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Via Electronic Submission

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G. Street, NW  
Washington, D.C. 20552

Re: Comments of National Independent Automobile Dealers Association: Procedural Rules To Establish Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination Docket No. CFPB-2012-0021, RIN 3170-AA24

Dear Ms. Jackson,

The National Independent Automobile Dealers Association (NIADA) files these comments to the Consumer Financial Protection Bureau's (CFPB) proposed rule to establish supervisory authority over certain nonbank covered persons based on risk determination. NIADA is the fifth largest trade association in the United States representing the interests of nearly 20,000 members in the used car industry for 66 years. NIADA's members include dealers that sell used vehicles wholesale, retail, and buy here pay here. NIADA appreciates the opportunity to comment on these proposed rules.

Notwithstanding the Bureau's attempt to provide clarity on the process by which entities would be subject to the Bureau's authority based upon a risk determination, the rules do not provide those entities with any information on what conduct would subject them to this process. Moreover, the proposed rules do not provide adequate opportunity for those subject to this rule to respond to the allegations levied by the Bureau before subjecting them to the Bureau's full supervisory authority.

The proposed rules grant the CFPB broad jurisdiction to subject entities that are not larger market participants to the supervisory oversight based on reasonable cause to believe a risk exists based on complaints gathered by the CFPB. The rules do not define how the reasonable cause determination is made

or how the complaints gathered by the Bureau will be used to make that determination. NIADA encourages the Bureau to revise the rule to provide additional information on how "reasonable cause" will be defined and how consumer complaints will be used in that determination.

In addition, the proposed rules do not define what conduct constitutes a risk that would subject an entity to the supervisory authority. The lack of clarity would subject a covered entity to the Bureau's authority without a clear understanding of what conduct is in fact covered by this rule NIADA joins with other commenters in requesting the CFPB to define the risk and limit it to inappropriate or undisclosed financial risk to consumers.

While NIADA recognizes the Bureau's attempt to create an "informal" process in making a risk based determination of reasonable cause, NIADA has serious concerns with the lack of opportunity for those receiving the notice to fully understand the nature of the allegations being levied against it. An entity receiving the notice from the Bureau should have the right to conduct discovery, including receiving the complaints forming the basis of the Bureau's reasonable cause and the identity of witnesses that have relevant information. Furthermore, once the party has been served with the Assistant Director's recommendation to the Director, the entity should be provided with an opportunity to respond to the proposed findings of fact and conclusions of the Assistant Director before the Director makes his final order. Failure to provide that opportunity deprives the Director from understanding that entity's position with respect to the final recommendation. The filing of such objections is common practice in other adjudicatory processes, formal or informal.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'SK Petersen', with a large, sweeping flourish extending to the right.

Shaun K. Petersen