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To: Mike Linn and Keith Whann  
From: Sante Esposito  
Michael Esposito  
Subject: December 2010 Monthly Report

### **Dodd-Frank Wall Street Reform and Consumer Protection Act**

The Congress ended with the FTC beginning in earnest to “review the auto industry” in the light of the above consumer enacted law. To review, on November 17, Keith Whann and Federal Advocates met with senior staff of the FTC as a follow-up to the September 21 meeting. A series of questions had been provided to NIADA for discussion at the November 17 session. At the meeting, Keith walked them through the process of buying a car and provided samples of “purchasing” documents. The FTC is in the process of formulating questions for public comment regarding various aspects of the auto industry as it relates to consumers. The FTC staff was not forthcoming as to the timing of that effort, its scope and its intended purpose. The results of the November 17 meeting were reported to NIADA’s Legislative Committee by conference call on November 23. Also, on September 21, Keith and Federal Advocates met with staff of the FTC regarding implementation of the above Bill and its impact on the auto industry. Following discussion of various issues, with Keith leading the discussion and answering various questions as to how the auto industry works, including the auction practice itself, it was decided to schedule a half day session to allow for a more detailed discussion of issues (i.e., the November 17 session). All of this is a result of the so-called “Wall Street Reform Bill.” As reported previously, the new law exempts some auto dealers from increased oversight with respect to dealer-assisted financing. The law does grant increased powers to the FTC regarding dealer oversight. Also, it requires coordination with the Department of Defense to ensure that Service Members and their families are treated fairly by automobile dealers.

### **Senate Motor Vehicle Safety Act of 2010**

The Congress ended with no formal action on the above bill. To review, on June 9, 2010, the Senate Committee on Commerce, Science and Transportation marked up and order reported S.3302, the so-called “Toyota Bill.” In earlier drafts of the Bill and just prior to markup,

language was included (section 310) which would have specified that a dealer may not sell or lease a used passenger motor vehicle (both wholesale and retail sales) until the dealer first notifies the purchaser or lessee in writing of any recall notices. Working primarily with/through Senator Thune, his staff (Brenden Plack), and Committee staff (Alex Hoehn-Saric and Chris Herndon), and as a result of concern raised by Keith Whann and his proposed suggestion, section 310 has been dropped from the bill. This provision would have seriously hurt used car commerce by imposing tremendous compliance costs and liability exposure for dealers while increasing the safety risk for consumers by pushing unremedied vehicles into the “unregulated” private sale used car market. While an initial “victory,” we will continue to advocate on behalf of NIADA’s interest pending further action on the Senate Bill and/or on a House companion bill.

### **Small Business Jobs and Credit Act of 2010**

The Administration has delayed implementation of the above bill until March 2011. On September 23, the House passed the Senate-passed bill, which includes an increase in the amount that the Small Business Administration’s Dealer Floor Plan Financing program can guarantee (see attached article on timing). This permits the SBA to guarantee bank and finance company loans up to \$5million, which should help, the Committee believes, expand dealer access to floorplan lines of credit. We worked with Senator Landrieu’s Committee and personal staff, in conjunction with others, on this. This bill may be the subject of subsequent meetings with the Hill and the SBA on how the program “really works.”

### **White House Reform Request**

On September 23 and September 29, Federal Advocates was contacted by the White House, which is still trying to organize/schedule a meeting to include “people who are working to setup the CFPB.” This meeting is in response to a letter sent by NIADA to President Obama requesting “the opportunity to work with you to reform our industry in common-sense ways that achieve real safeguards for consumers, that promote accountability and transparency, and that work.”

### **Department of Defense**

Regarding the issue of “how to ensure that service members and their families are treated fairly by automobile dealers,” Keith Whann and Federal Advocates also met on September 21 with Frank Emery, Office of Personal Finance, Family Policy Outreach Directorate, U.S. Department of Defense. Keith relayed a specific example of how he helped a service member at Fort Bragg re an automobile situation, working with the JAG and others. He also talked about his plan for a special program to “teach” dealers on how to deal fairly with service members and their families. DOT continues to remain interested in looking for opportunities where Keith could lend his expertise.