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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

Docket No. 17 0004 (BNK-CAO)

AGCO FINANCE LLC

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed the business practices of AGCO Finance LLC ("AGCO"), and its officers, employees and directors. Based on the results of its review, the Office concludes that AGCO operated in violation of the Consumer Credit Code as related to motor vehicle sales finance ("CCC"), 12 Pa. C.S. § 6101 *et seq.* The parties to the above-captioned matter, in lieu of litigation, and intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the CCC.
2. The Office is primarily responsible for administering and enforcing the CCC for the Department.
3. AGCO is a Limited Liability Company organized in Delaware that provides credit to purchasers of agricultural, light-industrial equipment and trailers through a network of equipment dealers who are not affiliated with AGCO. AGCO also provides some consumer credit for purchases of property that will be used for personal, family and household use.

4. AGCO's principal place of business is located at 8001 Birchwood Court, Johnston, IA 50131.

Unlicensed Activity

5. Anyone engaging in the business of purchasing motor vehicle installment sale contracts needs to be licensed by the Department as a sales finance company. 12 Pa. C.S. § 6211(a)(2).

6. AGCO submitted a new sales finance company license application on or around January 6, 2017.

7. In the license application, AGCO disclosed that it had taken assignment of, and was servicing, installment sale contracts for agricultural equipment and trailers ("covered installment sale contracts").

8. According to 12 Pa. C.S. § 6202, subsection (3)(i), pertaining to "Motor Vehicles," agricultural machinery does not fall under the statutory definition of a motor vehicle, and the financing of agricultural machinery does not require licensure.

9. According to 12 Pa. C.S. § 6202, subsection (2), pertaining to "Motor Vehicles," a trailer falls under the statutory definition of a motor vehicle, the financing of a trailer requires licensure.

10. The Office alleges that AGCO was not licensed to engage in the motor vehicle sales finance company business when it took assignment of and serviced the covered installment contracts for trailers.

11. AGCO does not admit any of the allegations set forth by the Office, nor does AGCO admit wrongdoing.

Authority of the Department

12. The CCC grants the Department the authority to issue orders as may be necessary for the enforcement of the CCC. 12 Pa. C.S. § 6203(a)(5).

13. Section 6274 of the CCC provides that “[a] person required to be licensed under this chapter that violates this chapter, directs a violation of this chapter or engages in an activity for which a license could be suspended or revoked under section 6218 (relating to revocation or suspension of license) shall be subject to a civil penalty levied by the department of not more than \$2,000 for each offense.” 12 Pa. C.S. § 6274.

VIOLATION

14. The Office alleges that AGCO violated 12 Pa. C.S. § 6211(a)(2) of the CCC when it engaged in the business of a sales finance company while unlicensed.

RELIEF

15. Fine. AGCO agrees to pay a fine of \$875. Payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 23 below. The fine payment shall be remitted by certified check or money order made payable to the “Department of Banking and Securities” and sent to the attention of: Department of Banking and Securities, Compliance Office, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101-2290.

16. Corrective Action. Upon the Effective Date of this Order, AGCO shall not engage in the business of a sales finance company until the Pennsylvania Sales Finance Company application is granted and approved.

FURTHER PROVISIONS

17. Consent. AGCO hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau’s order authority under the CCC and agrees that it understands all of the terms and conditions contained herein. AGCO, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

18. Consumer's Rights. This Order shall not limit or impair a consumer's rights under CCC, 12 Pa. C.S. § 6236. (69 P.S. § 635).

19. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking and Securities Code, 71 P.S. § 733-302.A.(5).

20. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and AGCO.

21. Binding Nature. The Department, AGCO, and all officers, owners, directors, employees, heirs and assigns of AGCO intend to be and are legally bound by the terms of this Order.

22. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

23. Effectiveness. AGCO hereby stipulates and agrees that the Order shall become effective on the date that the Compliance Office executes this Order ("Effective Date").

24. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against AGCO in the future regarding all matters not resolved by this Order.

b. AGCO acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

25. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

26. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."

27. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department of Banking and Securities, Compliance Office and AGCO intending to be legally bound do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
BANKING AND SECURITIES,
COMPLIANCE OFFICE

FOR AGCO FINANCE, LLC

Redacted

Redacted

James Keiser, Administrator
Compliance Office
Department of Banking and Securities

(Officer Signature)

Todd Cate
(Print Officer Name)

Date: February 9, 2017

Vice President of Operations
(Title)

Date: February 8, 2017

