



NIADA Legislative Alert: VOTE TODAY COULD OVERTURN DEALER EXEMPTION

Yesterday, the House and Senate conferees on the Wall Street reform bill began voting on amendments related to dealer-assisted financing. First, the House conferees rejected an amendment that would have crippled the NIADA/NADA-supported Brownback/Campbell provision that has been included in the House Offer. Then, the Senate conferees made a counteroffer that contains unacceptable revisions to the Brownback/Campbell language.

The Conferees should accept the House Offer. The Senate Counteroffer runs counter to the stated position of a majority of both the House and the Senate, while the House Offer is a carefully and narrowly crafted exclusion that protects consumers while keeping auto credit accessible and affordable. **NIADA and NADA has urged the conferees to reject the Senate Counteroffer regarding the auto dealer provision, as it would not exclude a single auto dealer from CFPB (Consumer Financial Protection Bureau) jurisdiction, despite assertions to the contrary. If the Senate Counteroffer prevails, NIADA and NADA will oppose final passage of the conference report to H.R. 4173.**

Since the vote is likely to occur as early as this afternoon, the talking points (see below) will give you talking points to share with your Senators and Representatives.

Please encourage other dealers in your state to call their Members of Congress. We must impress upon ALL Members of Congress how critical this issue is to retain affordable dealer-assisted financing.

Thank You,
Michael R. Linn, CEO
NIADA

RE: Senate Counteroffer Does Not Exclude Auto Dealers from the CFPB

The section of the Senate Counteroffer entitled "Exclusion for Auto Dealers" does not exclude auto dealers from regulation by the Bureau of Consumer Financial Protection (CFPB). For the reasons outlined below, NIADA urges you to ask your Members of Congress to reject the Senate Counteroffer and accept the House Offer with respect to dealer-assisted financing.

The Senate Counteroffer authorizes the CFPB to regulate auto dealers. Sec. 1029(a)(2) of the Senate Counteroffer states that the CFPB "may exercise rulemaking authority with respect to a person described in paragraph (1) [i.e., auto dealers]." This language would give CFPB authority to promulgate rules affecting dealers pursuant to the Fair Credit Reporting Act, the Federal

Consumer Leasing Act, the Equal Credit Opportunity Act, and the Gramm-Leach-Bliley Act. Granting the CFPB explicit rulemaking authority over dealers pursuant to four major statutes is not an “exclusion for auto dealers”.

The Senate Counteroffer unnecessarily and dramatically expands the regulatory power of the Federal Trade Commission to regulate auto dealers specifically. Despite the characterization of the Senate Counteroffer as a “narrow” proposal, the language injects at the last minute an extremely controversial proposal to eliminate congressionally-imposed safeguards (Magnuson-Moss) on the use of the far-reaching powers of the Federal Trade Commission. The Senate Counteroffer expressly repeals, with respect to auto dealers, a statute that Congress enacted to curtail persistent regulatory abuses at the FTC.

In sharp contrast to the House Offer, the text of the Senate Counteroffer was not publicly available until AFTER the Senate conferees voted. As a result, the consequences of this legislation, both intended and unintended, have not been analyzed.

The completely-vetted House Offer protects consumers while preserving accessible and affordable credit for millions of motor vehicle buyers. Under the House Offer:

- Every finance source (national banks, local banks, credit unions, and auto finance companies) for every auto loan will be directly regulated by the new Consumer Financial Protection Bureau.
- Every dealership that funds and services auto loans to consumers (buy-here-pay-here dealers) will be directly regulated by the new agency.
- Every auto title lender will be directly regulated by the new agency.
- Every auto dealership arranging financing will still be covered by multiple Federal and state consumer protections statutes administered by agencies including the Federal Reserve, the FTC, and the State Attorneys General.