MACMURRAY PETERSEN & SHUSTER LLP

To: **National Independent Automobile Dealers Association**

From: **Shaun K. Petersen**

Re: **December 2014 Regulatory Update**

Date: **December 31, 2014**

I. Consumer Financial Protection Bureau

A. Company Portal Boarding Form

The CFPB's online complaint portal permits companies to register to access the system and respond to consumer complaints filed against it. In an effort to streamline and encourage registration, the CFPB has created a boarding form for the company needing to collect information for registering. The form can be viewed here: www.cfpbmonitor.com/files/2014/12/cfpb-2014-0032-0002.pdf. The CFPB is inviting comment on the use of and technicalities of the form not later than February 2. We will study the issue and file appropriate comments if necessary.

B. Sixth Semi-Annual Report

The Bureau filed its Sixth Semi-Annual Report to the President and Congress covering April 1 through September 30, 2014. The report generally highlights the number of complaints received by the Bureau during that period of time, the category of complaint (i.e. debt collection, credit reporting, etc.), and responses the consumers got to those complaints. The report also highlights the rulemaking, supervision, and enforcement efforts. The full report can be viewed here: www.consumerfinance.gov/f/201412_cfpb_semi-annual-report-fall-2014.pdf.

C. Freedom Stores Enforcement Action

The CFPB and the Attorneys General of North Carolina and Virginia settled an enforcement action against Freedom Stores, Inc., Freedom Acceptance Corporation, and Military Credit Services LLC for allegedly using illegal tactics to collect debts against military service

members. Freedom Stores sells furniture and electronics from retail locations near military installations. An affiliated company extends credit for the acquisition of these purchases. The companies filed over 3,500 lawsuits in Norfolk, Virginia against consumers who had not signed their financing contracts in Virginia and did not live there when the suits were filed. Most lawsuits resulted in default judgments and garnishment that the servicemembers did not know about.

In addition, the CFPB alleges that the retailer required payment through the allotment system and often required authorization for withdrawal from another account. Servicemeber were allegedly double charged for some installments. The companies also allegedly debited accounts without authorization and contacted servicemembers' commanding officers to pressure the servicemembers into repayment.

The defendants are required to pay $2.5 million in consumer redress and to pay a $100,000 civil penalty as part of the settlement.

A copy of the order can be found here:
http://www.consumerfinance.gov/f/201412_cfpb_proposed-order_freedom-stores_va-nc.pdf

II. Department of Justice

No significant activity.

III. Department of Labor

A. OSHA Recordkeeping Rule Changes Effective January 1

The revised Occupational Safety and Health Administration recordkeeping rule includes two key changes:

First, the rule updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records. Dealers must begin to keep the OSHA300 log, 301 form, and 300A annual summary.

Second, the rule expands the list of severe work-related injuries that all covered employers must report to OSHA. The revised rule requires dealers to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

For dealers located in states under federal OSHA jurisdiction, the rule is effective January 1, 2015. Dealers in states that operate their own safety programs should check with their state for the implementation date.

IV. Environmental Protection Agency

No significant activity.

V. Federal Trade Commission

A. Trophy Nissan Enforcement Action

Trophy Nissan, a suburban Dallas dealership, settled claims raised by the FTC that the dealer used deceptive ads to promote the sale and lease of its vehicles. The FTC claims the Nissan dealers advertised enticing prices, lease or finance terms, and promotions and then attempted to disclaim its attractive offers using small text in print and video ads. The dealer used an ad leading consumer to believe thinking they could get out of their current loan or lease for only $1 without disclosing the fact that the negative equity would be rolled into a new loan. The FTC alleged that the dealer advertised it would match tax refunds to use for a down payment, but the small print at the bottom of the ad disclosed it limited match refunds to no more than $1,000.

The dealer signed a consent agreement that did not require the payment of a fine but subject to the dealer to reporting requirements and increased oversight from the FTC for 20 years.

B. Billon Auto Group Enforcement Action

Billion Auto is a dealer group of 20 storefronts across Iowa, Montana, and South Dakota. In 2012, the group settled an administrative enforcement action with the FTC for allegations of deceptive advertising. The FTC alleges that Billion Auto breached that agreement by advertising offers that frequently focused on a few attractive terms hiding others in fine print, through distracting visuals, or with rapid-fire audio delivery. The FTC claims that some ads promoted low monthly payments or attractive annual percentage rates and finance periods, while concealing other material items, such as low payments were for leases, not sales; major limits existed on who could qualify for discounts; and offers often included significant added costs.

Billion Auto agreed to settle the matter and was assessed a civil penalty of $360,000.

C. Ramey Motors Enforcement Action

The FTC filed a lawsuit in federal court alleging that Ramey Motors, a West Virginia and Virginia dealer group, violated a settlement agreement reached with the FTC in 2012 for advertising violations. The FTC claims that Ramey Motors' current ads misrepresented the costs of financing or leasing a vehicle by concealing important terms of the offer, such as a requirement to make a substantial down payment. The complaint also charges Ramey Motors with failing to make credit disclosures clearly and conspicuously, as required by the Truth in Lending Act. The FTC also claims that the dealer did not retain and produce records to the

FTC that would substantiate offers made in its advertisements. If liable, the dealer could pay up to $16,000 in civil penalties for each alleged violation of the administrative order.

VI. Internal Revenue Service

A. Extenders Legislation Passed

Congress renewed a number of tax "extenders" that expired at the end of 2013. Those provisions were renewed through the end of 2014. The IRS will begin accepting tax returns electronically on Jan. 20. Paper tax returns will begin processing at the same time.

B. Mileage deduction rates

The optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes were released.

Beginning on Jan. 1, 2015, the standard mileage rates for the use of a car, van, pickup or panel truck will be:

- 57.5 cents per mile for business miles driven
- 23 cents per mile driven for medical or moving purposes
- 14 cents per mile driven in service of charitable organizations

VII. National Highway Traffic Safety Administration

A. GM Ignition Switch Recall

GM reported that enough parts are available to fix all the faulty ignition switches that are covered by its recent recall of more than two million vehicles. As a result, NHTSA urged owners of unrepaired GM vehicles to immediately contact local dealers to get the recall fixed.

B. Administrator confirmed

Mark Rosekind was confirmed by the Senate as the new NHTSA Administrator.

VIII. National Motor Vehicle Title Information System

A. Advisory Board meeting

The next advisory board meeting is scheduled for February 23 in Washington, DC.

IX. Democrat Attorneys General

A. Letter to CFPB on Arbitration

Sixteen Democrat Attorneys General sent a letter to the CFPB urging the Bureau to utilize its authority in the Dodd-Frank Act to regulate the use of arbitration clauses in consumer financial products. The attorneys general argue that the use of such clauses is unfair to consumers procedural and because erodes a fundamental right to assert claims in court. A copy of the letter can be found here.
20141119-AGs_Ltr_to_CFPB_re_Arb_Clauses_Final.pdf

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December 23, 2014

To: NIADA
From: Federal Advocates
Subject: December Monthly Report

NOTE: On December 13, the 113th Congress adjourned with the 114th Congress commencing January 6.

H.R. 5403, Reforming CFPB Indirect Auto Financing Guidance Act

The bill, supported by the Association, was not acted upon during the lame duck session. The bill, introduced on September 8 by Congressmen Stutzman (R-IN) and Perlmutter (D-CO), has 149 bipartisan cosponsors. The plan is to garner as many cosponsors as possible on a bipartisan basis to put pressure on the CFPB to do administratively what the bill would require by law. Accordingly, Senate action has been deferred pending that. To date, the CFPB has not changed its policy on this issue.

To review, in March 2013 the Consumer Financial Protection Bureau (CFPB) issued guidance to eliminate dealers' flexibility to discount the interest rate offered to consumers to finance vehicle purchases. The CFPB is attempting to change the $905 billion auto loan market and limit market competition without prior public comment and without analyzing the impact of its guidance on consumers. With the CFPB's actions likely to raise the cost of credit for car buyers, H.R. 5403 was developed on a bipartisan basis to rescind the CFPB's flawed auto finance guidance and make the Bureau more transparent and accountable when issuing future auto finance guidance. A majority of car buyers choose to finance their purchases through optional, indirect financing at dealerships. Dealers often discount these interest rates to earn their customers' business. The CFPB guidance attempts to pressure auto finance sources into changing the way they compensate dealers to a "flat fee" that dealers cannot discount for their customers. This action would eliminate a dealer's ability to "meet or beat" a competitors' finance rates and significantly limits the market competition that frequently provides customers a lower interest rate than those offered by banks or credit unions.

The CPFB claims it is basing this industry change on its belief that negotiated interest rates

create a “significant risk” of unintentional “disparate impact” discrimination. Since there are a variety of legitimate business-related factors that can affect finance rates (such as beating a competing rate), there have been numerous calls for the CFPB to release the methodology it uses to measure whether disparate impact exists. Despite eleven Congressional letters to the CFPB on a bipartisan basis, the CFPB has not publicly provided essential details of its methodology to substantiate its guidance. The bill would require the CFPB to follow a transparent process when issuing auto finance guidance. The CFPB issued its auto finance guidance without prior notice, public comment, a hearing, or transparency. This bill would rescind the 2013 guidance and require public participation for future auto finance guidance before it is issued.

Status Update: Fifteen additional cosponsors added since the last report.

S.2609, Marketplace and Internet Tax Fairness Act

The bill, opposed by the Association, was not acted upon during the lame duck session. The bill, introduced on July 15 by Senator Enzi (now with 14 cosponsors), authorizes each member state under the Streamlined Sales and Use Tax Agreement (the multi-state agreement for the administration and collection of sales and use taxes adopted on November 12, 2002) to require all sellers not qualifying for a small-seller exception (applicable to sellers with annual gross receipts in total U.S. remote sales not exceeding $1 million) to collect and remit sales and use taxes with respect to remote sales under provisions of that Agreement, but only if changes to such Agreement made after the enactment of this Act are not in conflict with the minimum simplification requirements of this Act (providing for a single state entity for all tax administration, audits, and returns of remote sales sourced to the state). Defines "remote sale" as a sale of goods or services into a state in which the seller would not legally be required to pay, collect, or remit state or local sales and use taxes unless provided by this Act.

The bill also amends the Internet Tax Freedom Act to extend until November 1, 2024: (1) the ban on state and local taxation of Internet access and on multiple or discriminatory taxes on electronic commerce, and (2) the exemption from such ban for states that generally imposed and actually enforced a tax on internet access prior to October 1, 1998. House bill, H.R. 684 introduced by Congressman Womack (AR-3), with 66 cosponsors, is pending before the Judiciary Subcommittee on Regulatory Reform, Criminal and Antitrust Law.

Status Update: On November 21, a motion to proceed to consideration of the bill by the Senate was withdrawn.

Rental Cars/Used Cars Recall

Legislative action did not occur during the lame duck session on the issue of “recalls,” specifically three pieces of legislation: S.921, the “Raechel and Jacqueline Houck Safe Rental Car Act of 2013;” S. 2559, the “Motor Vehicle Safety Act of 2014;” and, the “GROW AMERICA Act.”

As previously reported, while there has been no action for some time on S.921 that may change next year as the Senate Commerce Committee may include in its title of the MAP-21

reauthorization bill. We have been told that the title will include "something" on the rental car recall issue probably much from S.921 It was the death of the Houck sisters, California constituents of Senator Boxer, which was the impetus for S. 921. In its reported form, S. 921 is opposed by both NIADA and NADA. NAAA has taken no position on the legislation. The objections, which also apply to S.2559 and the Administration's GROW AMERICA bill, are that the bill is overly broad and premature. Basically, the bill prohibits the rental, sale or lease of a motor vehicle that is subject to a recall. While the intent, and source of the problem as evidenced by the Houck sisters' experience, is to reign in the "big" rental car companies, the text defines a rental car company as an entity "of 5 or more motor vehicles that are used for rental purposes." This affects some of NIADA members – in a survey of its members, of those who responded, 65.4% said that they have a rental fleet of more than 5 units. In addition, the bill makes no distinction between safety related recall notices and non-safety related ones. Also, it assumes a process that is based on a Federally-mandated system of accurate and comprehensive recall data. Such a system does not yet exist. Lastly, it begs the question of "remedying the defect" by not recognizing the realities of the "auto parts business" – timing, cost, liability, etc. NIADA is on record raising its objections to the bill. In doing so, NIADA requested that language be included in the bill that would exempt small business used car dealers, as defined in the SBA regulations. We continue working with NADA (also seeking an exemption), in light of the Commerce Committee's action.

Coupled with S.921 is S. 2559 introduced on June 27 by Senator Rockefeller, Chair of the Senate Commerce Full Committee. That bill includes two additional troubling issues. The first is a fee that would be imposed on car manufacturers to provide additional funding to the National Highway Traffic Safety Administration (NHTSA) to finalize the national recall database and to enhance its overall safety capabilities. NIADA opposes the fee because of its trickle down impact on dealers, especially small business dealers, and consumers and also because it may open the door to direct fees being imposed on used car dealers in the future. More than this issue, however, the Rockefeller bill includes a prohibition against used car dealers selling, leasing or renting a vehicle subject to a recall unless and until the defect is remedied or the consumer is provided notification of it. Rockefeller is taking action after a series of deaths resulted from faulty ignition switches in GM vehicles, and a wave of recent recalls from various automakers, which have highlighted gaps in NHTSA's ability to meet its mission of saving lives, preventing injuries, and reducing crashes on roads. Rockefeller's legislation is similar to H.R. 4364, the Motor Vehicle Safety Act of 2014, introduced in April 2014 by Rep. Henry Waxman (D-CA). As with S.921, NIADA is working with NADA in opposition to the bill.

Lastly, also as previously reported, included in the President's proposed MAP-21 reauthorization bill, the "Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout American Act" or the GROW AMERICA Act," is Section 4109, recall authority over rental car companies and used car dealers. The Senate Commerce Committee requested NIADA's comments on Section 4109 and a letter was submitted. Section 4109 (a) would limit the sale, lease or rental of vehicles or equipment that are subject to "notification of a defect or noncompliance about a motor vehicle or new item of replacement equipment." As drafted, the provision not only subjects rental car companies (dealerships with a rental car fleet of 5 vehicles or more) to the process currently applicable to new cars – which, we believe, was the intent of the provision – but it also goes way

beyond that process by including notification of any defect related to a motor vehicle or replacement equipment whether or not the defect is safety related. Section 4109(b) would also limit the sale or lease of used motor vehicles subject to recalls. Both provisions are problematic: the first, because it affects small rental car operations and is broad in its application as it includes non-safety related recalls; and the second, because the notification process for learning that a vehicle is subject to a recall is flawed.

Status Update: No change since the last report.

Automotive Employees Whistleblower Legislation

On November 20, Senator John Thune (R-SD), Ranking Member of the Commerce, Science, and Transportation Committee, and Senator Bill Nelson (D-FL) introduced S. 2949 (with 5 cosponsors) that would incentivize employees from the automotive sector to voluntarily provide information on faulty products to the U.S. Department of Transportation (DOT) to prevent serious physical injuries and death. In the 114th Congress, Thune is in line to become the Commerce Committee chairman, and Nelson is in line to become the ranking member. Senators Claire McCaskill (D-MO) and Dean Heller (R-NV), the leaders of the Commerce Committee's subcommittee on consumer protection, are also cosponsors of the bill as is Senator Klobuchar (D-MN).

The bill would allow employees or contractors of motor vehicle manufacturers, part suppliers, and dealerships to receive up to 30 percent of the monetary penalties resulting from a DOT or Justice Department enforcement action that totals more than $1 million if they share original information not previously known to the DOT secretary relating to any motor vehicle defect, noncompliance, or any violation of any reporting requirement that is likely to cause risk of death or serious injury. The bill would take into account whether or not the whistleblower had the opportunity to report the problems internally, as well as the significance of the information. It would also protect whistleblowers' identities. The legislation is modeled after existing statutory whistleblower protections that encourage individuals to share information with the IRS and the SEC.

Status Update: No change since the last report.

DOD Ban on Signing Over Paychecks

Starting Jan. 1, active-duty troops can no longer use paycheck allotments when purchasing vehicles, furniture, electronics and other personal property. The policy change announced November 21 is a response to abusive practices on the part of some retailers and lenders, Department of Defense officials said, and is designed to keep troops from getting in over their heads financially. Troops can still designate parts of their paychecks to flow automatically to savings accounts, investments, rent and mortgage payments, payments to family members and other uses, officials say. And allotments already established to pay for personal property can continue.

But with each new allotment or change to an allotment in the myPay system, troops will be

required to make a binding certification: “Under penalty of the Uniform Code of Military Justice, I certify that this allotment is NOT for the purchase, lease, or rental of personal property of or payment toward personal property.”

The problem, according the DOD, is that unscrupulous retailers lure troops to purchase things they can’t afford — often with fine print that hides the real costs — because the allotment system virtually guarantees they’ll be paid, even if it impoverishes the service member. With the end of allotment purchases of cars, motorcycles, computers, kitchen appliances and other goods, troops who want to pay for expensive items on installments will have to go through credit checks, helping to ensure they have the money to make payments, officials said. According to DOD statistics for 2012, the top 10 financial institutions that processed allotments from service members processed nearly 2 million of them worth nearly $3.8 billion. Three of the top 10 institutions, which were identified by state authorities, federal regulators and consumer advocates as suspected abusers of the allotment system, processed nearly a million allotments worth about $1.4 billion that year. Analysis also showed that both officers and enlisted personnel on average used about 3.5 allotments per person in 2012.

The policy change is the result of a review of the allotment system ordered by former Defense Secretary Chuck Hagel last summer when the problem was brought to light by enforcement actions by the Consumer Financial Protection Bureau. In June 2013, the agency ordered U.S. Bank and a partner company, Dealer’s Financial Services, to return $6.5 million in fees to service members who bought cars with allotments under terms that misrepresented the true costs. And in July this year, citing improper fees, the agency canceled 17,000 finance agreements held by Colfax Capital Corporation and its subsidiary, Culver Capital LLC, turning off paycheck allotments connected to the agreements that resulted in $92 million of debt relief.

Earlier this year, four Democratic Senators wrote to Hagel, demanding that DOD improve the allotment system to crack down on abuse. During the interagency review that led to the change, officials considered options ranging from simply warning troops about the dangers of unscrupulous sellers, to abolishing allotments altogether. In the end, the system was retained because deployed troops often use allotments to get money to family members, or for other responsibilities difficult to handle while potentially serving in a war zone.

H.R. 749 and S. 635, Annual Privacy Notice Requirement

Recently, the CFPB proposed some changes to the Privacy Rule, specifically that portion that deals with the providing an annual privacy policy. On July 14, NIADA submitted comments for the record noting that while the concept of removing the annual privacy policy requirement when there is no change to the document and the customer’s information is not being shared with non-affiliated third parties has merit, the proposed delivery method which the CFPB proposes is flawed. The comments included specific concerns with requirements that hurt small businesses, for example, maintaining a dedicated toll free phone line. NIADA recommended to the Bureau that it support pending legislation that has passed the House of Representatives and is pending in the Senate. That legislation does not have such onerous requirements on small business.

The bills referenced are House-passed H.R. 749, the “Eliminate Privacy Notice Confusion Act” by Congressman Luekemeyer and Senate introduced S. 635, the “Privacy Notice Modernization Act of 2013” by Senator Brown (75 cosponsors) – that would, in general, eliminate a costly and duplicative requirement originally passed under the Gramm-Leach-Bliley Act that all financial institutions mail their customers a copy of their privacy notice each year even if there has been no change in their privacy policy. While NIADA supports both bills in concept, our preference is for enactment of House-passed H.R. 749 given some concerns over the one addition to that bill that is included in the Senate bill.

Both bills would remove the annual privacy notice requirement if an institution has not, in any way, changed its privacy policies or procedures. The bills do not exempt any institution from an initial privacy notice, nor do they allow a loophole for an institution to avoid issuing an updated notice. Notwithstanding this, the Senate bill adds another qualifying condition for exemption - that customers are to be provided “access to such most recent disclosure in electronic or other form permitted by regulations prescribed under section 504.” By this addition, we suspect that the Senate bill envisions that financial institutions would post their privacy policy on their website or transmit it via email. However, while that may work for “traditional financial institutions,” some of our small dealers do not have websites and email transmittals by them may be costly, cumbersome and speculative at best. Of course, email transmittal assumes that the customer has the capability to receive them that may not always be the case. In addition, the reference to “section 504” creates a significant degree of uncertainty as that section, in part, gives the Bureau of Consumer Financial Protection and the Federal Trade Commission broad authority to issue regulations on an on-going basis, thereby, for purposes of this bill, leaving in doubt what “other form permitted by regulations” might take. Given this, the Association’s position is that subparagraph (3) of the S. 635 not be included in the final version of the bill.

Status Update: No change since the last report.

Auction Sales

No action was taken on this issue during the lame duck session

MAP-21 Reauthorization

In meeting with the staff of both sides of the Senate Environment and Public Works Committee, we learned that they expect to meet the May reauthorization deadline, using Boxer’s MAP-21 bill as a starting point, and that the new chairman, Senator Inhofe (R-OK), plans to revisit the current earmark ban as it applies to transportation with a view to a possible re-definition of the term. On the House side, Republican staff of the Transportation and Infrastructure Committee advised us that they are already in the process of drafting a bill. To date, Democratic staff have not been involved in the process.

To review, on August 8, President Obama signed into law (Public Law 113-159) the "Highway and Transportation Funding Act of 2014.” The law would transfer approximately $10.8B from the General Fund into the Highway Trust Fund (HTF) - $8.8B into the Highway Account and $2.0B into the Mass Transit Account - to keep the HTF solvent and provide funding for highway

and transit programs at current levels through May 31, 2015.

The cost to the General Fund would be offset by various "pay-fors," all of which are unrelated to transportation and most of which extend over 10 years. They include "pension smoothing", an extension of custom duties, and a transfer of $1B from the Leaking Underground Storage Tank Trust Fund (LUST). The bill also includes an extension of the MAP-21 authorization through May 31, 2015 at current funding levels, pro-rated.

Other Legislative Initiatives

NOTE: All bills not enacted into law by the end of a Congress “die.” They may be reintroduced in the new congress but would have to start at the beginning of the legislative process and not where they left off in the previous congress.

H.R. 4811, the “Bureau Guidance Transparency Act”

Introduced by Representative Stutzman on June 9, the bill (with 10 cosponsors) would require that the CFPB, in issuing any guidance, provide a public notice and comment period before issuing the guidance in final form, and must make public any studies, data, and other analysis it relied on in preparing and issuing its guidance. That bill was reported by the House Financial Services Committee on June 11 and is not supported by the Democrats because they don’t believe that it is necessary given the fact that the CFPB has issued 56 guidelines and only 2 have raised concerns. However, one of the guidelines of concern is the CFPB March 21, 2013 announcement with respect to indirect auto lending. Various stakeholders took issue not only with CFPB’s findings on this issue but also the underlying process and data supporting it, both of which were regarded as highly speculative and secretive. Nullifying that guidance and providing for a more transparent and accountable process are something that the Democrats could support. Therefore, there continues to be an effort underway, with NIADA again working in concert with NADA, to work with both parties in the House to see if the Democrats position could be married somehow with the Republican bill to advance the position and concerns of the auto industry regarding this issue (see H.R. 5403 above).

Status Update: No change since the last report – see H.R. 5403 above.

H.R. 4383, the Bureau of Consumer Financial Protection Small Business Advisory Board Act

Introduced by Representative Pittenger, the bill, as reported, would direct the CFPB to establish a Small Business Advisory Board. The bill has 23 (now 38) cosponsors. Introduced by Representative Pittenger, the bill, as reported, would direct the Director of the CFPB to establish a 12 member Small Business Advisory Board to: (1) advise and consult with the Bureau in the exercise of the Bureau's functions under the federal consumer financial laws applicable to eligible financial products or services; and (2) provide information on emerging practices of small businesses that provide eligible financial products or services, including regional trends, concerns, and other relevant information.

Status Update: No change since the last report.

H.R. 4684, the Bureau Guidance Transparency Act

Introduced by Representative Stutzman with no cosponsors, the bill would require that the CFPB, in issuing any guidance, provide a public notice and comment period before issuing the guidance in final form, and must make public any studies, data, and other analysis it relied on in preparing and issuing its guidance.

Status Update: No change since the last report.

H.R. 4662, the Bureau Advisory Opinion Act

The bill, introduced by Congressman Posey with one cosponsor, would require the Director of the Consumer Financial Protection Bureau to: (1) establish a procedure to respond to specific inquiries by a covered person concerning conformance of prospective conduct with federal consumer financial law, and (2) issue an opinion in response to the inquiry within 90 days (with a single allowable extension of another 45 days). A "covered person" under the Act is: (1) any person that engages in offering or providing a consumer financial product or service; and (2) any affiliate of that person if the affiliate acts as a service provider to the person. The bill, as reported, creates a rebuttable presumption in any action brought under federal consumer financial law that any conduct for which the Director has issued an opinion that it is in conformity with the opinion is indeed in compliance with federal consumer financial law. It exempts such inquiries and advisory opinions from disclosure under the Freedom of Information Act.

Status Update: No change since the last report.

H.R. 3193, Consumer Financial Protection Safety and Soundness Improvement Act of 2013

Introduced by Congressman Duffy on September 26, 2013, passed the House on Feb. 27, 2014, received in the Senate on March 4, 2014,and amends the Consumer Financial Protection Act to authorize the Chairperson of the Financial Stability Oversight Council to issue a stay of, or set aside, any regulation issued by the Consumer Financial Protection Bureau (CFPB) upon the affirmative vote of the majority of Council members (currently, two-thirds), excluding the Director of the Bureau.

Requires the Council, upon the petition of a member agency of the Council, to set aside a final regulation prescribed by the CFPB if the Council decides that such regulation is inconsistent with the safe and sound operations of U.S. financial institutions. (Currently the Council is merely authorized, upon petition, to set aside a final regulation if it would put the safety and soundness of the U.S. banking system or the stability of the U.S. financial system at risk). Repeals the prohibition against Council set-aside of a regulation after expiration of a specified time period, and mandatory dismissal of a petition if the Council has not issued a decision within such time

period. Requires the CFPB Director, when prescribing a rule under federal consumer financial laws, to consider its impact upon the financial safety or soundness of an insured depository institution.

Status Update: No change since the last report.

S. 2171, Location Privacy Protection Act

Introduced on March 27 by Senator Franken. The bill has 5 cosponsors and on June 4 the Subcommittee on Privacy, Technology and the Law of the Judiciary Committee held a hearing on it. The bill amends the federal criminal code to prohibit a covered entity (nongovernmental individual or entity) from knowingly collecting or disclosing to another covered entity geolocation information from an electronic communications device without the consent of the individual using the device. Specifies exceptions, including for collection or disclosure: (1) for the provision of fire, medical, public safety, or other emergency services; or (2) pursuant to a court order or a request by a law enforcement agency.

Defines "geolocation information" as specified information that is not the contents of a communication, is generated by or derived from the operation or use of such a device, is sufficient to identify the street and city or town in which the device is located, and does not include the Internet protocol address or the home, business, or billing address of the individual. Defines "consent" as affirmative express consent after receiving clear, prominent, and accurate notice that: (1) informs the individual that his or her geolocation information will be collected, (2) identifies the categories of covered entities to which the information may be disclosed, and (3) provides the individual easy access to the collecting agency's geolocation information website.

Requires a covered entity that initially collects geolocation information from such a device in a manner that it has reason to believe is imperceptible to the individual using the device, in addition to obtaining consent, to provide clear, prominent, and accurate notice to the individual, not earlier than 24 hours nor later than 7 days after the initial collection, that geolocation information is being collected. Requires a covered entity that collects the geolocation information of more than 1,000 electronic communications devices in a year to maintain a publicly accessible Internet website that includes: (1) the nature of the information collected; (2) the purposes for which the covered entity collects, uses, and discloses the information; (3) the specific covered entities to which the collecting entity discloses geolocation information; and (4) how an individual may electronically revoke consent for the collection and disclosure of such information. Requires the Attorney General to issue regulations to implement such requirements. Authorizes civil actions by the Attorney General and aggrieved individuals for violations of this Act, subject to specified limitations.

Prohibits: (1) the unauthorized disclosure of geolocation information in aid of interstate domestic violence or stalking; (2) the fraudulent collection of geolocation records information obtained by a geolocation information service; and (3) the manufacture, distribution, possession, and advertising of geolocation information intercepting devices. Provides for the forfeiture of such devices. Establishes in the Treasury an Anti-Stalking Fund: (1) into which shall be deposited an

amount equal to the value of any such device and related proceeds forfeited, and (2) which the Attorney General shall use for training on investigating and prosecuting stalking crimes and for support of help line and emergency response efforts for such crimes.

Directs the Attorney General to include as part of each National Crime Victimization Survey, and the Director of the Center for Disease Control and Prevention (CDC) to include as part of each National Intimate Partner and Sexual Violence Survey, questions examining the role that various new technologies that use geolocation information may have in the facilitation of domestic violence, dating violence, sexual assault, or stalking.

Requires the Attorney General to direct the Internet Crime Complaint Center to provide education and awareness information to the public and law enforcement and register complaints regarding the abuse of geolocation information to commit domestic violence, dating violence, sexual assault, stalking, or other related crimes. Authorizes the Director of the Office on Violence Against Women to make grants to develop and provide training relating to investigating and prosecuting the misuse of geolocation information in the commission of such crimes.

Status Update: No change since the last report.

H.R. 2543, End Discriminatory State Taxes for Automobile Renters Act of 2013

Introduced on June 27 by Congressman Cohen with 6 (now 17) cosponsors. On September 13 the bill was referred to the Subcommittee on Regulatory Reform, Commercial and Antitrust Law of the Judiciary Committee. The bill prohibits states or local governments from levying or collecting a discriminatory tax (generally, a tax or tax assessment that is applicable to the rental of motor vehicles or motor vehicle businesses or property, but not to the majority of other rentals of tangible personal property within a state or locality) on the rental of motor vehicles, motor vehicle rental businesses, or motor vehicle rental property.

Status Update: No change since the last report.

S. 1585, Providing Replacement Automobiles for Certain Disabled Veterans and Members of the Armed Forces

Introduced on October 28 by Senator Sanders with no cosponsors. Hearing held by the Committee on Veterans Affairs on October 30. The bill would increase the amount of government assistance from $18,900 to $30,000 for military members to acquire a replacement vehicle for vehicles destroyed in disasters, provided that the eligible member does not receive property insurance compensation for the loss.

Status Update: No change since the last report.

S.1029, the Regulatory Accountability Act of 2013

Introduced on May 23 by Senator Portman with 8 cosponsors (now 13) and referred to the Committee on Homeland Security and Governmental Affairs. A Subcommittee hearing was held on the bill on March 11, 2014. The bill amends the Federal regulatory process by specifying issues agency must consider in a rulemaking; various notice requirements for major and high-impact rules; public comment and hearing procedures; judicial review; and, final rulemaking.

Status Update: One additional cosponsor added since the last report.

H.R. 1663, Promoting Automotive Repair, Trade and Sales Act of 2013 (PARTS Act)

Introduced on April 23 by Congressman Issa on a bipartisan basis with 7 (now 8) cosponsors and referred on June 14 to the Judiciary Subcommittee of jurisdiction. The bill makes it not an act of infringement, with respect to a design patent that claims a component part of a motor vehicle as originally manufactured, to: (1) make, test, or offer to sell within the United States, or import into the United States, any article of manufacture that is similar or the same in appearance to the component part claimed in such design patent if the purpose of such article is for the repair of a motor vehicle to restore its appearance to as originally manufactured; and (2) use or sell within the United States any such same or similar articles for such restorations more than 30 months after the claimed component part is first offered for public sale as part of a motor vehicle in any country. Defines "component part" as a component part of the exterior of a motor vehicle only (such as a hood, fender, tail light, side mirror, or quarter panel), excluding an inflatable restraint system or other component part located in the interior of a motor vehicle. Specifies that an offer to sell include any marketing of an article of manufacture to prospective purchasers or users and any pre-sale distribution. Applies this Act to any patent issued, or application filed, before, on, or after the effective date of this Act. Also on April 23 Senator Whitehouse (RI) introduced on a bipartisan basis the identical bill (S.780) with 2 cosponsors. The bill was referred the same day to the Judiciary Committee. NIADA reviewed the legislation and determined at this point not to lend its name in support. We will continue to monitor further developments.

Status Update: No change since the last report.

H.R.2414, the Black Box Privacy Protection Act

On June 18, Congressman Capuano introduced H.R.2414, the Black Box Privacy protection Act with 10 (19) cosponsors. On July 15, the bill was referred to the Homeland Security Committee Subcommittee. The bill amends the Automobile Information Disclosure Act to require manufacturers of new automobiles to disclose on the information label affixed to the window of the automobile: (1) the presence and location of an event data recorder (commonly referred to as a "black box"), (2) the type of information recorded and how such information is recorded, and (3) that the recording may be used in a law enforcement proceeding. Sets forth similar requirements for motorcycle manufacturers. Defines "event data recorder" as any device or means of technology installed in an automobile that records information such as automobile or motorcycle speed, seatbelt use, application of brakes, or other information pertinent to the operation of the automobile or motorcycle. Prohibits the manufacture, sale, offering for sale, or import into the United States of an automobile manufactured after 2015 (bearing a model year of 2016 or later) that is equipped with an event data recorder, unless the consumer can control the

recording of information. Requires the event data recorder in an automobile or motorcycle, and any data recorded, be considered the property of the owner of the automobile or motorcycle. Makes the retrieval or downloading of recorded data by any other person unlawful, except: (1) with the owner's consent, (2) in response to a court order, or (3) by a dealer or automotive technician to service the vehicle. Requires certain violations to be treated as unfair or deceptive acts or practices under the Federal Trade Commission Act.

Status Update: No change since the last report.