’s claim on the
11 grounds that it “found the claim to be unsupported.”

12 4. Plaintiff Stephenson pleaded with the bank three more times to either explain
13 its reasoning for denying the fraud claim or re-review his submitted evidence — after all,
14 how could NFCU determine that Plaintiff Stephenson’s fraud claim was “unsupported”
15 when he submitted supporting evidence? And how could Plaintiff convince NFCU to
16 change its mind if he had no understanding as to why NFCU denied the claim in the first
17 instance?

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28 ¹ Federal Trade Commission, “New FTC Data Show Consumers Reported Losing Nearly \$8.8
Billion to Scams in 2022.” (February 2023).

1 5. Plaintiff Smith—an active duty military member—is another such victim.
2 Plaintiff Smith’s phone was stolen and his checking and savings accounts were accessed
3 without his authority. Plaintiff notified NFCU and submitted a detailed fraud claim
4 identifying thousands of dollars in unauthorized funds transfers.

6 6. Approximately three days later, however, NFCU summarily denied Plaintiff
7 Smith’s claim after concluding that “no error has occurred.”
8

9 7. Plaintiffs were given no opportunity to contest NFCU’s reasoning for denying
10 their fraud claims or any explanation as to how NFCU reached its conclusion. Despite
11 Plaintiffs’ repeated requests for an explanation and further review, and submitting detailed
12 reports of their stolen cards/access device and fraudulent transactions, NFCU mechanically
13 rejected each of Plaintiffs’ claims without performing a reasonable investigation and
14 instead, issued form denial letters devoid of any factual findings or documentation from its
15 alleged investigation.
16

18 8. NFCU’s superficial rejection of Plaintiffs’ bona fide fraud claims and the use
19 of form denial letters without any written explanation or supporting documentation violates
20 federal law.
21

22 9. Long ago, Congress decided financial institutions—and not consumers—must
23 bear the risk of loss in cases of financial fraud. Financial institutions like NFCU are
24 therefore required to refund all timely reported fraud losses to consumers unless the
25 financial institution can affirmatively demonstrate that the disputed transactions were in
26 fact authorized.
27

1 10. If a financial institution like NFCU denies a fraud claim, it must provide a
2 substantive written explanation of its findings and must make the supporting
3 documentation available to any consumer who requests it. Thus, by statute, once fraud is
4 reported, NFCU—not consumers—bears the burden of proving fraud did not occur. NFCU
5 must meet this burden with evidence and must explain its factual findings in writing.
6

7 11. This requirement is more than a formality: financial institutions must explain
8 their findings and provide the requested documentation so that consumers like Plaintiffs
9 can refute the financial institution’s conclusions. Without such information, consumers like
10 Plaintiffs are hamstrung by NFCU’s black-box decision-making.
11

12 12. In sum, NFCU has adopted a fraud investigation process that systematically
13 flips the statutory burden on its head. NFCU denies fraud claims it unilaterally deems to
14 be “unsupported” or that “no error has occurred” without providing any substantive
15 explanation as to how or why it has satisfied its burden of demonstrating that the disputed
16 charges were authorized. In practice, this creates a NFCU versus the consumer system in
17 which NFCU always wins. This is precisely the type of system federal law was designed
18 to prevent.
19

20 13. Moreover, NFCU’s conduct also constitutes an express breach of its contract
21 with accountholders. NFCU’s Debit Card Agreement promises that consumers will only
22 be liable for \$50 if their card is lost or stolen if the consumer timely reports the lost or
23 stolen card. Similarly, NFCU’s Account Disclosures promises that consumers will only be
24 liable for \$50 if their password or other means to access their account, card, or PIN is lost
25

1 or stolen if the consumer timely reports same. But NFCU routinely fails to honor its
2 promises.
3

4 14. NFCU's disregard of its statutory and contractual obligations subjects its
5 accountholders like Plaintiff who similarly fell victim to theft to shoulder thousands of
6 dollars in fraudulent purchases and transactions that they did not authorize.
7

8 15. Plaintiffs bring this action on behalf of themselves and a proposed class of all
9 other similarly situated NFCU accountholders who notified Defendant that one or more
10 charges on their account were unauthorized and were summarily denied reimbursement
11 without a reasonable investigation and explanation because NFCU found the claim to be
12 "unsupported" or that "no error" occurred—a standard which unlawfully reverses the
13 evidentiary burden and results in the denial of reimbursement for fraud losses which, by
14 statute and its contract, should have been covered by NFCU.
15
16

17 II. **PARTIES**

18 16. Plaintiff Jeffrey Stephenson is a citizen and resident of Bonita, California and
19 is a joint owner of a NFCU checking account with his teenage son.
20

21 17. Plaintiff Billy Smith II is a citizen and resident of Los Angeles, California and
22 owner of a NFCU checking and savings account. Plaintiff Smith is also an active duty
23 member of the U.S. Navy with security clearance.
24

25 18. Defendant Navy Federal Credit Union is a national credit union with its
26 headquarters and principal place of business located in Vienna, Virginia. Among other
27 things, NFCU is engaged in the business of providing retail banking services to consumers,
28

1 including Plaintiff and the members of the putative class, which includes the issuance of
2 debit cards for use by its customers in conjunction with their checking accounts. NFCU
3 operates banking centers and thus, conducts business throughout the United States,
4 including within this district.

6 **III. JURISDICTION AND VENUE**

7 19. This Court has jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1693m(g)
8 because Plaintiffs' EFTA claim arises under federal law.

10 20. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 to resolve
11 Plaintiffs' statutory claim arising under California law.

13 21. This Court also has original jurisdiction over the action under the Class Action
14 Fairness Act ("CAFA") of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court
15 has original jurisdiction because the aggregate claims of the putative class members exceed
16 \$5 million, exclusive of interests and costs, and at least one member of the proposed class
17 is a citizen of a different state than NFCU.

19 22. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because NFCU
20 is subject to personal jurisdiction here and regularly conducts business in this district, and
21 because a substantial part of the events or omissions giving rise to the claims asserted
22 herein occurred in this district.

25 **IV. FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

1 23. More than 2 million consumers are the victims of financial fraud every year.²

2 24. Consumers' fraud losses are expected to reach \$165 billion in the next
3 decade as scammers deploy more sophisticated tools and techniques.³

4 **A. Plaintiff Stephenson Was The Victim of Debit Card Fraud**

5 25. Plaintiff Jeffrey Stephenson and his teenage son are joint owners of an NFCU
6 checking account since approximately April 2020. They are also victims of debit card
7 fraud.

8 26. On or around February 22, 2023, Plaintiff Stephenson and his son discovered
9 that their NFCU debit card was missing after noticing several unauthorized transactions
10 had occurred on their account.

11 27. On February 23, 2023, the card was promptly reported as stolen to NFCU and
12 Plaintiff Stephenson submitted a claim of unauthorized debit card activity for a total of
13 \$991.98 in fraudulent purchases.

14 28. Plaintiff Stephenson submitted to NFCU a detailed account as to why these
15 unauthorized transactions were fraudulent purchases. For example, Plaintiff Stephenson
16 disclosed that the purchase history since the debit card was acquired over 400+ purchases
17 ago demonstrates that there were *no* purchases made at Walmart, yet 11 of the unauthorized
18 transactions occurred at Walmart all within the short period of 14 days.

27 ² Federal Trade Commission, "New FTC Data Show Consumers Reported Losing Nearly \$8.8
Billion to Scams in 2022." (February 2023).

28 ³ The Nilson Report, "Payment Card Fraud Losses Reach \$32.34 Billion." (December 2022).

1 29. On February 24, 2023—just one day after Plaintiff Stephenson submitted his
 2 fraud claim—NFCU sent a letter informing Plaintiff Stephenson of its “final
 3 determination” of the fraud claim in which it concluded that “no error has occurred.” *See*
 4 **Exhibit A**, February 24, 2023 Letter (the “First Stephenson Denial Letter”). The First
 5 Denial Letter included no additional detail as to the reason the claim was denied, stating
 6 only:

7 Our investigation was based on a review of your account activity, including,
 8 but not limited to: transaction details, account history, and/or discrepancies
 9 between the fraud claim and your account.

10 *Id.*

11 30. Having received no meaningful explanation why his fraud claim was denied,
 12 Plaintiff Stephenson submitted additional information via NFCU’s website, including
 13 detailed written responses to seven questions posed by NFCU. Plaintiff Stephenson
 14 appealed Defendant’s decision made in the First Denial Letter.

15 31. Plaintiff Stephenson urged NFCU to review Plaintiff Stephenson’s prior
 16 transaction history compared to the fraudulent charges. Plaintiff Stephenson’s appeal
 17 identified specific charges at multiple merchants that Plaintiff had never purchased from
 18 before. Plaintiff Stephenson also pointed out that the account history demonstrates Plaintiff
 19 had only previously made low-dollar purchases with his debit card, unlike many of the
 20 fraudulent charges that were over a \$100.

21 32. Plaintiff Stephenson additionally filed a police report reporting the stolen card
 22 and fraudulent charges and provided NFCU with the report number in his appeal.

1 33. On March 10, 2023, NFCU sent Plaintiff Stephenson another letter reporting
2 the findings of its second review of his fraud claim. Defendant again denied Plaintiff's
3 claim without any explanation as to why:
4

5 After carefully reviewing the information you provided, we have concluded
6 that no error occurred. Therefore, the original decision to deny the claim
7 stands. You are responsible for the full amount of the claim, \$991.98.
8

9 See **Exhibit B**, March 10, 2023 Letter (the "Second Stephenson Denial Letter").
10

11 34. On March 26, 2023, Plaintiff Stephenson requested more information
12 regarding the denial via NFCU's website and noted that he has received no explanation
13 despite the second review and several calls to NFCU's fraud prevention team.
14

15 35. In response, on March 30, 2023, NFCU told Plaintiff Stephenson that, "In
16 order to receive the documents requested, you will need to file a report with your local
17 police department. Your local police can then subpoena our records." See **Exhibit C**,
18 March 30, 2023, NFCU's Online Response to Stephenson.
19

20 36. On or around March 31, 2023, Plaintiff Stephenson met with a branch
21 manager at NFCU to gather more information about NFCU's denials, but no one could
22 offer him any further information about why his fraud claim was denied.
23

24 37. On April 3, 2023, Plaintiff Stephenson was forced to submit a claim to the
25 Consumer Financial Protection Bureau (the "CFPB") as an additional avenue of relief to
26 uncover how NFCU reached its conclusion that no fraud occurred. NFCU responded to the
27 CFPB on June 2, 2023, affirming its conclusion that Plaintiff Stephenson's fraud claim was
28

1 denied and again failing to offer any justification in support of its determination. Instead,
2 NFCU reiterated that it “found the claim to be unsupported.” NFCU further stated:
3

4 Based on the facts of our investigation, we determined that the claim remains
5 denied. All account owners remain responsible for the activity that was
6 conducted on the account.

7 *See Exhibit D*, Stephenson’s CFPB Complaint Status Report.
8

9 38. Based on NFCU’s response, CFPB then closed Plaintiff Stephenson’s
10 complaint.
11

12 39. Plaintiff Stephenson similarly submitted a complaint to the Better Business
13 Bureau (the “BBB”) and NFCU responded directly to Plaintiff on June 2, 2023, again
14 standing behind the decisions reached on its first and second reviews and regurgitating the
15 same response devoid of any rationale or factual support. NFCU reiterated that it “found
16 the claim to be unsupported.” NFCU further stated:
17

18 Based on the facts of our investigation, we determined that the claim remains
19 denied. All account owners remain responsible for the activity that was
20 conducted on the account.

21 *See Exhibit E*, June 2, 2023 Letter (the “Third Stephenson Denial Letter”).
22

23 40. To date, Plaintiff Stephenson has not been refunded any of the \$991.98 in
24 fraudulent purchases.
25

26 41. Indeed, despite Plaintiff Stephenson submitting detailed information to prove
27 he incurred unauthorized transactions, NFCU flatly refused to find any “error” occurred
28 and did so without providing any substantive explanation or justification. It was NFCU’s
burden to prove that these disputed transactions were authorized—not Plaintiff’s—and its

1 failure to do so is unlawful and unfair to Plaintiff and thousands of other consumers who
 2 have to bear the consequences of stolen funds in unlimited sums.
 3

4 **B. Plaintiff Smith Was The Victim of Fraud**

5 42. Plaintiff Smith was temporarily assigned to Pensacola, Florida to attend
 6 training for the Navy. On either July 13 or July 14, 2024, Plaintiff's phone was stolen while
 7 he was on a trip to New Orleans. Plaintiff tried retracing his steps and searching his hotel
 8 room to locate his phone but was unsuccessful. On July 14, 2024, Plaintiff discovered that
 9 (1) his account was compromised, and (2) thousands of dollars had been stolen in
 10 unauthorized and fraudulent transfers and/or withdrawals.
 11

12 43. On July 14, 2024, Plaintiff immediately reported to NFCU that his phone had
 13 been stolen and his account information was compromised and submitted a detailed claim
 14 of unauthorized and fraudulent account activity worth thousands of dollars. In doing so,
 15 Plaintiff sufficiently informed NFCU as to why these unauthorized transactions were
 16 fraudulent and improper.⁴
 17

18 44. Just a few days after Plaintiff Smith submitted his fraud claim—on July 17,
 19 2024—NFCU sent a letter informing Plaintiff of its “final determination” of the \$9,800.00
 21 fraud claim in which it concluded that “no error has occurred.” *See Exhibit F*, July 17,
 22 2024 Letter (“First Smith Denial Letter”). The First Smith Denial Letter further stated:
 23
 24

25
 26
 27 ⁴ One day later, Plaintiff Smith tracked the location of his phone to Memphis, Tennessee—clearly
 28 demonstrating that his phone had been stolen and informed NFCU of the same.

1 Based on the facts of our investigation, we have determined that no error has
 2 occurred and your claim has been denied. Additionally, we have reviewed
 3 your transaction history and, based on the facts surrounding the use of your
 4 account, we have found that you benefited from the transaction(s). As a
 5 consumer, you have the right to request any documentation that was used in
 6 the decision of this claim.

7 *Id.*

8 45. Needless to say, Plaintiff Smith was shocked as these transactions took place
 9 *after* his phone was stolen and he did not receive any benefit from them, let alone know
 10 who or what they were for. Having received no detailed or meaningful explanation as to
 11 why his fraud claim was denied, and having received no findings from NFCU as to why
 12 his claim was denied or how he “benefitted” from same, Plaintiff Smith appealed
 13 Defendant’s decision made in the First Smith Denial Letter. In doing so, Plaintiff Smith
 14 provided a detailed, written account of the fraud claim and the circumstances surrounding
 15 same to NFCU.

16 46. On August 12, 2024, after Plaintiff Smith inquired about the status of the
 17 appeal, NFCU sent Plaintiff another letter (this time in the form of an e-message) reporting
 18 the findings of its “second review” of his fraud claim. Defendant again denied Plaintiff’s
 19 claim without any explanation or findings:

20 After a second review of your claim, it has been determined that your claim
 21 will remain denied.

22 See **Exhibit G**, August 12, 2024 NFCU Online Response to Smith.

1 47. In response, Plaintiff asked for the documentation supporting the denial of the
2 fraud claim, which NFCU promised it would provide as part of its first denial letter.
3 Revealingly, NFCU refused to provide any documents. Instead, Defendant claimed that:
4

5 During our investigation, we use various methodologies to achieve the best
6 results, which may include internal databases, monthly statements, merchant
7 documentation (if applicable) and any information obtained directly from the
8 member. Please note that we are unable to provide sensitive information that
does not fall within compliance.

9 *See id; see also* Dkt. 19-2 and Exhibit E attached thereto (NFCU's same online
10 response to Stephenson's request for documents).

11 48. By denying Plaintiff Smith's claim on the unsupported, vague, and conclusory
12 ground that "no error has occurred" after just a few days of conducting a purported
13 "investigation," and by failing to provide a detailed explanation of its findings supporting
14 its denial (or any documents in support of same), NFCU flouts the EFTA and Regulation
15 E's investigation and error resolution requirements and ultimately fails to satisfy its burden
16 of proving that the unauthorized transactions as reported by Plaintiff Smith were in fact
17 authorized.

18 49. Despite Plaintiff Smith submitting detailed information to prove he suffered
19 from unauthorized transactions, NFCU flatly refused to find any "error" occurred and did
20 so without providing any substantive explanation or findings and refusing to provide the
21 requested documentation. It was NFCU's burden to prove that these disputed transactions
22 were authorized—not Plaintiff Smith's—and its failure to do so is unlawful and unfair to
23

1 Plaintiff Smith and thousands of other consumers who have to bear the consequences of
2 stolen funds in unlimited sums.
3

4 50. To date, Plaintiff Smith has not been refunded the outstanding fraudulent
5 transfers and/or withdrawals. Meanwhile, Plaintiff is an active military member with a wife
6 and child who relies on his military salary alone. Plaintiff and his family cannot afford to
7 simply lose thousands of dollars from their bank accounts.
8

9 **C. NFCU Flouts the Requirements of the Electronic Funds Transfer Act
10 Regarding Its Investigation of Fraudulent and Unauthorized
11 Transactions**

12 51. Congress established the Electronic Funds Transfer Act (the “EFTA”), 15
13 U.S.C. §§ 1693, *et seq.* to guarantee strong protections for consumers who engage in
14 electronic fund transfers. Among the widespread protections afforded under these statutes,
15 financial institutions like NFCU are required to maintain thorough practices for error
16 resolution, including to promptly investigate fraud claims, to provide consumers with
17 substantive written explanations of its investigations and conclusions, to limit consumer
18 liability for unauthorized transactions, and, if ultimately denying those fraud claims, to bear
19 the burden of proving that a consumers’ disputed transactions were in fact authorized.
20
21

22 52. The EFTA requires that financial institutions limit consumer liability for
23 unauthorized electronic funds transfers to \$50 if the consumer notifies the bank within two
24 business days after learning of the loss or theft of an access device such as a phone or debit
25 card. 12 C.F.R. § 205.6(b)(1).
26
27

1 53. The EFTA places the burden of proof on the financial institution to
 2 demonstrate that challenged transfers were authorized or, if they were unauthorized, that
 3 the consumer can be held liable for them. 15 U.S.C. § 1693g(b).
 4

5 54. Specifically, under Section 1693g(b), the financial institution must show that
 6 the disputed transfer was authorized:
 7

8 BURDEN OF PROOF.--In any action which involves a consumer's liability
 9 for an unauthorized electronic fund transfer, the burden of proof is upon the
 10 financial institution to show that the electronic fund transfer was authorized
 11 or, if the electronic fund transfer was unauthorized, then the burden of proof
 12 is upon the financial institution to establish that the conditions of liability set
 13 forth in subsection (a) have been met, and, if the transfer was initiated after
 14 the effective date of section 905, that the disclosures required to be made to
 15 the consumer under section 905(a)(1) and (2) were in fact made in accordance
 16 with such section.
 17

18 55. As a Federal Reserve Board Examiner has explained, "if the institution
 19 cannot establish the disputed EFT transaction was authorized, the institution must credit
 20 the consumer's account."⁵
 21

22 56. NFCU explicitly reverses that burden, regularly denying claims on grounds
 23 that they "found the claim to be unsupported" or found "no error" based on "discrepancies
 24 between the fraud claim and your account."
 25

26 5 Scott Sonbuchner, *Error Resolution and Liability Limitations Under Regulations E and Z: Regulatory Requirements, Common Violations, and Sound Practices*, Consumer Compliance
 27 Outlook (2021), available at <https://www.consumercomplianceoutlook.org/2021/secondissue/error-resolution-and-liability-limitations-under-regulations-e-and-z/>.
 28

1 57. Further, by statute, NFCU is required to support any denial with a written
2 explanation of its findings and is required to provide copies of the documents it relied upon
3 in concluding that the disputed transaction was authorized. Specifically, pursuant to 15
4 U.S.C. § 1693f(d) and 12 C.F.R. § 1005.11(d), NFCU must provide a written explanation
5 detailing the results of its investigation:

6 **Written explanation.** The institution's report of the results of its investigation
7 shall include a written explanation of the institution's findings and shall note
8 the consumer's right to request the documents that the institution relied on in
9 making its determination. Upon request, the institution shall promptly provide
10 copies of the documents.

11 58. NFCU fails to comply with its statutory obligations by failing to provide
12 written explanations of its denials and by failing to provide copies of documents it relied
13 on to determine the disputed transactions were authorized. Instead, NFCU routinely denies
14 claims without any explanation whatsoever, stating only its conclusion in a form letter that
15 a claim has been denied because supposedly “no error occurred.”

16 59. Moreover, NFCU violates the EFTA by requiring consumers to file police
17 reports to receive copies of the documents underlying its investigation, which again,
18 violates the statute. *See Exhibit B.*

19 60. Instead, when consumers request the underlying investigative documents that
20 Navy Federal is federally mandated to produce, NFCU flatly refuses. *See Exhibit G; see*
21 *also Dkt. 19-2 and Exhibit E attached thereto.*

22 61. NFCU's boilerplate denial letters flip the burden of proof onto consumers to
23 *disprove* the supposed reasonableness of its investigation. But EFTA puts the burden of
24

1 proof on financial institutions to show that disputed charges were authorized. 15 U.S.C. §
 2 1693g(b).
 3

4 62. Further, the EFTA prohibits financial institutions from using accountholder
 5 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693l.
 6

7 63. NFCU's Debit Card Agreement purports to allow NFCU to deny claims for
 8 unauthorized transactions when NFCU does not "confirm" those transactions to be
 9 fraudulent. *See Exhibit H*, Debit Card Agreement ¶ 15. NFCU asserts that the Agreement
 10 provides it with "flexibility" to unilaterally "conclude a transaction was not unauthorized"
 11 (Dkt. No. 11-1 at 18) without any substantive explanation of its findings. *See id.*
 12

13 64. In these ways, NFCU attempts to use its Debit Card Agreement to waive the
 14 requirements of the EFTA, in further violation of the statute.
 15

16 65. In sum, by denying Plaintiff's claim because it "found the claim to be
 17 unsupported" or "no error occurred" and by failing to provide a written explanation of its
 18 findings to support its denial and refusing to provide the documents it relies on in making
 19 its determination, NFCU flouts the EFTA's investigation and error resolution requirements
 20 and ultimately fails to satisfy its burden of demonstrating that the unauthorized transactions
 21 as reported by Plaintiffs were in fact authorized. Further, by doing the foregoing in reliance
 22 on its Debit Card Agreement, NFCU violates 15 U.S.C. § 1693l.
 23

24 ***NFCU's Investigation was Conclusory and Insufficient and Failed to Provide a Written
 25 Explanation of Its Findings to Support Its Denial***
 26

1 66. Under the EFTA, if the consumer alleges that there has been an unauthorized
2 transfer, the consumer's financial institution **must** investigate and determine if the
3 allegation is true, correcting any unauthorized transfer that occurred. 12 C.F.R. § 1005,
4 Supp. I at 11(c)(4) (emphasis added).

5 67. Financial institutions are liable to the consumer if they do not
6 conduct a good faith investigation of the claim, reject the claim despite not having a
7 reasonable basis to do so, or unreasonably fail to draw from the evidence that no error had
8 occurred. 15 U.S.C. § 1693f(e).

9 68. When investigating a consumer's claim of error, which includes unauthorized
10 transfers, 15 U.S.C. § 1693f(f), "the financial institution **must** review any relevant
11 information within the institution's own records for the particular account to resolve the
12 consumer's claims." 12 C.F.R. § 1005, Supp. I at 11(c)(4) (emphasis added).

13 69. NFCU received notice from Plaintiffs of the facts and circumstances of the
14 unauthorized transactions. But NFCU ignored or failed to meaningfully consider that
15 Plaintiffs' disputed the transactions as unauthorized.

16 70. Similarly, NFCU ignored or failed to meaningfully consider Plaintiffs'
17 transaction histories for a reasonable period of time immediately preceding their claims for
18 consistency with prior transaction history. As it relates to Plaintiff Stephenson, he
19 identified specific charges at multiple merchants that Plaintiff had never purchased from
20 before. Plaintiff Stephenson also pointed out that the account history demonstrates Plaintiff
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1 Stephenson had only previously made low-dollar purchases with his debit card, unlike
 2 many of the fraudulent charges that were over \$100.
 3

4 71. Plaintiff Stephenson also provided NFCU with a copy of the police report for
 5 his stolen card and fraudulent transactions after his claim was denied.
 6

7 72. For Plaintiff Smith, NFCU ignored that he had never transferred money to the
 8 recipients and that the transfers occurred after his phone had been stolen. The unauthorized
 9 transfers included transfers of \$5,000 and \$4,000 that occurred on the same day and to
 10 recipients he had no transaction history with and were by far the largest transfers posted to
 11 his account in recent months.
 12

13 73. Despite this, NFCU's denial letters opaquely stated, "no error has occurred[.]"

14 74. NFCU's boilerplate denial letters fail to explain the
 15 review it conducted of its own records, including the specific records it reviewed and how
 16 these specific records supported NFCU's conclusion that the subject transactions
 17 supposedly had "no error."
 18

19 ***NFCU failed to comply with its error resolution obligations and did not reimburse***
 20 ***Plaintiffs for the unauthorized transactions***

22 75. The EFTA requires that financial institutions limit consumer liability for
 23 unauthorized electronic funds transfers to \$50 if the consumer notifies the bank within two
 24 business days after learning of the loss or theft of an access device such as a debit card. 12
 25 C.F.R. § 205.6(b)(1).
 26

1 76. Consumer negligence plays no role in determining the consumer's maximum
 2 liability. For example, if a consumer wrote their pin number on a debit card which was
 3 used by a third party to initiate an unauthorized transaction, NFCU would still have an
 4 error resolution obligation to reimburse the consumer. Comment to 12 C.F.R. § 1005.6(b)
 5 – 2.

6 77. In violation of its “error resolution” obligation under 12 C.F.R. § 1005.11,
 7 NFCU did not reimburse Plaintiffs’ losses from the unauthorized transactions.

8 78. To date, Plaintiff Stephenson has not been reimbursed for nearly \$1,000 in
 9 fraudulent transactions. Nor has Plaintiff Smith been reimbursed fully for over \$11,000 in
 10 fraudulent transactions.

11 **D. NFCU Breaches Contract Promises that Fraudulent and Unauthorized
 12 Transactions Come with Zero Fraud Liability, or at a Minimum, Limit
 13 Liability**

14 79. NFCU’s Debit Card Agreement makes a simple, straightforward promise for
 15 debit card transactions:

16 **Cardholder Liability for Unauthorized Transactions: *NOTIFY US AT
 17 ONCE if you believe that your DC or personal identification number
 18 (PIN) has been lost, stolen, or used (or may be used) without your
 19 authority.*** The best way to minimize your possible losses is to contact us as
 20 soon as possible by calling us at the number above or, if you have Navy
 21 Federal Online Banking, by using the Report Fraud feature. You may also
 22 notify us in person at any branch or in writing using the address above.

23 **Timely Notice of Missing DC:** If you notify us within 2 business days after
 24 you learn of the loss or theft of your DC or PIN, your losses will be no more
 25 than \$50 if someone used your DC or PIN without your permission.

26 Debit Card Agreement ¶ 14.

1
2 80. Plaintiff Stephenson “believe[d] that [his] [debit card] ha[d] been lost” and
3 duly notified NFCU of the loss of his debit card within 2 business days of learning of the
4 loss.
5

6 81. Despite this notification, Plaintiff Stephenson’s losses total close to \$1,000.
7

8 82. By failing to limit Plaintiff Stephenson’s liability to \$50, NFCU breached its
9 contract.
10

10 83. Similarly, NFCU’s Account Disclosures promises that for electronic funds
11 transfers:
12

13 **Your Liability for Unauthorized Electronic Funds Transfers**
14 **Notify us AT ONCE if you believe:**

15 • your account may have been accessed without your authority;
16 • your card, code, or password has been lost or stolen;
17 • someone has transferred or may transfer money from your account
18 without your permission; or
19 • an electronic funds transfer has been made without your permission
20 using information from your check or your MMSA check.
21

21 The best way to minimize your possible loss is to telephone or, if you have
22 Online Banking, contact us through our eMessaging system at
23 **navyfederal.org**, although you may advise us in person or in writing.
24

25 [...]
26

27 If you tell us within two (2) business days after you discover your password
28 or other means to access your account has been lost or stolen, your liability is
no more than \$50.00 should someone access your account without your
permission.
29

30 See **Exhibit I**, Account Disclosures at p. 13-14.
31

84. Plaintiff Smith believed his “account [had] been accessed without [his] authority,” believed that his “card, code, or password [had] been lost or stolen,” believed that “someone [had] transferred … money from [his] account without [his] permission” and duly notified NFCU of the loss within 2 business days of learning same.

85. Despite this notification, Plaintiff Smith's losses total thousands of dollars.

86. By failing to limit Plaintiff Smith's liability to \$50, NFCU breached its contract.

E. NFCU Breaches the Covenant of Good Faith and Fair Dealing

87. In addition to the foregoing, NFCU also promises that NFCU will investigate “unauthorized transactions” in accordance with its “Billing Error Resolution” process. Debit Card Agreement at ¶ 16; *see also* Account Disclosures at p. 14 (describing substantially similar error resolution procedures).

88. For debit card transactions that NFCU “confirms” are fraudulent, NFCU promises “zero liability.”

Navy Federal's Zero Liability Policy for Fraud: In addition to the liability limits above, if you notify us of suspected fraud within 60 days of the statement date on which the fraudulent transactions first appear, we will not hold you responsible for confirmed fraudulent transactions. This Zero Liability policy only covers transactions that have been confirmed by Navy Federal as fraudulent.

Debit Card Agreement at ¶ 15.

89. NFCU thus vests itself with unilateral discretion to “confirm” or deny whether a fraudulent transaction occurred.

1 90. NFCU has significant discretion in conducting these investigations and has an
2 obligation to conduct these investigations in good faith.
3

4 91. NFCU fails to conduct these investigations in good faith, and instead
5 summarily denies bona fide fraud claims based on shoddy investigations, completed behind
6 closed doors and without any explanation.
7

8 92. NFCU's conduct breaches the covenant of good faith and fair dealing.
9

10 **V. CLASS ACTION ALLEGATIONS**

11 93. Plaintiffs bring this action on their own behalf and on behalf of all others
12 similarly situated. The proposed Class includes:
13

14 All holders of a Navy Federal checking and/or savings account who, within
15 the applicable statute of limitations preceding the filing of this lawsuit up until
16 the date of class certification, notified Navy Federal that one or more charges
17 on their account totaling more than \$50 were unauthorized and were denied
reimbursement with a form letter and without a written explanation of Navy
Federal's findings demonstrating that the disputed charge(s) were authorized
("Reg E Class").
18

19 All holders of a Navy Federal checking and/or savings account who, within
20 the applicable statute of limitations preceding the filing of this lawsuit up until
21 the date of class certification, notified Navy Federal that one or more charges
22 on their account totaling more than \$50 were unauthorized and were denied
reimbursement and who were not timely provided a copy of the investigative
documents upon request in accordance with 15 U.S.C. § 1693f(d) and its
implementing regulations ("Investigative Documents Class").
23

24 All holders of a Navy Federal checking account who, within the applicable
25 statute of limitations preceding the filing of this lawsuit up until the date of
class certification, timely notified Navy Federal that one or more charges on
26 their account were unauthorized and were denied reimbursement by Navy
Federal ("Breach of Contract Class").
27
28

1 94. Additionally, Plaintiffs propose California subclasses for each of the
2 foregoing classes (“California Subclasses”).
3

4 95. Excluded from the Class is Defendant, its subsidiaries and affiliates, their
5 officers, directors and members of their immediate families and any entity in which
6 Defendant has a controlling interest, the legal representatives, heirs, successors or assigns
7 of any such excluded party, the judicial officer(s) to whom this action is assigned, and the
8 members of their immediate families.
9

10 96. The Class and alternative state subclasses defined above are collectively
11 referred to herein as the “Class.” Plaintiffs reserve the right to modify or amend the
12 definition of the proposed Class and/or to add a subclass(es), if necessary, before this Court
13 determines whether certification is appropriate.
14

15 97. **Numerosity (Rule 23(a)(1)).** The proposed Class is numerous such that
16 joinder is impracticable. Upon information and belief, and subject to class discovery, the
17 Class consists of thousands of members or more, the identity of whom are within the
18 exclusive knowledge of and can be ascertained only by resort to NFCU’s records. The
19 proposed Class is also sufficiently ascertainable because NFCU has the administrative
20 capability through its computer systems and other business records to identify all members
21 of the proposed Class, and such specific information is not otherwise available to Plaintiff.
22

23 98. **Commonality (Rule 23(a)(2)).** The questions here are ones of common or
24 general interests such that there is a well-defined community of interest among the
25 proposed Class members. These questions predominate over questions that may affect only
26
27
28

1 individual Class members because NFCU has acted on grounds generally applicable to the
2 proposed Class. Such common legal or factual questions include, but are not limited to:
3

- 4 a. Whether NFCU failed to comply with the EFTA's and Regulation E's
5 unauthorized electronic fund transfers limitations on consumer liability
under 15 U.S.C. § 1693g(a) and 12 C.F.R. § 205.6(b)(1);
6
- 7 b. Whether NFCU failed to satisfy the EFTA's assigned burden upon
financial institutions to prove that the disputed electronic transactions were
in fact authorized under 15 U.S.C. § 1693g(b);
8
- 9 c. Whether NFCU's Debit Card Agreement violates 15 U.S.C. § 1693l;
10
- 11 d. Whether NFCU failed to comply with the EFTA's and Regulation E's
written explanation requirements under 15 U.S.C. § 1693f(d) and 12
C.F.R. § 1005.11(d)(4)(ii) upon denying an accountholder's fraud claim;
12
- 13 e. Whether NFCU failed to comply with the EFTA's and Regulation E's
request for copies of documentation requirements under 15 U.S.C. §
1693f(d) and 12 C.F.R. § 1005.11(d)(1) upon denying an accountholder's
fraud claim;
14
- 15 f. Whether NFCU's denial of fraud claims on the grounds that it determined
no error occurred without any further written explanation is unlawful under
the EFTA;
16
- 17 g. Whether NFCU's investigations of fraud claims are inadequate,
unreasonable, or unfair;
18
- 19 h. Whether NFCU's practice of denying fraud claims constitutes an unfair,
misleading, or unlawful business practice under California's Unfair
Competition Law (the "UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*;
20
- 21 i. Whether NFCU breached its contract with accountholders or breached the
covenant of good faith and fair dealing;
22
- 23 j. Whether Plaintiffs and other members of the proposed Class are entitled to
injunctive relief to enjoin NFCU's from its unlawful business practices
described herein; and
24
- 25
- 26
- 27
- 28

1
2 k. Whether Plaintiffs and other members of the proposed Class have
3 sustained damages as a result of NFCU's wrongful business practices
4 described herein and the measure of damages.

5 99. **Typicality (Rule 23(a)(3)).** Plaintiffs' claims are typical of the claims of the
6 other proposed Class members in that they arise out of the same wrongful business practice
7 by NFCU, as described herein.

8 100. **Adequacy (Rule 23(a)(4)).** Plaintiffs are more than adequate representatives
9 of the proposed Class in that they have suffered damages as a result of NFCU's improper
10 business practices. Additionally:

11 1. Plaintiffs are committed to the vigorous prosecution of this action on
12 behalf of themselves and all others similarly situated and has retained
13 competent counsel experienced in the prosecution of class actions and, in
14 particular, class actions on behalf of consumers against financial
15 institutions;

16 m. There is no conflict of interest between Plaintiffs and the unnamed Class
17 members;

18 n. Plaintiffs anticipate no difficulty in the management of this litigation as a
19 class action; and

20 o. Plaintiffs' legal counsel has the financial and legal resources to meet the
21 substantial costs and legal issues associated with this type of litigation.

22 101. **Predominance & Superiority (Rule 23(b)(3)).** Plaintiffs' proposed class
23 action is the superior method for resolving this dispute because it is impracticable to bring
24 proposed Class members' individual claims before the Court. Class treatment permits a
25 large number of similarly situated persons or entities to prosecute their common claims in
26 a single forum simultaneously, efficiently, and without the unnecessary duplication of
27
28

1 evidence, effort, expense, or the possibility of inconsistent or contradictory judgments that
 2 numerous individual actions would engender. The benefits of the class action mechanism,
 3 including providing injured persons or entities with a method for obtaining redress on
 4 claims that might not be practicable to pursue individually, substantially outweigh any
 5 difficulties that may arise in the management of this class action. Plaintiffs know of no
 6 difficulty to be encountered in the maintenance of this action that would preclude its
 7 maintenance as a class action.

10 **102. Final Declaratory or Injunctive Relief (Rule 23(b)(2)).** Plaintiffs also
 11 satisfy the requirements for maintaining a class action under Rule 23(b)(2). Defendant has
 12 acted or refused to act on grounds generally applicable to each of the Class, thereby making
 13 appropriate final injunctive relief or corresponding declaratory relief with respect to each
 14 Class as a whole.

17 **103. Particular Issues (Rule 23(c)(4)).** Plaintiffs also satisfy the requirements for
 18 maintaining a class action under Rule 23(c)(4). Plaintiffs' claims consist of particular issues
 19 that are common to all members of the Classes and are capable of class-wide resolution
 20 that will significantly advance the litigation.

22 **FIRST CAUSE OF ACTION**

23 **Violation of the Electronic Funds Transfers Act (“EFTA”)**
 24 **15 U.S.C. §§ 1693, *et seq.*; 12 C.F.R. §§ 1005.1, *et seq.* (“Regulation E” of the EFTA)**
(On Behalf of Plaintiffs and the Reg. E Class and Investigative Documents Class)

26 **104. Plaintiffs incorporates the preceding allegations by reference as if fully set**
 27 **forth herein.**

1 105. Plaintiffs bring this cause of action pursuant to the Electronic Fund Transfers
2 Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§
3 1005.1, *et seq.*
4

5 106. The primary objective of the EFTA is “the protection of individual consumers
6 engaging in electronic fund transfers and remittance transfers.” 12 C.F.R. § 1005.1(b).
7

8 107. Financial institutions have error resolution obligations pursuant to Regulation
9 E in the event that a consumer notifies the financial institution of an error. 12 C.F.R. §
10 1005.11.
11

12 108. Plaintiffs notified NFCU of an error and the amount of the error.
13

14 109. The EFTA provides strong protection for consumers arising from
15 unauthorized transactions, including by requiring that financial institutions limit consumer
16 liability for unauthorized funds transfers to \$50 if the consumer notifies the financial
17 institution within two business days after learning of the loss or theft of a debit card, or
18 within sixty days of transmittal of the account statement reflecting the unauthorized
19 transactions. *See* 15 U.S.C. § 1693g(a).
20

21 110. Regulation E similarly provides that “[a] consumer’s liability for an
22 unauthorized electronic transfer or a series of related unauthorized transfers shall be
23 determined as follows: . . . If the consumer notifies the financial institution within two
24 business days after learning of the loss or theft of the access device, the consumer’s liability
25 shall not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before
26 notice to the financial institution.” 12 C.F.R. § 205.6(b)(1).
27
28

1 111. The EFTA further places the burden on the financial institution to demonstrate
2 that challenged transfers were in fact authorized. *See* 15 U.S.C. § 1693g(b) (“In any action
3 which involves a consumer’s liability for an unauthorized electronic fund transfer, the
4 burden of proof is upon the financial institution to show that the electronic fund transfer
5 was authorized . . .”).
6

7 112. NFCU explicitly reverses that burden, regularly denying claims on grounds
8 that they found “no error has occurred” or “found the claim to be unsupported.”
9

10 113. NFCU failed to comply failed to comply with its EFTA and Regulation E
11 duties to properly investigate reported claims of error. *See* 15 U.S.C. § 1693f(c); 12 C.F.R.
12 § 205.11(c)(4).
13

14 114. NFCU did not make a good faith investigation and instead summarily denied
15 bona fide fraud claims, failing to consider all information it had available to it.
16

17 115. NFCU refused to reimburse Plaintiffs after it deemed its investigation
18 concluded.
19

20 116. Accordingly, NFCU failed to comply with its error resolution and
21 reimbursement obligations to Plaintiffs under EFTA, 15 § U.S.C. 1693f–1693g, and
22 Regulation E. *See* 12 C.F.R. § 1005.11.
23

24 117. Additionally, the EFTA requires that in the event the financial institution
25 determines that an error did *not* occur, it is required to provide the consumer with “an
26 explanation of its findings” and “upon the request of the consumer promptly deliver or mail
27
28

1 to the consumer reproductions of all documents which the financial institution relied on to
2 conclude such error did not occur.” 15 U.S.C. § 1693f(d).

3 118. Similarly, Regulation E provides that if the financial institution determines
4 “no error” occurred, then it is required to provide a written explanation to justify its denial:

5 **Written explanation.** The institution’s report of the results of its investigation
6 shall include a written explanation of the institution’s findings and shall note
7 the consumer’s right to request the documents that the institution relied on in
8 making its determination. Upon request, the institution shall promptly provide
9 copies of the documents.

10 119. NFCU fails to provide a written explanation of the results of its investigation
11 and instead relies on form letters which state in conclusory fashion, “no error occurred.”
12 Such letters do not comply with the EFTA’s requirements because they fail to explain to
13 consumers why their claim was denied, thus making it impossible to challenge the financial
14 institution’s findings.

15 120. NFCU boilerplate denial letters fail to explain whether Defendant, in
16 reviewing its own records, considered: the sum of each electronic fund transfer, the
17 recipient or merchant of each electronic fund transfer, the number of electronic fund
18 transfers processed in one day, and whether the Plaintiffs had previously solicited the
19 merchant(s).

20 121. NFCU also fails to provide the consumers with documents it relied on to
21 conclude that such error did not occur in violation of 15 U.S.C. § 1693f(d).

22 122. Plaintiffs requested NFCU to provide them with the documents relied on to
23 deny their claim, but they were never provided to them. NFCU also violates the EFTA by

1 requiring consumers to file police reports to receive copies of the documents it relied upon
2 in concluding that the disputed transaction was authorized.
3

4 123. Further, the EFTA prohibits financial institutions from using accountholder
5 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693*l*.

6 124. NFCU's Debit Card Agreement purports to allow NFCU to deny claims for
7 unauthorized transactions when NFCU does not "confirm" those transactions to be
8 fraudulent. Debit Card Agreement ¶ 15. NFCU asserts that the Agreement provides it with
9 "flexibility" to unilaterally "conclude a transaction was not unauthorized" (Dkt. No. 11-1
10 at 18) without any substantive explanation of its findings.
11

12 125. NFCU's Debit Card Agreement, as interpreted by NFCU, requires consumers
13 to waive these rights conferred by the EFTA and therefore violates the EFTA.
14

15 126. A financial institution will be held liable to the consumer for treble damages
16 where "the financial institution knowingly and willfully concluded that the consumer's
17 account was not in error when such conclusion could not reasonably have been drawn from
18 the evidence available to the financial institution at the time of its investigation." 15 U.S.C.
19 § 1693f(e)(2).
20

21 127. Plaintiffs provided notice to NFCU within two business days of discovering
22 that their debit card or access device had been stolen and that there were unauthorized
23 charges.
24

25 128. Plaintiffs requested NFCU provide them with the documents relied on to deny
26 their claims, but were never provided them.
27
28

1 129. By denying Plaintiffs' claims because it "found the claim to be unsupported"
2 or "no error has occurred" and by failing to provide a written explanation detailing its
3 investigation and findings and failing to provide the documents it relied on for its decision,
4 NFCU flouts the EFTA and Regulation E's investigation and error resolution requirements
5 and ultimately fails to satisfy its burden of proving that the unauthorized transactions as
6 reported by Plaintiffs were in fact authorized.
7
8

9 130. NFCU's affirmative actions and omissions violate the EFTA and Regulation
10 E whose "primary objective[s]" are "the protection of consumers" and "the protection of
11 individual consumer rights." *See* 12 C.F.R. § 1005.1(b); 15 U.S.C. § 1693(b).
12

13 131. As a direct and proximate result of NFCU's improper conduct outlined herein,
14 Plaintiffs and members of the putative class have suffered financial harm in the form of
15 being on the hook for hundreds of dollars in fraudulent transactions that they did not
16 authorize.
17

18 132. Accordingly, Plaintiffs and members of the putative class are entitled to an
19 award of statutory and actual damages, including attorneys' fees and costs, as set forth
20 under 15 U.S.C. § 1693m(a).
21

22 133. Additionally, Plaintiffs and members of the putative class are entitled to treble
23 damages pursuant to 15 U.S.C. § 1693f(e) given NFCU's knowing and willful inadequate
24 investigations of Plaintiff's and absent class members' fraud claims.
25
26 \\\
27 \\\
28

SECOND CAUSE OF ACTION

Breach of Contract Including Breach of the Covenant of Good Faith & Fair Dealing (On Behalf of Plaintiffs and the Breach of Contract Class and California Subclass)

134. Plaintiffs incorporate the preceding allegations by reference as if fully set forth herein.

135. Plaintiffs and members of the Class contracted with NFCU for checking account services, as embodied in the Account Disclosures, including the Debit Card Disclosure.

136. NFCU breached the terms of its contract with consumers when, as described herein, NFCU failed to fairly investigate reported erroneous and fraudulent transactions and failed to reimburse accountholders for fraud losses incurred on debit card transactions and/or their deposit accounts.

137. Further, under the law of each of the states where NFCU does business, an implied covenant of good faith and fair dealing governs every contract. The covenant of good faith and fair dealing constrains NFCU's discretion to abuse self-granted contractual powers.

138. This good faith requirement extends to the manner in which a party employs discretion conferred by a contract.

139. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form.

1 Evading the spirit of the bargain and abusing the power to specify terms constitute
2 examples of bad faith in the performance of contracts.
3

4 140. Subterfuge and evasion violate the obligation of good faith in performance
5 even when an actor believes his conduct to be justified. A lack of good faith may be overt
6 or may consist of inaction, and fair dealing may require more than honesty. Other examples
7 of violations of good faith and fair dealing are willful rendering of imperfect performance,
8 abuse of a power to specify terms, and interference with or failure to cooperate in the other
9 party's performance.
10

11 141. NFCU breached the covenant of good faith and fair dealing when (1) it failed
12 to fairly investigate reported erroneous and fraudulent transactions; (2) failed to reimburse
13 accountholders for fraudulent losses incurred on debit card transactions; and (3)
14 unilaterally determined that the fraud claims were “unsupported” or that “no error
15 occurred” when it failed to consider all the evidence available to it at the time of its
16 decision.
17

18 142. Each of NFCU’s actions were done in bad faith and were arbitrary and
19 capricious.
20

21 143. Plaintiffs and members of the Class have performed all of the obligations
22 imposed on them under the contract.
23

24 144. Plaintiffs and members of the Class have sustained monetary damages as a
25 result of NFCU’s breaches of the contract and covenant of good faith and fair dealing.
26
27

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against NFCU for themselves and the proposed Class members as follows:

- a. Certifying the proposed Class, appointing Plaintiffs as representatives of the Class, and appointing Plaintiffs' counsel as class counsel for the proposed Class;
- b. Declaring that NFCU's policies and practices described herein constitute a violation of the EFTA, Regulation E, and breach of contract and breach of the covenant of good faith and fair dealing;
- c. Enjoining NFCU from the wrongful conduct as described herein on behalf of the general public;
- d. Awarding actual damages and statutory damages in an amount according to proof;
- e. Awarding treble damages, if permitted by law;
- f. Awarding pre-judgment interest at the maximum rate permitted by applicable law;
- g. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and
- h. Awarding such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and all others similarly situated hereby demand a jury trial on all issues in this complaint that are so triable as a matter of right.

EXHIBIT A



February 24, 2023

MR WYATT R STEPHENSON

[REDACTED]
[REDACTED]
[REDACTED]

RE: Number [REDACTED]

Dear Member:

This letter concerns the final determination regarding your Navy Federal [REDACTED] fraud claim in the amount of \$ 991.98 [REDACTED]. Based on our investigation of your account activity, we have determined that no error has occurred.

Our investigation was based on a review of your account activity, including, but not limited to: transaction details, account history, and/or discrepancies between the fraud claim and your account.

As a consumer, you have the right to request any documentation that was used in the decision of this claim. If you have any questions, please call us toll-free at 1-888-842-6328. If you prefer, you may send us a secure message online at navyfederal.org via our online banking services, or write to Navy Federal Credit Union, Card Fraud Prevention Recovery, P.O. Box 23603, Merrifield, VA 22119-3603.

Sincerely,

Card Fraud Prevention Recovery
Navy Federal Credit Union

EXHIBIT B



March 10, 2023

In reply refer to:

WYATT R STEPHENSON

A solid black rectangular box used to redact the recipient's address.

Dear Member:

This letter concerns your request for a second review of your fraud claim.

After carefully reviewing the information you provided, we have concluded that no error occurred. Therefore, the original decision to deny the claim stands. You are responsible for the full amount of the claim, \$991.98

If you have any questions regarding this matter, please let us know. You may call us toll-free anytime at 1-888-842-6328.

Sincerely,

Card Fraud Prevention Recovery
Navy Federal Credit Union

EXHIBIT C

Your Message 03/26/2023 : I received your response that a second review of the fraudulent charges to my debit card was rejected. However, there is no explanation as to how you came to that conclusion and my attempt to speak to someone who could provide that information was unsuccessful, despite several calls to your fraud prevention team. Based on the information shared with me, only the "investigators" are privy to that information.

I would like more information about how that conclusion was reached. To date, no information has been shared and it feels like your policy is to automatically reject claims regardless of merit and hope that your customers drop the matter.

Navy Federal's response has been inconsistent with your policy (Zero Liability) that fraud is a transaction that I didn't make or approve, and that if someone steals my payment information and makes transactions that I didn't authorize they are considered fraud. This is a case of fraud where someone stole my information and made unauthorized purchases.

I look forward to hearing from you.

Navy Federal Response 03/30/2023 :

Thank you for your message. In order to receive the documents requested, you will need to file a report with your local police department. Your local police can then subpoena our records. If you have any further questions or concerns, feel free to contact us. Navy Federal is available 24 hours a day, 7 days a week at 1-888-842-6328 or you can contact us via Online Banking.

Subject: Need More Information

Your Message 03/30/2023 : A police report was filed. The report number was included in my original documentation. Your reply provides additional documentation that you did not read my original submittal.

EXHIBIT D



Consumer Financial
Protection Bureau

(<https://www.consumerfinance.gov/>)

[Start a new complaint](#)

[◀ All complaints \(.\)](#)

230403-10773650

CLOSED

Submitted

STATUS

Submitted to the CFPB on 4/3/2023

PRODUCT

Credit card or prepaid card

ISSUE

Problem with a purchase shown on your statement

We received your complaint. Thank you.

We will review your complaint. Depending on what we find, we will typically:

- Send your complaint to the company for a response; or
- Send your complaint to another state or federal agency, or help you get in touch with your state or local consumer protection office; or
- Let you know if we need more information to continue our work.

YOUR COMPLAINT

Fraudulent purchases were made using my stolen Navy Federal debit card. Location of purchases and amounts of purchases are inconsistent with purchase history. For example, purchase history since the date card was acquired years ago (over 400+ purchases) shows no purchases at Walmart. Yet person who stole card went to Walmart 11 times in 14 days. I asked to be reimbursed for the fraudulent purchases via website. Was denied, but not given reason for denial. Submitted additional information via website and was denied on second review, but again, no reason given for second denial. Met with branch manager to gather more information, but they could not tell me why denied again. Spoke with fraud department twice via phone and they could not tell me why my claim was denied. To date,

no explanation as to why I was denied. I was told I could submit a third appeal, but without knowing why previous claims were denied it is impossible to prepare another appeal that will be effective. Banking laws should be changed to protect consumers and give them due process when they become victims of fraud. Navy Federal should be made to explain how they reached their conclusion since it is my money that was stolen.

[View full complaint](#) 

 **Sent to company**

STATUS

Sent to company on 4/3/2023

We've sent your complaint to the company, and we will let you know when they respond.

Their response should include the steps they took, or will take, to address your complaint.

Companies generally respond in 15 days. In some cases, the company will let you know their response is in progress and provide a final response in 60 days.

 **Company still working**

STATUS

Company response is in progress as of 4/6/2023

The company has responded that it is still working on your issue

In some cases, companies need more time to respond. You should receive a final response within 60 days from the date we sent your complaint to the company.

COMPANY'S INTERIM RESPONSE

Our review of the matter is in progress and we will respond as soon as possible.

Company responded

STATUS

Company responded on 6/2/2023

RESPONSE TYPE

Closed with explanation

Company's Response

The following references the complaint we received on 3 April 2023 from the Consumer Financial Protection Bureau on behalf of Navy Federal member Jeffrey R. Stephenson. The complaint was assigned a case number of 230403-10773650. We have researched our member's concerns. Our records show that on 23 February 2023, a claim of unauthorized debit card activity was submitted for activity on Mr. Stephenson's joint checking account ending in [REDACTED] in the amount of \$991.98. We completed an investigation and found the claim to be unsupported. On 24 February 2023, we sent a letter to our member's address of record explaining the claim denial. We received an appeal of the decision, and we completed a second review of the claim. Based on the facts of our investigation, we determined that the claim remains denied. All account owners remain responsible for the activity that was conducted on the account. Should Mr. Stephenson have any questions, he may contact Brad Johnson, Supervisor, Fraud Operations, by calling 1-850-912-0313 between the hours of 7:00 a.m. and 3:30 p.m., Central time, weekdays.

Feedback requested

STATUS

Feedback requested on 6/2/2023

FEEDBACK DUE

8/1/2023

Provide feedback about the company's response

We welcome your feedback on how the company responded to your complaint. You will have 60 days from when the company responded to share your feedback. The CFPB will share your feedback responses with the company and use the information to help the CFPB's work with consumer complaints.

Submit your feedback

 Closed

The CFPB has closed your complaint.



ADDITIONAL TOOLS AND RESOURCES

Credit Cards (<https://www.consumerfinance.gov/consumer-tools/credit-cards/>)

Privacy Act Statement

OMB #3170-0011

Note on user experience

Have a question? ¿Preguntas?

(855) 411-2372

TTY/TTD: (855) 729-2372

8 a.m. to 8 p.m. ET, Monday through Friday

(except federal holidays). (<https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/#url=Overview>)

6/22/23, 7:10 AM

Complaint Detail

More than 180 languages available.

 An official website of the United States Government

EXHIBIT E



In reply refer to:

12709435

2 June 2023

Mr. Jeffrey R. Stephenson

[REDACTED]

Dear Mr. Stephenson:

Your recent concern which was submitted via the Better Business Bureau has been referred to me for a reply. Thank you for taking the time to bring your concerns to our attention, and for providing us with the opportunity to respond.

We have researched your concerns. Our records show that on 23 February 2023, a claim of unauthorized debit card activity was submitted for activity on your joint checking account ending in [REDACTED] in the amount of \$991.98. We completed an investigation and found the claim to be unsupported. On 24 February 2023, we sent a letter to your address of record explaining the claim denial. We received an appeal of the decision, and we completed a second review of the claim. Based on the facts of our investigation, we determined that the claim remains denied. All account owners remain responsible for the activity that was conducted on the account.

Should you have any questions, you may contact Brad Johnson, Supervisor, Fraud Operations, by calling 1-850-912-0313 between the hours of 7:00 a.m. and 3:30 p.m., Central time, weekdays.

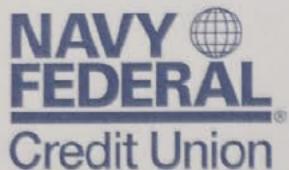
Sincerely,

A handwritten signature in black ink that reads "Chip Kohlweiler". The signature is fluid and cursive, with "Chip" on top and "Kohlweiler" written below it.

Chip Kohlweiler
Senior Vice President,
Security

CK:TH:ht

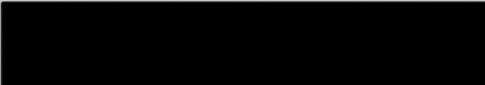
EXHIBIT F



July 17, 2024

Access No: 4246400

BILLY R SMITH II



RE: Checking, Savings account(s) ending in 1393, 5465.

Dear Member,

This letter concerns the final determination regarding your Navy Federal fraud claim with Navy Federal in the amount of \$9,800.00.

Based on the facts of our investigation, we have determined that no error has occurred and your claim has been denied. Additionally, we have reviewed your transaction history and, based on the facts surrounding the use of your account, we have found that you benefited from the transaction(s).

As a consumer, you have the right to request any documentation that was used in the decision of this claim. If you have any questions, please call us toll-free at 1-888-842-6328. If you prefer, you may send us a secure message via Navy Federal Online® Account Access, or you may write to: Navy Federal Credit Union, by fax at 703-206-4085.

Sincerely,

Security Department
Navy Federal Credit Union

Federally insured by NCUA.

© 2015 Navy Federal NCUA 40165-SC-SE047 (9-15)
GS-L418



P.O. Box 3000 Merrifield, VA 22119-3000

EXHIBIT G

07:26 ⏱



Message Detail



Subject:

General General Inquiry

Confirmation #: 240812-000774

Reply from Navy Federal

2024-08-13

Thank you for using Navy Federal's eMessaging Service. During our investigation, we use various methodologies to achieve the best results, which may include internal databases, monthly statements, merchant documentation (if applicable) and any information obtained directly from the member. Please note that we are unable to provide sensitive information that does not fall within compliance. If you have any further questions, please call us toll-free at **1-888-842-6328**. Thank you.

Your Message

2024-08-12

Thank you for the response. Could you please send me all the documentation you have from my fraud investigations? the initial denial letter I received said I was able to get them if requested. Thank you for the help. V/R Billy Ray Smith

Reply from Navy Federal

2024-08-12

Thank you for using Navy Federal's eMessaging Service. After a second review of your claim, it has been determined that your claim will remain denied. If you have any questions, please call us toll-free at **1-888-842-6328**. If you prefer, you may send us a secure message online at navyfederal.org via our Online Banking service or write to Navy Federal Credit Union, PO Box 3000, Merrifield, VA 22119-3000.

Your Message

2024-08-12

good Morning, I'm writing to follow up on the status of my fraud claim appeal. I just got back to my permanent duty station from my

EXHIBIT H

Navy Federal Credit Union® Debit Card Disclosure

As used in this Agreement, the words "you" and "your" mean each and every person signing, using, or having a Debit Card (DC) with Navy Federal Credit Union, referred to as "we," "us," or "Navy Federal." Navy Federal business days are Monday through Friday, excluding federal holidays. Navy Federal may change and amend this Agreement at any time. This Agreement, including any claim or dispute arising under it, shall be governed by federal law and the laws of the Commonwealth of Virginia.

To report your DC lost or stolen, or for service inquiries, please call 1-888-842-6328, from overseas at 1-800-0-842-6328, or collect at 1-703-255-8837. Calls may be monitored and/or recorded to provide improved member service. All other correspondence relating to this Agreement should be addressed to Navy Federal, P.O. Box 23603, Merrifield, VA 22119-3603. Information concerning Navy Federal DCs may also be obtained at navyfederal.org.

1. Accepting This Agreement/Signing the Card: Use of your DC means you agree to all terms in this Agreement. Please read this Agreement carefully and keep a copy for your records. Upon receipt of your Navy Federal DC, immediately sign the signature panel on the back of the card. Your DC must be activated prior to use. Should you choose to not use your DC, you may cancel it at any time for any reason, by contacting us using the information above. Then immediately and securely destroy the card by cutting it in half or shredding it.

2. Membership: You must be a Navy Federal Member or joint owner, have an open checking account, and be at least 14 years old or an emancipated minor to obtain a DC. You understand that any joint owner has access to funds in your savings and checking accounts, as well as access to any Checking Protection options you enroll in (Optional Overdraft Protection Service (OOPS) or Checking Line of Credit (CLOC)).¹ You understand that you remain responsible for repayment of any credit extensions, overdraft amounts, and/or fees incurred by either you or any joint owner(s).

a. Account Closure. As stated in the Important Disclosures, if you or Navy Federal close your account, we may return deposit or debit items received, or reopen your account and process debits and credits against the account, including, for example, debit card transactions and provisional credit reversals. You agree to immediately repay all amounts you owe to us after the account is reopened. Reopening the account will not reopen or reconnect debit cards or other means of account access that were closed, terminated, or disconnected when the account was closed. Navy Federal may restrict the types of transactions, including debit card transactions, allowed on your account after the account is reopened and may re-close your account after processing debits and credits.²

3. How Transactions Are Authorized and Posted to Your Account: It is important to understand that your checking account has two kinds of balances: the Available Balance and the Current Balance.³

a. Available Balance. The Available Balance indicates the amount of funds available for withdrawal or use at that moment. The Available Balance includes pending transactions that have been authorized but may not yet have been processed (posted), such as DC Point of Sale (POS) transactions, online transfers, automated teller machine (ATM) transactions, or pending deposits, but does not include items such as scheduled Bill Pay transactions, deposits with holds on them, and checks that you have written but that have not yet cleared your account.

b. Current Balance. The Current Balance is calculated after all transactions have posted to your account after the end of the business day (Eastern Time). We first process (post) all money coming in to your account (credits, deposits, etc.).¹ After those are processed, we process (post) all money coming out of your account (debits, withdrawals, etc.) in a pre-determined order. The following frequently-used debit transactions are processed in groups in this order: 1) Branch withdrawals; 2) ATM withdrawals; 3) DC or POS transactions that merchants have presented to us for payment; 4) Transfers from one Navy Federal account to another; 5) ACH; and 6) Checks. When more than one transaction from a group is processed on the same day, the items will be processed in the order of lowest to highest amount within that group of transactions.

c. DC Transaction Authorization. When using your DC to make a purchase, the transaction is authorized based on your Available Balance plus any Checking Protection option (OOPS or CLOC) you have enrolled in at the time of the purchase. Once a transaction is authorized, a temporary hold is placed on your account for the amount of the purchase; you will see this hold reflected in your Available Balance. This hold does not affect or otherwise adjust your Current Balance. This hold will be removed when the transaction posts to your account or after 3 business days, whichever comes first. Although the hold may be removed after 3 business days, the merchant has up to 180 calendar days to present the transaction for posting. In some cases, the hold may exceed or be less than the amount of the transaction; for example, for some purchases made at gas stations, restaurants, or hotels, or for car rentals. Funds subject to a hold are not necessarily the same funds that are ultimately used to pay for a transaction. Ordinarily, we will not authorize DC transactions unless you have sufficient funds available in your checking account plus any Checking Protection option you may have. If we previously authorized a DC transaction, or placed a hold that is less than the final transaction amount, we will pay the transaction even if you have insufficient funds and even if you did not opt in to a Checking Protection option for DC transactions.

d. Person to Person (P2P) Original Credit Transactions (OCTs). Transfers of money you receive through Original Credit Transactions (OCTs) often used by person-to-person services, including the Zelle® network and Cash App, will generally be available the same business day. However, funds received by Navy Federal on or after 8 p.m. (Eastern Time) will not be available until the following business day for processing some items such as Automated Clearing House debits (ACH) and checks, but Optional Overdraft Protection (OOPs) and Non-Sufficient Funds fees (NSF) will apply, as applicable.

e. On the day a DC transaction is processed/posts (which may not be the day of purchase or use), if the transaction exceeds your Current Balance after all items have posted, your account will be overdrawn, and you will be responsible for the negative balance. To avoid overdrafts, you should ensure that your Current Balance (which may differ from your Available Balance) has sufficient funds to cover transactions at the time those transactions post to your account. If you have enrolled in a Checking Protection option, you may be assessed fees or interest.² If your checking account goes into an overdrawn status (including OOPS fees) and funds are available in the linked savings account, we will transfer all or some of the funds from the savings account to the overdrawn checking account to reduce or eliminate the overdrawn amount, as permitted by law.³ You agree that we have the right to collect funds owed to us from all your accounts, as well as the available balance on your Checking Protection option (if any), including all accounts of joint owner(s). This does not apply to shares in an Individual Retirement Account. The failure to deposit funds to eliminate an account's negative balance may result in the overdrawn balance being charged off as a loss to Navy Federal. Such action could result in the checking account being closed and restriction of your membership privileges, including revocation of your DC.

4. Transactions and Limits: Your DC may be used to purchase goods and services wherever the card is accepted. You may use your DC for the following: balance inquiries, funds transfers, cash withdrawals, deposits to your checking account, Money Market Savings Account, and savings account, and receive cash back with a purchase at participating Interlink® or Maestro® merchants. Cash back with a purchase is only offered from your available checking account balance plus any Checking Protection option you may have. The daily transaction limit for purchases is \$3,000 for all types of checking accounts with the exception of Flagship Checking, which has a daily purchase transaction limit of \$5,000. The daily cash limit is \$1,000, which includes withdrawals at NFCU proprietary ATMs, manual cash at NFCU financial institutions, and cash back with a purchase at participating merchants. Daily limits may vary for other types of transactions. Generally, there is no limit on the number of transactions that can be performed per day; however, for security reasons, we reserve the right to impose other limits on the transactions you may make using your DC.

5. Use of Card for Illegal or Risky Transactions: It is your responsibility to comply with all laws when using your Navy Federal DC. You agree to hold us harmless for any damages or other liability arising from transactions initiated by you for the purpose of conducting illegal activity. We reserve the right to decline authorizations and/or cardholder disputes due to participation in transactions for activities we believe may violate law or pose significant risk to us or our Members, such as online gambling.

6. Liability for Failure to Complete Electronic Fund Transfers: If we do not complete a transaction using your DC on time or in the correct amount, when properly instructed by you according to the terms of this Agreement, we will be liable for damages caused by our failure, with some exceptions. We will **NOT** be liable in any of the following events:

- If, through no fault of ours, you do not have enough money in your account or available in your selected Checking Protection option to make the transfer or transaction.
- If the funds in your account are subject to legal process, such as garnishment or attachment, or if the account is subject to a pledge or security agreement.
- If the ATM where you are making the transfer or transaction does not have enough cash.
- If the ATM was not working properly and you knew about the breakdown when you started the transfer or transaction.
- If, despite reasonable precautions that we have taken, circumstances beyond our control (such as fire, power failure, or flood) prevent the transfer or transaction.

7. Foreign/International Transactions: Transactions using your DC made in foreign countries will post to your account in U.S. dollars and will be charged an International Service Assessment Fee. This fee will be identified as a separate transaction on your statement. The fee will be assessed on purchases and ATM transactions as follows:

- Transactions made in foreign countries ("Foreign Transactions") will be charged 1.0% of the transaction amount. Foreign Transactions include internet and ATM transactions made while you are in the U.S. (or in any other location) with merchants that process the transactions in foreign countries.

8. Documentation of Transactions: It is recommended that you obtain a transaction receipt at the time you make any transaction using your DC at an ATM or POS terminal and retain the receipt copy for a period of at least 90 days. Your checking account statement will identify the merchant, financial institution, or electronic terminal where transactions are made and the dollar amount of the transaction. You will get a monthly account statement even if there are no transfers in a particular month. You may also view your statements and account balances on our website at navyfederal.org or by using our mobile app.

9. Fees: There is no fee for using your DC to make a purchase at a merchant location; however, participating merchants may impose a fee for the cash-back portion of the transaction. Cash-back amount limits may vary depending on store policy. For a list of free ATMs, please check our website at navyfederal.org. ATM fees are disclosed in our *Schedule of Fees and Charges* brochure and may also be viewed via navyfederal.org. When you use a non-Navy Federal ATM, you may be charged a fee by the ATM operator. Additionally, you may be charged a fee for a balance inquiry even if you do not complete an electronic funds transfer.

10. Refusal to Honor Your DC: You agree Navy Federal is not responsible or liable for any merchant, financial institution, or other party that refuses to honor your DC.

11. Ownership and Cancellation of the DC: The DC is the property of Navy Federal. Navy Federal has the right to cancel your DC or revoke your DC privileges at any time without notice to you.

12. Disclosure of Information to Third Parties: Navy Federal will disclose information to third parties about your DC or checking account or the transfers you make in any of the following circumstances: if we are unable to complete an electronic transfer because of insufficient funds; where it is necessary to complete the transaction; to verify the existence or conditions of your account for a third party, such as a credit bureau or merchant; in order to comply with government agency or court orders; if you give us written permission; or in accordance with our privacy policy. Additionally, you may have agreements with merchants to keep your DC on file. You acknowledge that Navy Federal may share your DC information with the participating network in order to keep your card information current and/or facilitate uninterrupted processing of your recurring payments.

13. Stop-Payment for Pre-Authorized Recurring DC Transactions: We can only honor stop-payment requests for transactions using your DC on pre-authorized recurring transactions or services. If you have told us in advance to make regular payments out of your account, using your DC, you can request us to stop any of these payments. In order to initiate a Stop Payment, you must contact us via phone or in writing using the information above in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to confirm your request in writing within 14 days after you call. If you request us to stop one of these payments 3 business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

14. Cardholder Liability for Unauthorized Transactions: **NOTIFY US AT ONCE** if you believe that your DC or personal identification number (PIN) has been lost, stolen, or used (or may be used) without your authority. The best way to minimize your possible losses is to contact us as soon as possible by calling us at the number above or, if you have Navy Federal Online Banking, by using the Report Fraud feature. You may also notify us in person at any branch or in writing using the address above.

Timely Notice of Missing DC: If you notify us within 2 business days after you learn of the loss or theft of your DC or PIN, your losses will be no more than \$50 if someone used your DC or PIN without your permission.

Delayed Notice of Missing DC: If you fail to notify us within 2 business days after you learn of the loss or theft of your DC or PIN, your losses may be as high as \$500. In this case, you would be liable for unauthorized transactions up to \$50 for the first 2 business days plus all unauthorized transactions that occur between those first 2 business days and the day you actually notify us, altogether up to \$500. You will only be liable for unauthorized transactions after the first 2 business days if we can demonstrate that we could have stopped the unauthorized transactions if you had notified us sooner.

Unauthorized Transactions on Statement: If your statement shows transactions that you did not make or authorize, tell us AT ONCE. If you do not tell us within 60 calendar days after the statement has been made available to you, your losses for unauthorized transactions that occur after those 60 days may be unlimited until you actually notify us. You will only be liable for unauthorized transactions after the 60 days if we can demonstrate that we could have stopped the unauthorized transactions if you had notified us. Under certain circumstances, we may extend the notification time period.

We advise you to safeguard your DC and protect the integrity of your PIN. Granting use of the DC to another person will make you financially liable for their use, loss, or misuse of the DC until you report unauthorized use or transactions to Navy Federal.

15. Navy Federal's Zero Liability Policy for Fraud: In addition to the liability limits above, if you notify us of suspected fraud within 60 days of the statement date on which the fraudulent transactions first appear, we will not hold you responsible for confirmed fraudulent transactions. This Zero Liability policy only covers transactions that have been confirmed by Navy Federal as fraudulent.

16. Billing Error Resolution: The Billing Error Resolution process covers the following errors: unauthorized transactions, including invalid amounts, duplicate transactions, transactions that were paid for by other means, and canceled recurring payments; expected credit not received; and non-receipt of ATM funds or POS cash-back. If you think your statement or receipt has errors, or if you need more information about a transaction listed on your statement or receipt, contact us as soon as possible using the contact information listed above. You MUST contact us no later than 60 calendar days after we FIRST make available the statement on which the suspected error appeared. You will need to identify yourself and the account, describe the error or the transaction you are questioning, clearly explain why you believe an error exists or why you need more information, and tell us the dollar amount of the suspected error. If you call to report a suspected error, we may require you to send us your concern in writing within 10 business days. If we ask you to put your concern in writing and we do not receive it within 10 business days, we may not provisionally credit (see below) your account.

We may take up to 45 days to investigate your concern; however, for suspected errors involving new accounts, POS, or foreign-initiated transactions, we may take up to 90 days to investigate. If we take longer than 10 business days (20 business days for new accounts) to determine whether an error occurred, we will provisionally credit your account the amount you reported as an error on or before the 10th business day. This Provisional Credit is a temporary credit that allows you to use the money during the time it takes us to complete our investigation. We will report the results of our investigation to you within 3 business days after completing our investigation. If we determine there was an error, we will promptly correct it. If we determine there was no error, we will send you a written explanation of our findings. You may ask for copies of the documents that we used in making our determination. Any Provisional Credits will be taken out of your account if we determine there was no error, and if there are insufficient funds in your account to cover the reversal of the Provisional Credit, the account may become overdrawn.

17. Other Reasons for Dispute: Disputed transactions that are not covered by our Error Resolution Process such as defective, damaged, or non-receipt of merchandise or services, or items received "not as described" will be handled at our discretion. Please first make a good faith attempt to resolve discrepancies with the merchant. If your good faith attempt is not successful, we may use our dispute resolution process to act on your behalf and pursue recovery of funds from the merchant, based on your statement supporting your claim, as well as any documentation we may request. We may not be able to recover your funds. We will report the results of the dispute resolution process to you within 120 days; however, we are not obligated to issue a Provisional Credit during the dispute resolution process.

Transaction(s) conducted through a person-to-person payment service provider that transfers funds, such as the Zelle® network and Cash App, is intended for use among friends and family. There are no protections or warranties for the purchase of goods and services. Navy Federal is unable to pursue these merchants or the 3rd party recipient for recovery on your behalf through the dispute process.

18. Merchant Credits: Merchants and others who honor the DC may give credits for returns or adjustments, which will appear as credits on your checking account statement.

19. Notice of Claim: Neither Member nor Navy Federal may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Agreement or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Agreement until such party has notified the other party of such alleged breach and afforded the other party a reasonable period after the giving of such notice to take corrective action.

*1. For details, see our Optional Overdraft Protection Service (OOPS) Disclosures (NFCU 657) and our Checking Line of Credit Agreement and Disclosure (NFCU 33C).

2. Subject to holds placed on certain transactions, see our Funds Availability Policy (NFCU 668) and the Mobile Check Deposit User Agreement, which may be viewed on our website via navyfederal.org.

3. For more information about savings accounts, checking accounts, and transaction limits, see our Important Disclosures (NFCU 606).

EXHIBIT I

Your Affiliate Marketing Choices

For personal information (such as your name, address, or certain account-related information) shared among affiliates, you may opt out of direct marketing of products and services by those affiliates with whom you do not have a prior business relationship. You may do this by calling the toll-free number of the appropriate Navy Federal company provided. An opt-out by a joint account holder will be treated as applying to all associated joint account holders. Your choice to limit marketing offers from our affiliates will apply until you notify us to modify your preference.

Note: If you have already requested this, there is no need to do so again.

Contact the Navy Federal Family

If you have questions or if you need to correct information that we have on file, please contact us at:

Navy Federal Credit Union

- PO Box 3000
Merrifield, VA 22119-3000
Toll-free in the U.S. 1-888-842-6328
For toll-free numbers when overseas, visit navyfederal.org.
Collect internationally 1-703-255-8837

NAVY FEDERAL CREDIT UNION

IMPORTANT DISCLOSURES

Navy Federal Financial Group

Navy Federal Brokerage Services

- 820 Follin Lane SE
Vienna, VA 22180
1-877-221-8108
Fax: 703-206-1510

Navy Federal Title Services

- 21631 Ridgetop Circle
Suite #265
Sterling, VA 20166
571-267-2120
Toll-free 1-855-404-9549

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Membership

Upon verification of eligibility following submission of a completed membership application and acceptance for membership by the membership officer, and upon purchase of at least one share (\$5), a Membership Savings Account will be established in your name, indicating that you are a Member-owner of Navy Federal Credit Union (*Navy Federal*). Membership at Navy Federal comes with certain ongoing responsibilities. By signing your original membership application, you and your joint owner(s), if any, agree to abide by the properly disclosed terms and conditions of all accounts or services that you may receive at Navy Federal. You also agree to keep Navy Federal informed of your current mailing address. The terms and conditions of these accounts and services are subject to change without notice to you, unless prior notification is required by law.

A balance of at least one share (\$5) is required to establish and maintain membership. The balance in your Membership Savings Account must not be reduced below the value of one share (\$5) at any given time. If your Membership Savings Account maintains a balance of less than a share (\$5) for 180 consecutive days, the Membership Savings Account may be closed, thereby terminating your membership. To protect your Member-owner status, we may limit access to your initial share (\$5). You will be considered an active Member in Navy Federal as long as you have a Membership Savings Account balance of \$50 or more; have a Membership Savings Account balance of \$5 or more and a checking account, a Money Market Savings Account (MMSA), a certificate, an Individual Retirement Account, a credit card account, an additional savings account, or a current consumer loan or mortgage account; or have a Membership Savings Account balance of \$5 or more and are a Member under the age of 24. If you do not meet one of the above criteria, you will be considered an inactive Member and may be subject to a quarterly Inactive Member Fee in the amount listed on Navy Federal's current *Schedule of Fees and Charges*. The fee will be assessed until you meet one of the criteria listed above or the Membership Savings Account is closed, thereby terminating your membership. Once this happens, you must be in Navy Federal's field of membership to reopen the account.

A savings account may not be used for commercial or business purposes.

Restriction of Services

Navy Federal may restrict or suspend access by a Member to any or all products or services, except the basic rights of a Member to vote in annual and special meetings and maintain a share account, if a Member engages in conduct that is abusive to the credit union and its membership. This conduct includes, but is not limited to, actions that abuse the products or services of the credit union; abusive or threatening behavior; and suspicious, fraudulent, illegal, dishonest, or deceptive activities. Restrictions or suspensions of accounts, products, and/or services will be reasonably related to the nature of the Member's conduct. This policy will also apply to joint owners and authorized users of accounts, products, and services. When a Member is delinquent on a loan or has caused Navy Federal a loss, Navy Federal may deny that Member's subsequent application for any new product or service that would allow the Member to obtain further credit from Navy Federal or cause Navy Federal a further loss. Pursuant to Navy Federal's bylaws and the Federal Credit Union Act, Members may be expelled at a special meeting called for the purpose of expelling those Members.

Other Limitations of Services

Your access to any services described herein or otherwise offered to you may be limited due to system outages, errors, backlogs, or suspected fraud or illegal activity—to the extent allowed by law—in order to maintain or restore security or performance to said systems. There are many reasons we may decline or prevent transactions to or from your account, but generally we do this to protect you, us, and our membership as a whole, or to comply with legal requirements. We may decline or prevent any or all transactions to or from your account. We may refuse, freeze, reverse, or delay any specific withdrawal, payment, transfer of funds, deposits (check, ACH, or wires), credit, or debit to or from your account, or we may remove funds from your account to hold them pending investigations, including in one or more of the following circumstances:

- Your account is involved in any legal or administrative proceeding;
- We receive conflicting information or instructions regarding account ownership, control, or activity;
- We suspect that you may be the victim of a fraud, scam, or financial exploitation, even though you have authorized the transaction(s);
- We suspect that any transaction may involve illegal activity; be fraudulent; or, after having made funds available, may reasonably result in uncollected funds;

- We are complying with any federal, state, or local law, rule, or regulation, including federal asset control and sanction rules and anti-money laundering rules, or with our policies adopted to assure that we comply with those laws, rules, or regulations; or
- We reasonably believe that doing so is necessary to avoid a loss or reduce risk to us, you, or the membership as a whole.

If we suspect fraud or illegal activity, we may, at our discretion, transfer your existing account to a replacement account with a new account number. We may make this assignment when your account is reported compromised by you. If we issue you a replacement account number, this agreement will continue to apply, without interruption, as if you retained the discontinued account number.

Contacting You Via Your Cell Phone Number or Email Address

You must provide us a phone number and an email address to discuss your accounts with us. If you provide a cell phone number, Navy Federal has your permission to contact you at that number about all your Navy Federal accounts, including account servicing and collection purposes. You're granting Navy Federal permission to place automated, prerecorded, or artificial-voice non-marketing calls and text messages to that number. Messaging and data rates from your carrier may apply. You agree to promptly notify us if your contact information changes. Visit navyfederal.org for more information.

If you provide an email address, Navy Federal has your permission to send you email messages using an automatic emailing system for commercial or transactional purposes.

Navy Federal may at any time request the following from you in relation to your Mobile or Online Banking activities: electronic banking credentials, implementation of alternative risk control mechanisms, or may contact authorities when suspicious account activity or Member security-related events occur.

Services	SMS Short Code	Description of Service	Frequency of Messages
Credit Card Fraud Alerts	20270	Free to End User notifications to alert you about possible risk of credit card fraud	Message frequency varies
Debit Card Fraud Alerts	33748	Free to End User notifications to alert you about possible risk of debit card fraud	Message frequency varies
One-Time Passcode Alerts	668439	Free to End User text message to receive your passcode via a one-time text message on your mobile phone	One-time per request
Security Alerts	73077 35038	Free to End User notifications to alert you about possible risk of fraud, identity theft, and/or account security	Message frequency varies
Account Transaction Alerts AKA "Recurring"	40554 21398	Notifications related to account transactions, including, but not limited to, account balance alerts or deposit confirmation alerts	Message frequency varies
On-Demand Alerts	73949 24149	Receive information you have requested via a one-time text message to your mobile phone	One-time per request
Visit Notifications	36428	Notifications about your visit to an NFCU Branch	Message frequency varies
Account Servicing and Collection Alerts	37531 62351	Notifications to contact you for account servicing and collection purposes, including payment reminders	Message frequency varies
Informational Alerts	39227	Receive informational messages about Navy Federal	Message frequency varies
Status Alerts	46328 68678	Notifications related to account status updates, including, but not limited to, application and appointment updates.	Message frequency varies

If you have questions about mobile or text messages related to the Services listed above, you may **send a text message with the word "HELP" to the applicable SMS Short Code or call us toll-free at 1-888-868-8123**. To stop receiving text messages for any of the above Services on your phone, **text "STOP" to the applicable SMS Short Code**. Wireless service providers and wireless carriers are not liable for delayed or undelivered messages.

Federal law requires each individual becoming a Member to certify under penalty of perjury that the Taxpayer Identification Number (*TIN*) furnished to Navy Federal is the individual's correct number and the individual is not subject to backup withholding. For an individual, your TIN is usually your Social Security Number. The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required for backup withholding. Failure to provide a valid TIN and to complete and sign a membership application certifying your Social Security Number for this purpose could result in backup withholding being applied to all your interest earnings (*dividends*) at Navy Federal. If you are not a U.S. citizen or U.S. resident alien, you must complete a Form W-8BEN verifying non-resident alien status.

Important Information About Procedures for Opening a New Account

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. Further, to comply with the Bank Secrecy Act (BSA), we may ask you to supply certain additional information about your employment and other sources of income.

Dividends

Dividends are a division and distribution of earnings among Members, after all expenses have been paid and the required amount has been set aside for reserves. Dividend rates are declared prospectively by the Board of Directors in the month preceding the dividend period. These prospective dividend rates may change at the determination of the Board. Navy Federal also provides the Annual Percentage Yield (APY) for each dividend rate declared by the Board. Payment of all dividends is dependent on the availability of earnings at the end of the period. Dividends at Navy Federal are earned on deposits, including non-cash deposits, from day-of-deposit to day-of-withdrawal (*Mobile Deposits on checking, savings, and MMSA accounts are earned from the day of acceptance of the Mobile Deposit*), and are computed using the daily balance method by applying the daily periodic rate to the full amount in the account at the end of the day. Dividends for the savings and checking accounts, where applicable, are credited the last day of the period they are earned and are compounded monthly. The dividend period is monthly—for example, the beginning date of the first dividend period of the calendar year is Jan. 1, and the ending date of such dividend period is Jan. 31. All other dividend periods follow this same pattern of dates.

Current Rates and Fees

Current rates may be obtained online at navyfederal.org or by calling Navy Federal toll-free in the U.S. at 1-888-842-6328. For toll-free numbers when overseas, visit navyfederal.org Use 1-703-255-8837 for collect international calls. Fees and charges that may be assessed are disclosed on Navy Federal's current *Schedule of Fees and Charges*.

Share Insurance Coverage

Your shares at Navy Federal are federally insured. Share insurance coverage is provided by the National Credit Union Administration (NCUA), an independent government agency that charters, regulates, and insures federal credit unions. Your shares are backed by our solid financial standing. The insurance protects Members against loss if a federal credit union fails. Individual accounts are insured for up to \$250,000 for combined balances in your savings, checking, share certificates, and MMSAs. Joint accounts are insured for up to \$250,000 for each joint owner on the account. The most share insurance coverage any Member can have as a result of joint ownership is \$250,000, regardless of the number of joint accounts he or she co-owns.

The combined balances in your Traditional, Simplified Employee Pension (*SEP*), and Roth IRA plans are insured separately from your other Navy Federal accounts for up to \$250,000. Educational Savings Accounts (*ESAs*) are insured separately from your other Navy Federal accounts for up to \$250,000.

Payable on Death (*POD*) accounts are insured separately from your other Navy Federal accounts. Each owner is insured for up to \$250,000 per beneficiary. Deposit Trust Accounts are insured separately from your other Navy Federal accounts. Each grantor is insured for up to \$250,000 per beneficiary. For more information about NCUA share insurance, please see the *Insurance on Your Savings brochure (NFCU 1116e)*.

Joint Ownership

Account opening disclosures, change in terms notice, annual error resolution notice, periodic statements, preauthorized transfer notice, and overdraft opt-in notice can be provided to each owner of the account. If you designate a joint owner on any depository account(s), it is co-owned equally by you and the joint owner. Joint ownership means that the shares and accumulated dividends may be withdrawn or transferred by you or the joint owner, or pledged as collateral against a loan by you or the joint owner (if a Member) at any time. Navy Federal is not liable for carrying out any of these requested actions. Accounts can be closed at any time, including by a joint owner, provided it is not the Membership Savings Account. Joint owner designation does not grant membership in Navy Federal. Non-Members may be designated as joint owners by the account owner. Non-Member joint owners are granted ownership rights and access to funds in the designated Member account(s) equal to the owner of the account. Non-Member joint owners may not have access to all Member services.

Survivorship

The "survivorship" designation on the Membership Savings Account applies to all other joint accounts with the same joint owner, unless specifically designated otherwise for a particular account on a separate application. If "Joint Account-With Survivorship" is designated, on the death of an owner of the account, the deceased owner's shares in the account pass to the surviving owner of the account. If "Joint Account-No Survivorship" is designated, on the death of an owner of the account, the deceased owner's shares in the account pass as a part of the deceased owner's estate.

Zero Balance Accounts

Checking accounts, savings accounts other than a Membership Savings Account, and MMSAs may close after 180 consecutive days at a zero balance. Share Certificates and Individual Retirement Arrangement (IRA) Certificates will generally close within 30 days if the balance is zero. IRA Savings Accounts and IRA MMSAs may close after 90 consecutive days at a zero balance.

Savings Transfers and Withdrawals

You may transfer and/or withdraw funds from your savings account as often as you want. Navy Federal shall have the right, at any time, to require you to give, in writing, not more than 60 days' notice of intention to withdraw or transfer the whole or any part of the funds in your savings account.

Order of Transactions

Navy Federal posts items presented on your account in the following order: all money coming in (*credits and deposits*); ATM withdrawals; debit card transactions, also called Point of Sale (POS); Automated Clearing House (ACH) debits; and checks written. When more than one transaction is processed from a group of transactions, the items will be posted in the order of lowest to highest amount within that group of transactions.

Checking Account

We may deny opening a checking account if you have had any previous checking accounts closed for unsatisfactory reasons. A personal checking account may not be used for commercial or business purposes. Shares in the checking account may not be pledged as collateral on any loan. All non-cash share purchases or payments made to the checking account will be credited subject to final payment of the deposited item(s). Navy Federal encourages you to use blue or black ink when writing checks.

It is agreed that checks may be used to withdraw funds from this checking account. By requesting a checking account, you authorize Navy Federal to pay checks signed by you or the joint owner (*if any*) of this account and to charge the payments against the checking account. You shall discharge Navy Federal from any liability for carrying out any requested actions. The right or authority of Navy Federal under this agreement shall not be changed or terminated by you except by written notice to Navy Federal, which shall not affect transactions previously made. Each negotiated check will be charged to the checking account as of the date of receipt by Navy Federal. Navy Federal will not be responsible for checks that are postdated if they are paid before the date of the instrument. Navy Federal is under no obligation to pay or refuse payment of a check on which the date is more than 6 months old. Navy Federal is authorized to refuse checks that exceed funds available in the checking account. The first time we refuse a check for insufficient funds, we will assess a Non-Sufficient Funds ("NSF") fee in the amount shown on Navy Federal's current *Schedule of Fees and Charges* for each refused check. A financial institution where you deposit a check, or a payee, may resubmit the check to Navy Federal even if we have already refused the check for insufficient funds in the checking account. If the resubmitted check again exceeds the funds available in the checking account, Navy Federal will refuse the check but additional NSF fee(s) will not be assessed as to that resubmitted check if the merchant properly labeled it as a resubmitted item and resubmitted it within 90 days. However, because Navy Federal generally cannot identify resubmitted items unless the

merchant properly labels them, you may incur an NSF fee for resubmitted items. If you believe that you incurred an NSF fee for a resubmitted item, you must notify Navy Federal as soon as possible to request a fee refund or reversal.

The owner and joint owner (*if any*) may request that payment of a check be stopped by providing notification to Navy Federal. A fee will be assessed in the amount shown on Navy Federal's current *Schedule of Fees and Charges* for each stop-payment request. When we process a stop-payment request, you will hold Navy Federal harmless from all claims and demands resulting from the refusal to honor the check. This means that reimbursement for all damages, costs, and expenses incurred or later assigned because of the refusal to honor the check will be your responsibility. The owner and joint owner (*if any*) may request copies of paid checks. A fee may be assessed as provided on Navy Federal's current *Schedule of Fees and Charges* for each check copy.

In order to stop payment on automated payments scheduled through your checking account, savings account, or debit card, you must contact Navy Federal via phone or in writing at the contact information provided at the end of this agreement and disclosure.

Navy Federal may return certain debits (*i.e., ACH payments*) submitted for payment against the checking account if the amount of the debit exceeds the funds available in the checking account. The first time we return a debit for insufficient funds, we will assess a NSF fee in the amount shown on Navy Federal's current *Schedule of Fees and Charges* for each returned debit item. The entity that submitted the debit may submit another debit to Navy Federal even if we have already returned the prior debit for insufficient funds in the checking account. If the resubmitted debit again exceeds the funds available in the checking account, Navy Federal will return the debit but additional NSF fee(s) will not be assessed if the merchant properly labeled that debit as a resubmitted item. However, because Navy Federal generally cannot identify resubmitted debit items unless the merchant properly labels them, you may incur an NSF fee for resubmitted debit items. If you believe that you incurred an NSF fee for a resubmitted debit item, you must notify Navy Federal as soon as possible to request a fee refund or reversal.

Navy Federal may, at its option, pay a Navy Federal Debit Card transaction that exceeds the balance in the checking account by transferring the amount of the resulting overdraft from your savings account. You will be held responsible for the amount of any Navy Federal Debit Card transaction that cannot be paid out of your checking account or line of credit, or through the Optional Overdraft Protection Service (OOPS). A Navy Federal membership account generally includes one or more savings subaccounts and one or more checking subaccounts. Periodically, we may transfer funds between a checking subaccount and a savings subaccount for account management purposes.

Overdraft Savings Transfers

An Overdraft Savings Transfer is a service that transfers funds, at no charge to you, from a linked share savings account to your checking account when there are insufficient or unavailable funds in your checking account. Your share savings account is linked to your checking account of choice unless you decline Overdraft Savings Transfer coverage. Only one savings account per checking account can be set up as a linked account. An MMSA is not eligible to be a linked savings account. If you wish to designate a different savings account for Overdraft Savings Transfers, you may call Navy Federal at 1-888-842-6328 or visit a Navy Federal branch.

If your checking account does not have sufficient funds to pay a check or ACH authorization, or a previously authorized debit card POS transaction that posts to your checking account, Navy Federal may transfer funds from your linked savings account to pay for the transaction. For example, assume your checking account has a balance of \$50 and your linked savings account has a balance of \$50. If you authorize a \$100 check or ACH transaction, the Overdraft Savings Transfer will move \$50 from your linked savings account to your checking account to pay the transaction. If the checking and linked savings account do not have sufficient funds to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess a non-sufficient funds (NSF) fee to your checking account as detailed in the *Schedule of Fees and Charges*.

Debit card POS transactions will not be authorized for payment if your checking account does not have sufficient funds available to pay for the full amount of the transaction at the time the merchant requests authorization for payment from Navy Federal. For example, assume your checking account has a balance of \$50 and your linked savings account has a balance of \$50. If you attempt a \$100 debit card POS transaction, the transaction will be declined because you do not have sufficient funds in your checking account to cover the full amount of the transaction. Funds in your savings account will not automatically transfer to your checking account to cover a debit card POS authorization.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, and funds are available in your savings account(s), Navy Federal will transfer funds from your account(s) to reduce or eliminate the overdrawn amount, as permitted by law.

If you are enrolled in Optional Overdraft Protection Service (OOPS)

If you are enrolled in OOPS and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction at no charge using the Overdraft Savings Transfer before using OOPS. If the checking account, linked savings account, and OOPS do not have sufficient funds to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess an NSF fee to your checking account as detailed in the *Schedule of Fees and Charges*.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first use the Overdraft Savings Transfer to reduce or eliminate the overdrawn amount before using OOPS.

If you have a Checking Line of Credit (CLOC)

If you have a CLOC and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction by advancing credit from your CLOC before using the Overdraft Savings Transfer. If your checking account, CLOC, and linked savings account do not have sufficient funds and credit to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess an NSF fee to your checking account as detailed in the *Schedule of Fees and Charges*.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first attempt to pay the overdrawn amount by advancing credit from your CLOC before using the Overdraft Savings Transfer to reduce or eliminate it.

Optional Overdraft Protection Service

Optional Overdraft Protection Service (OOPS) is a service that allows us to pay checks, POS Debit Card transactions, ATM withdrawals, and ACH transactions presented against your checking account when you do not have enough money available in your account to cover the transaction(s). You must be at least 18 years of age and a Member for 90 days to qualify for the service. You also must have no delinquencies or legal orders against your Navy Federal accounts in order to qualify. Members may not have both CLOC and OOPS on the same account. Members may enroll up to 2 primary checking accounts in OOPS.

Standard Practices and Fees:

- a. We will charge a fee of \$20 each time we pay an overdraft.
- b. You will not be charged a fee on transactions of \$5 or less.
- c. You will not be charged a fee if the amount you are overdrawn after all transactions have cleared or posted after the end of the business day is less than \$15.
- d. You can only be assessed one overdraft fee per day per account.

OOPS is available up to \$500, but your account may become overdrawn up to \$550 to accommodate fees or a transaction. The additional \$50 accommodation includes the amount of overdrawn items, OOPS fees, and any other transactions that result in overdrawning your account, including returned deposits and other fees as described in our *Schedule of Fees and Charges* (NFCU 2043ep) and *Funds Availability Schedule* (NFCU 668).

Enrolling in OOPS does not guarantee that we will pay overdrafts. Navy Federal pays overdrafts at our discretion. If we do not pay an overdraft, your transaction will be declined and/or your check/ACH will be returned, unpaid. Navy Federal Credit Union reserves the right to revoke OOPS privileges, permanently or temporarily, at any time and to deny the payment of any transactions without prior notification.

If you are enrolled in OOPS and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction at no charge using the Overdraft Savings Transfer, provided it has sufficient funds available, before using OOPS. If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first use the Overdraft Savings Transfer to reduce or eliminate the overdrawn amount before using OOPS. To determine whether a transaction may cause an overdraft, it is important to understand that your checking account has 2 kinds of balances: the Available Balance and the Current Balance.

- a. Available Balance indicates the amount of funds available for withdrawal or use at that moment. The Available Balance includes pending transactions that have been authorized but may not yet have been processed (*posted*), such as debit card POS transactions, online transfers, ATM transactions, or pending deposits, but does not include items such as scheduled Bill Pay transactions, deposits with holds on them, and checks that you have written but that have not yet cleared your account.
- b. Current Balance is calculated after all transactions have posted to your account after the end of the business day (*Eastern Time*). We first process (*post*) all money coming in to your account

(*credits, deposits, etc.*), subject to holds placed on certain transactions (see *our Funds Availability Schedule* on page 10). After those are processed, we process (*post*) all money coming out of your account (*debits, withdrawals, etc.*) in a predetermined order. The following frequently used debit transactions are processed in groups in this order: 1) Branch withdrawals; 2) ATM withdrawals; 3) Debit card or POS transactions that merchants have presented to us for payment; 4) Transfers from one Navy Federal account to another; 5) ACH; and 6) Checks. When more than one transaction from a group is processed on the same day, the items will be processed in the order of lowest to highest amount within that group of transactions.

Assessment of overdraft fees is determined based on the account's Current Balance after the close of each business day, and not based on the Available Balance at the time a transaction is authorized. If the account balance, including new credits/deposits, is greater than or equal to the total of new debits/expenditures after all items have posted after the end of a business day (*Eastern Time*), there will be no overdraft fees assessed. Subject to the fee exceptions described below, if the total of all items posted on a business day exceeds your account balance, you will be charged a maximum of one overdraft fee per day if we cover the overdraft transactions under OOPS.

When you use your Navy Federal Debit Card to make a purchase, the transaction is authorized based on your Available Balance plus any Checking Protection option (OOPS or Checking Line of Credit) you have enrolled in at the time of the purchase. When most transactions are authorized, a temporary hold is placed on your account for the amount of the purchase; you will see this hold reflected in your Available Balance but not your Current Balance. However, the hold is not always in place for the settlement of the full transaction. If a hold is placed, it will be removed when the transaction or a portion of the transaction posts to your account or after three (3) business days, whichever comes first. Although the hold may be removed, the merchant has up to 180 calendar days to present the transaction, or remainder of the transaction, for posting. In some cases, the hold may exceed or be less than the amount of the transaction (for example, for some purchases made at gas stations, restaurants, hotels, or car rentals). Funds subject to a hold are not necessarily the same funds that are ultimately used to pay for a transaction. When a hold is removed, those funds will be returned to the Available Balance. If we previously authorized a Debit Card transaction, or placed a hold that is less than the final transaction amount, we will pay the transaction even if you have insufficient funds and even if you did not opt in to a Checking Protection option for Debit Card transactions. This may result in fees being assessed to your account.

Even though a transaction has been authorized, it still might result in an overdraft if you initiate other transactions that post first. Do not consider a transaction authorization as a guarantee there will be sufficient funds in your account to cover the transaction when it posts. If, at the time the transaction was authorized, your account's Available Balance had sufficient funds to cover the transaction, Navy Federal will refund the OOPS fee assessed on that transaction unless certain exceptions apply. These exceptions are for transactions where the amount of the posted transaction(s) does not match the amount of the authorized transaction(s), when an OOPS fee would have applied even if the transaction in question had not occurred, or if the transaction settled more than 5 business days after authorization.

OOPS is not a loan or a line of credit and must be repaid promptly. Should the account remain overdrawn beyond 30 days of the initial transaction posting, OOPS privileges will be revoked temporarily and the service frozen. For example, if you overdraft \$100 on the first of the month and \$200 on the 20th, then a total of \$300 is due on or before the 30th. However, while the account is overdrawn, we may transfer funds available or deposited into a linked savings account to bring your account positive prior to the end of the 30-day repayment cycle. The account must have a positive balance for a minimum of one business day to allow the deposited funds to clear and reset the 30-day repayment cycle. If Day 30 of the repayment cycle falls on a weekend or holiday, the account must have a positive balance as of the previous business day to be eligible for OOPS reinstatement. Should the account remain overdrawn beyond 45 days, OOPS privileges will be revoked permanently. The failure to deposit funds to bring the account to a positive balance may result in the overdrawn balance being charged off as a loss to Navy Federal. Such action could result in the checking account being closed and restriction of your membership privileges.

The full terms and conditions for OOPS are detailed in the Navy Federal Form 657—Optional Overdraft Protection Service Disclosures, which is included in these disclosures by reference and which can be found at https://www.navyfederal.org/pdf/applications-forms/NFCU_657.pdf. Navy Federal recommends that you read this disclosure form prior to opting in to OOPS. By opting in to OOPS, you agree to all the terms and conditions in the Form 657—Optional Overdraft Protection Service Disclosures.

You have the right to revoke your consent by opting out of OOPS at any time through navyfederal.org or by phone, toll-free in the U.S., by calling 1-888-842-6328. For toll-free numbers when overseas, visit navyfederal.org. Use 1-703-255-8837 for collect international calls. If you prefer, you may also opt out at any branch location, by faxing a request to 1-703-206-4244, or by mailing the request to: PO Box 3000, Merrifield, VA 22119-3000.

Dormant Checking Account

A Dormant Checking Account fee in the amount shown on Navy Federal's *Schedule of Fees and Charges* may be assessed if you have not engaged in checking account activity in 365 days, you carry a combined balance of less than \$50 in your checking and membership savings accounts, and you have no other Navy Federal products during that time (*Note: This fee will not be assessed for Members under the age of 24*). You agree that we may close your checking account if it reaches a zero balance as a result.

Change in Terms and Right of Assignment

Navy Federal reserves the right to change or terminate this agreement. The terms of this account may change upon 30 days' notice. The right or authority of Navy Federal under this agreement shall not be changed or terminated by you except by written notice, which shall not affect transactions previously made. Navy Federal has the right of assignment of this agreement.

Verification and Correction of Transactions

All transactions are subject to final verification by Navy Federal. Navy Federal may reverse or adjust any transaction, credit, or debit that Navy Federal believes was erroneously made to your account at any time without prior notice being provided to you, except as may be required by regulation or federal law. In addition, you agree that if any deposit or other credit is made to you that Navy Federal determines should not have been made to you, Navy Federal may reverse the credit without prior notice to you.

Consumer Reports

The owner and joint owner, if any, authorize Navy Federal to obtain consumer reports about them during their membership to consider them for offers of or related to Navy Federal products and services. They also authorize Navy Federal to obtain consumer reports to evaluate membership applications and review any Navy Federal accounts they open. They understand these reports may be used in decisions to deny account applications, close accounts, and/or restrict accounts or services.

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

Overdrawn Accounts

The owner and joint owner, if any, agree to be jointly and severally liable for negative balances on any accounts in which either owner has an ownership interest, including any overdrafts, regardless of the cause, and agree to immediately deposit sufficient funds to cover the negative amount of the overdraft.

Account Closing Practices

If you or Navy Federal close your account, we may return deposits, checks, and other items received after the account is closed. You agree to immediately pay all amounts you owe to us. In limited circumstances, we may reopen the closed account, including to process pending product applications, and we will re-close the account after all processing is complete. Please note that if you request to close your account, and the balance is zero, your account will close the next business day. If funds are in your account, your account remains in a closing status until the balance is zero, or your account reaches 14 days, then it will close. While your account is in a closing status, pending transactions will continue to process, which can make your account negative. Your account will not close with a negative balance.

Contractual Lien

The owner and joint owner, if any, authorize Navy Federal to transfer funds from any accounts in which either of them has an ownership interest to correct a negative or overdrawn amount on any account on which either's name appears. This authorization applies to all funds voluntarily deposited into Navy Federal accounts, including Social Security funds, as permitted by law. The owner and joint owner, if any, agree to reimburse Navy Federal for all costs of collection, including reasonable attorney's fees and court costs.

Statutory Lien/Security Interest

The owner and joint owner, if any, acknowledge and pledge to Navy Federal a statutory lien in either of their shares and dividends on deposit in all joint and individual accounts and any monies held by Navy Federal now and in the future, to the extent of any loan made and any charges payable. The statutory lien does not apply to shares in any IRA.

The owner and joint owner, if any, acknowledge and pledge to Navy Federal a security interest in the collateral securing loan(s) that either of them has with Navy Federal now and in the future,

including any type of charge or increase, and any proceeds from the sale of such collateral and of insurance thereon, not to exceed the unpaid balance of the loan. This security interest in collateral securing other loans does not apply to any loan(s) on the primary residence of either the owner or joint owner, if any.

If approved for a Navy Federal (NFCU) Credit Card, use of the card demonstrates my/our consent to all its terms and conditions, including the Security Interest Specific for Credit Cards provision, which reads: I/We acknowledge and pledge, specifically as a condition of my/our use of the credit card, that I/we have voluntarily granted NFCU a security interest in all of my/our individual and joint share accounts at NFCU. If my/our credit card loan becomes delinquent, this security interest may be used without further notice to pay all or part of such delinquency. This security interest does not apply to shares in an Individual Retirement Account (IRA).

Request for Information

When necessary for business purposes, the owner and the joint owner, if any, authorize any person to furnish upon request by Navy Federal any information concerning either or both of their financial affairs.

Governing Laws and Liability

Navy Federal Members' funds and checking, savings, and all other accounts are located in the Commonwealth of Virginia, and are maintained and governed in accordance with federal law and the laws of the Commonwealth of Virginia, as amended. Property may be transferred to the appropriate state if there has been no activity on any of your accounts within the time period specified by state law. Transactions in your account are also subject to applicable payment network rules and federal rules and regulations.

We will not be liable for failure to follow your instructions in order to protect you from fraud or stop illegal activity or if we reasonably believe that your instructions would expose us to potential loss or civil or criminal liability, or conflict with customary banking practices. **WE WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

Notice of Claim: Neither Member nor Navy Federal may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this agreement or that alleges that the other party has breached any provision of, or any duty owed by reason of, this agreement, until such party has notified the other party of such alleged breach and afforded the other party a reasonable period after the giving of such notice to take corrective action.

Funds Availability Schedule

Your Ability to Withdraw Funds at Navy Federal Credit Union

This **Funds Availability Schedule** (Schedule) applies to deposits made into a checking or (*non-IRA*) savings account made at a branch, at an automated teller machine (ATM), or by mail. This Schedule does not apply to deposits made remotely through mobile deposit services.

Except as described later in this Schedule, our general procedure is to make funds available from your deposits on or before the first business day after the day we receive your deposit. At that time, you can withdraw the funds in cash and we will use the funds to pay checks or other items. For example, if you deposit a check on Monday, you may not be able to access the funds from that deposit, to include paying other checks, until Tuesday or possibly later.

See the availability timelines below for details about when you can use the funds from different types of deposits. Longer delays may apply to checks deposited in branches and ATMs outside of the continental United States. Additionally, we may place a longer hold on non-U.S. items and credit will not be received until the collection process is completed.

If you are unsure when your funds will be available for withdrawal, please contact us by telephone or at Navy Federal Online Banking.

Telephone Us

Call 1-888-842-6328 toll-free in the U.S. For toll-free numbers when overseas, visit navyfederal.org. Use 1-703-255-8837 for collect international calls.

Online

If you are signed up for Navy Federal Online Banking, you may send us an electronic message through our eMessaging system at navyfederal.org.

Determining When a Deposit Is Received

A Business Day is Monday through Friday, except federal holidays (*Business Day*). If you make a deposit with a Member Service Representative (MSR) at one of our branches on a Business Day before 2:00 pm, local time, we will consider that day to be the day we received your deposit. If you make a deposit at a Navy Federal ATM on a Business Day before that ATM's posted cutoff time, we will consider that day to be the day we received your deposit. However, if you make a deposit on a day that is not a Business Day, or make a deposit after the cutoff time, we will consider the deposit to have been received on the next Business Day.

- For deposits at Navy Federal ATMs, a message on the ATM will notify you of its cutoff time ("*posted cutoff time*").
- All deposits made by mail will be considered received by Navy Federal on the Business Day we receive the deposit at a Navy Federal campus or branch location.

Person to Person (P2P) Original Credit Transactions (OCTs)

Transfers of money you receive through OCTs (*person-to-person services such as the Zelle® network or Cash App™*) will generally be available the same Business Day. However, funds received by Navy Federal at or after 8 pm (*Eastern Time*) will not be available and reflected in your Current Balance until the end of the next Business Day. These funds might not be available for processing pending items such as Automated Clearing House (ACH) debits and checks. Optional Overdraft Protection (OOPS) and Non-Sufficient Funds (NSF) fees may apply, subject to the terms of the *Schedule of Fees and Charges*.

Real Time Payments (RTP)

We can accept Real Time Payments to your checking, savings, and MMSA accounts. However, such payments cannot be applied to Navy Federal loan products. Transmissions of funds through RTP are only available between accounts located in the U.S. This applies even if you are sending or receiving a payment on behalf of another person. All persons who send, receive, or benefit from an RTP transaction must also reside in the U.S.

Transfers of money you receive through RTP will generally be available immediately upon receipt of the funds, 24 hours a day, 7 days a week. However, funds received by Navy Federal on or after 8 pm (*Eastern Time*) will not be available until the following Business Day for processing some items such as Automated Clearing House (ACH) debits and checks, but Optional Overdraft Protection (OOPS) and Non-Sufficient Funds (NSF) fees will apply, as applicable.

Same-Day Availability

Funds from electronic direct deposits to your account will be available on the day we receive the deposit.

Next-Day Availability

Funds from the following deposits are available on (*or before*) the first Business Day after the day we are considered to have received your deposit:

- U.S. Treasury Checks that are payable to you
- Electronic payments, such as wire transfers, and Automated Clearing House (ACH) credits
- Checks drawn on any bank, \$225 or less
- On-us checks deposited at a Navy Federal branch office or at a Navy Federal ATM located inside or within 50 feet of a Navy Federal branch office

If you make a deposit in person to a MSR at a branch, funds from the following deposits are also available on the first Business Day after the day we are considered to have received your deposit:

- State and local government checks that are payable to you
- Cashier's, certified, and teller's checks that are payable to you
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to you
- Cash
- Other on-us checks

If you do not make your deposit in person to a MSR at a branch, the funds may not be made available until the second Business Day after the day we are considered to have received your deposit. Available funds may be withdrawn in cash or used to pay checks or other items. Longer delays may apply in certain circumstances.

Checks \$225 and Over

The first \$225 per Business Day of the total amount of checks deposited in the branch will be made available on or before the first Business Day after the day we are considered to have received your deposit. The remaining funds will be available on the second Business Day after the day we are considered to have received your deposit.

For example, if you deposit a check of \$1,000 on a Monday, \$225 of the deposit is available on or before Tuesday. The remaining \$775 is available on or before Wednesday.

Navy Federal ATMs: Cash deposits at a Navy Federal ATM will be available immediately for cash withdrawals only. Other deposits will be made available by the second Business Day after the day we are considered to have received your deposit.

Deposits at Nonproprietary ATMs (Vcom® ATMs): Funds from any non-cash deposits made at ATMs we do not own or operate may not be available until the fifth Business Day after the day you make the deposit. Cash deposits will be made available on the first Business Day after the day we are considered to have received your deposit.

Longer Delays May Apply

Funds you deposit by check may be delayed for a longer period if:

- we believe a check you deposit will not be paid;
- you deposit checks totaling more than \$5,525 on any one day;
- you redeposit a check that has been returned unpaid;
- you have overdrawn your account repeatedly in the last 6 months; or
- there is an emergency, such as natural disaster or failure of communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. If we delay availability for one of these reasons, funds will generally be available no later than the fifth Business Day after the day we are considered to have received your deposit.

If your check deposit is made with one of our MSRs and we decide at that time to delay your ability to withdraw funds, we will tell you then. If we decide to delay availability of your funds after you complete your deposit, we will mail you a deposit hold notice by the first Business Day after we decide to take that action.

Except in California, New York, and Connecticut, deposits into a savings account may be held up to 5 Business Days.

Special Rules for New Accounts

If you are a new Member, the following special rules may apply during the first 30 days your account is open:

- Funds from electronic direct deposits will be available on the day we receive the deposit.
- Funds from deposits of the first \$5,525 of a day's total deposits of cashier's, certified, teller's, and federal, state, and local government checks will be available on the first Business Day after the day we are considered to have received your deposit if the deposit meets certain conditions. For example, the checks must be made payable to you. The excess over \$5,525 will be available on the fifth Business Day after the day we are considered to have received your deposit. If you do not deposit these checks (*other than U.S. Treasury Checks*) in person to one of our MSRs at a branch, the first \$5,525 will not be made available until the second Business Day after the day we are considered to have received your deposit.
- Funds from all other check deposits will be available no later than the fifth Business Day after the day we are considered to have received your deposit.

Check Cashing

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available on the day they would have been available as though you had deposited the check.

Availability and Notice for Electronic Entries

In the case of credit entries subject to Article 4A of the Uniform Commercial Code, Navy Federal hereby provides notice that such entries may be transmitted through the Automated Clearing House (ACH) Network pursuant to the ACH Rules governed by the National Automated Clearing House Association (NACHA). Your rights and obligations concerning these entries shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Credit provided by Navy Federal as the Receiving Depository Financial Institution (RDFI) to you for these entries is provisional until we have received final settlement through a Federal Reserve Bank. If we do not receive such payment for the entry, we are entitled to a refund from you in the amount of the credit to your account, and the payor of the entry will not be considered to have paid the amount of the credit to you. Navy Federal has not agreed to provide you with notice if we have received a credit entry subject to Article 4A of the Uniform Commercial Code.

Rights Reserved

Navy Federal reserves the right to:

- accept or reject any check presented, including, but not limited to, any third-party check in excess of \$10,000;
- revoke any settlement with respect to a check accepted by us, and to charge back to your account the amount of the check based on the return of the check or a receipt of notice of non-payment of the check, or claim a refund for such credit; and
- require that the space reserved for endorsement by Navy Federal on the back of any check accepted for deposit be free and clear of any prior markings or endorsements.

Payment of Dividends

Dividends are paid on all deposits to your savings and checking accounts, where applicable, as of the Business Day we are considered to have received the deposits, including non-cash deposits (*such as, checks*).

Electronic Funds Transfer Agreement and Disclosure

Types of Transfers, Limitations, and Fees

For deposits made at CO-OP Network® ATMs, the ATM owner will impose a fee per item if an adjustment is processed due to one of the following discrepancies in the deposit: the currency appears to be counterfeit; the currency is foreign; the deposit contents do not equal the deposit amount in U.S. dollars as entered into the ATM; an item is unsigned by the maker; an item is dated more than 6 months prior to the date of deposit; the numerical and written amounts do not agree; or the deposit is over \$1,000.00 and contains an obvious alteration. For each adjustment initiated for deposit items processed and subsequently returned by the financial institution, the ATM owner will impose a fee per item at the time the adjustment is processed.

We can accept transfers to your checking or savings accounts and make transfers from your checking or savings accounts electronically. Such transfers are often received or sent in the form of ACH debits and credits. For example, an ACH credit to your account might be in the form of an electronic deposit of your pay, stock dividends, or tax refund. An ACH debit might be made as a result of an authorization you gave a third party to automatically transfer funds from your account to pay your monthly insurance premium, utility bills, or car payment. You may also authorize third parties to use information from one of your checks or MMSA checks to initiate a one-time ACH debit from your checking account or MMSA.

Using Navy Federal's Automated Telephone Service (ATS), you may make transfers between your Navy Federal savings, MMSA, and checking accounts, including accounts on which you are a joint owner. You may make transfers from your savings accounts, checking accounts, and MMSAs to your savings, Individual Retirement Accounts (IRAs), MMSA IRAs, share certificates, or IRA share certificates. You may also transfer funds from your savings, checking, and MMSA accounts to make Navy Federal loan, CLOC, and credit card payments. By calling Navy Federal at the telephone numbers listed at the end of this agreement and disclosure, you may initiate a one-time ACH funds transfer to an account at another financial institution. By completing the Automatic Funds Transfer Authorization via the Automated Clearing House (ACH) form and mailing or faxing it to Navy Federal or delivering it to a branch, you may set up a recurring transfer to an account at another financial institution.

Please see Navy Federal's *Mobile Banking, Online Banking, and Bill Pay Disclosure* for the types of transfers that can be initiated through Mobile and Online Banking, and for limitations on those transfers.

Please see Navy Federal's Debit Card Disclosure for transfers that can be initiated using a Navy Federal Debit Card.

You may verify the posting of your transfers by calling us at the telephone numbers listed at the end of this agreement and disclosure, or by accessing your account information through ATS or Navy Federal Online Banking.

Please note that your Navy Federal savings account may only receive ACH credits. MMSAs may receive ACH credits and debits in accordance with the limitations set forth in the MMSA agreement.

When you originate an ACH transfer at another financial institution, Navy Federal places no limitations on the dollar amount of received ACH transfers, and Navy Federal does not charge fees for received transfers.

You may only originate ACH transfers at Navy Federal from your checking account. For transfers originated at Navy Federal, there is no limit on the number of funds transfers you can make from your checking account per day. However, there are minimum and maximum total dollar transfer limits associated with transferring funds to/from another financial institution via the ACH, when the transfer is originated from Navy Federal.

Transfers from a Navy Federal checking account to a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$5,000.00 per business day. However, the total aggregate amount of all checking transfers within any 5-business-day period cannot exceed \$15,000.

Transfers to Navy Federal loans from a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$10,000 per business day. However, the total aggregate amount of all loan payments within any 5-business-day period cannot exceed \$30,000.

Transfers to Navy Federal mortgage loans from a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$30,000 per business day. However, the total aggregate amount, which includes your regular payment, additional escrow, principal, and late fees, of all mortgage payments within any 5-business-day period cannot exceed \$30,000.

Aggregate amounts apply to all accounts that you own individually or that you have joint ownership of, and are based on the effective transfer date(s). For security reasons, Navy Federal may impose further limitations on the dollar amounts of transfers initiated at Navy Federal.

Periodic Statements

You will receive a statement monthly unless your account(s) has/have not engaged in savings or checking account activity (*no transactions*) within 365 days. When there is no activity within 365 days, Navy Federal may choose to provide a statement on an annual basis.

Business Days

Our business days are Monday through Friday, excluding federal holidays.

Your Liability for Unauthorized Electronic Funds Transfers

Notify us AT ONCE if you believe:

- your account may have been accessed without your authority;
- your card, code, or password has been lost or stolen;
- someone has transferred or may transfer money from your account without your permission; or
- an electronic funds transfer has been made without your permission using information from your check or your MMSA check.

The best way to minimize your possible loss is to telephone or, if you have Online Banking, contact us through our eMessaging system at navyfederal.org, although you may advise us in person or in writing. See the telephone numbers and address listed at the end of this agreement and disclosure.

If you do not notify us, you could lose all the money in your account (*plus your maximum line of credit amount*).

If you tell us within two (2) business days after you discover your password or other means to access your account has been lost or stolen, your liability is no more than \$50.00 should someone access your account without your permission. If you do not tell us within two (2) business days after you discover such loss or theft, and we can prove that we could have prevented the unauthorized use of your password or other means to access your account if you had told us, you could be liable for as much as \$500.00.

Also, if your statement shows transfers that you did not make or authorize, tell us AT ONCE. If you do not tell us within sixty (60) days after the statement was delivered to you of any unauthorized use of your account, you may not get back any of the money you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (*such as a long trip or a hospital stay*) prevented you from telling us, we may in our sole discretion extend the time periods.

In Case of Errors or Questions About Your Electronic Transfers

If you think your statement or receipt is wrong, or if you need more information about a transaction listed on your statement or receipt, contact us as soon as possible at the telephone numbers and address listed at the end of this agreement and disclosure.

We must hear from you no later than sixty (60) days after the FIRST statement on which the problem or error appeared. When you contact us:

- tell us your name and account number;
- describe the error or the transaction you are unsure about and clearly explain why you believe it is an error or why you need more information; and
- tell us the dollar amount and date of the suspected error.

These are our procedures for resolving errors:

- If you tell us orally, we may require that you send your complaint in writing within ten (10) business days after your oral notification.
- We will determine whether an error occurred within ten (10) business days (*twenty (20) business days for new accounts*) after you notify us of the error and will correct any error promptly. However, if we require more time to confirm the nature of your complaint or question, we reserve the right to take up to forty-five (45) days to complete our investigation. For errors involving new accounts, POS, or foreign-initiated transactions, we may take up to ninety (90) days to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within ten (10) business days (*twenty (20) business days for new accounts*) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. A provisional credit is a temporary credit adjustment made to your account during the time it takes us to complete our investigation.
- If we ask you to submit your complaint or question in writing and we do not receive it within ten (10) business days, we may remove the provisional credit from your account.
- If it is determined that there was no error, we will reverse any provisional credits within one (1) business day of finishing our investigation and send you a written explanation within three (3) business days. If there are insufficient funds in your account to cover the amount of the provisional credit, the account will be overdrawn, and you will be responsible for payment. You may ask for copies of documents used in our investigation.

Stop Payment Procedure

Navy Federal cannot cancel an agreement that you have with a third party or revoke the authorization that you have provided a third party for recurring automatic transfers from your accounts. To cancel your agreement with a third party and revoke your authorization for recurring automatic transfers, you must contact the third party with whom you have an agreement. When you request a stop-payment on a one-time preauthorized transfer, Navy Federal will stop payment on that one transfer and not on any subsequent transfers you may have authorized the third party to make. When you request a stop-payment on a series of recurring preauthorized transfers to a third party, Navy Federal will stop payment on that series of transfers, not on any subsequent series of recurring transfers you may authorize the third party to make. If you wish to stop payment on any preauthorized transfers other than the specific one (or series) on which you initially stopped payment, you will need to make a new stop-payment request. We must receive your stop-payment request three (3) business days or more before the transfer is scheduled to be made. You may only initiate a stop payment on recurring automatic payments or one-time preauthorized transfers by contacting us via calling or writing using the telephone numbers or address listed at the end of this agreement and disclosure. You will be charged for each stop-payment

request in accordance with Navy Federal's *Schedule of Fees and Charges*. When we process a stop-payment request, you will hold Navy Federal harmless from all claims and demands resulting from the refusal to honor the preauthorized transfer. This means that reimbursement for all damages, costs, and expenses incurred or later assigned because of the refusal to honor the preauthorized transfer will be your responsibility. If you order us to stop one of these transfers three (3) business days or more before the transfer is scheduled, and we do not do so, we may be liable for your losses or damages.

Notice of Varying Amounts

If your recurring transfers vary in amount, the third party debiting your account will tell you ten (10) days before each payment, in addition to when the debit will be made and how much it will be.

Navy Federal's Liability

If Navy Federal does not complete a transfer to or from your account on time, in the correct amount, or to the correct recipient according to our agreement with you, we may be liable for your losses or damages. Navy Federal's liability is limited; we will not be liable for indirect, special, or consequential damages.

There are some instances when we will not be liable, for example, if:

- 1) through no fault of ours, you do not have enough money in your account, available funds through your OOPS, or available credit in your CLOC to make the transfer.
- 2) the funds in your account are subject to legal process, such as garnishment or attachment, or if the account is subject to a pledge or security agreement.
- 3) circumstances beyond our control (*such as fire or flood*) prevent the transfer, despite reasonable precautions that we have taken.
- 4) there are additional exceptions specified under other agreements that you have with us.

Exclusions of Warranties

NAVY FEDERAL SERVICES, INCLUDING, BUT NOT LIMITED TO, THE WEBSITE, ONLINE BANKING, AND MOBILE BANKING, ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. IN PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED, OR TIMELY ACCESS TO ANY PART OF OUR SERVICES OR SYSTEMS. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU.

Account Information Disclosures

We will disclose information to third parties about your account or the transactions you make:

- 1) if we are unable to complete an electronic fund transfer because of insufficient funds.
- 2) when it is necessary for completing transfers.
- 3) to verify the existence or conditions of your account for a third party, such as a consumer reporting agency or merchant.
- 4) to comply with government agency or court orders.
- 5) if you give us your written permission.
- 6) in accordance with our privacy policy.

Contact Numbers and Address

Whenever possible, please contact us by telephone or at Navy Federal Online Banking to report unauthorized transfers or request stop payments. Contacting us by these methods is the quickest way for us to comply with your requests.

Telephone Us

Call 1-888-842-6328 toll-free in the U.S. For toll-free numbers when overseas, visit navyfederal.org. Use 1-703-255-8837 for collect international calls.

Online

If you are signed up for Navy Federal Online Banking, you may send us an electronic message through our eMessaging system at navyfederal.org.

Write Us

Navy Federal Credit Union
Account Servicing Section
PO Box 3000
Merrifield, VA 22119-3001

FACTS
**WHAT DOES NAVY FEDERAL DO
WITH YOUR PERSONAL INFORMATION?**
Why?

Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

What?

The types of personal information that we collect and share depend on the product or service that you have with us. This information can include:

- Social Security Number and income
- Account balances and payment history
- Account transactions and checking account information

When you are *no longer* our Member, we continue to share your information as described in this notice.

How?

All financial companies need to share members' personal information to run their everyday businesses. In the section below, we list the reasons financial companies can share their members' personal information, whether Navy Federal chooses to share, and whether you can limit this sharing.

Reasons we can share your personal information
Does Navy Federal share?
Can you limit this sharing?

For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus

Yes

No

For our marketing purposes—to offer our products and services to you

Yes

No

For joint marketing with other financial companies

Yes

No

For our affiliates' everyday business purposes—information about your transactions and experiences

Yes

No

For our affiliates' everyday business purposes—information about your creditworthiness

No

We don't share

For nonaffiliates to market to you

No

We don't share

Questions?

Call toll-free 1-888-842-6328 or go to navyfederal.org.

Who we are
Who is providing this notice?

Navy Federal Credit Union; Navy Federal Financial Group, LLC; Navy Federal Investment Services, LLC

What we do
How does Navy Federal protect my personal information?

To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.

Navy Federal regularly tests and assesses its information security measures, systematically trains employees, and adopts upgrades and enhancements as necessary to protect your information.

How does Navy Federal collect my personal information?

We collect your personal information, for example, when you:

- open an account or deposit money
- pay your bills or apply for a loan
- use your credit or debit card

We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.

Why can't I limit all sharing?

Federal law gives you the right to limit only:

- sharing for affiliates' everyday business purposes—information about your creditworthiness
- affiliates from using your information to market to you
- sharing for nonaffiliates to market to you

State laws and individual companies may give you additional rights to limit sharing.

Definitions
Affiliates

Companies related by common ownership or control. They can be financial and non-financial companies.

- *Our affiliates include companies with a Navy Federal name: financial companies such as Navy Federal Credit Union; Navy Federal Financial Group, LLC; Navy Federal Investment Services, LLC; or Navy Federal Title Services, LLC.*

Nonaffiliates

Companies not related by common ownership or control. They can be financial and non-financial companies.

- *Navy Federal does not share with nonaffiliates so they can market to you.*

Joint marketing

A formal agreement between nonaffiliated financial companies that together market financial products or services to you.

- *Our joint marketing partners include investment, insurance, and other financial services companies.*