



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: July 2014 Regulatory Update
Date: August 4, 2014

I. Consumer Financial Protection Bureau

A. Consumer Complaint Detail

The CFPB has proposed to make the narrative information consumer provide with the complaints available to the public through its complaint database. Currently, the CFPB limits information available to the public to the name of the company that is the subject of the complaint, the date the complaint was submitted to the Bureau, the date the complaint was submitted to the company, the consumer's zip code, the product type, the issue the consumer is complaining about by category, and whether or not the company provided relief.

Under this proposal, the CFPB would not publish the complaint narrative unless the consumer has provided express consent, which can be withdrawn at any time. The proposal allow companies to submit a narrative response that would appear next to the consumer's narrative.

The Bureau will accept comments on the proposal until September 22, 2014.

B. Debt Collection Survey

The CFPB is seeking approval from the Office of Management and Budget to conduct a mail survey of consumers to learn about their experiences interacting with the debt collection industry. The Bureau will take comments on their plans until August 22, 2014.

C. Privacy Rule changes

In the May report, we referenced a proposed a rule change the CFPB drafted that would allow companies that limit their consumer data-sharing and meet other requirements to post their annual privacy notices online rather than delivering them individually. If a company qualified for and wants to rely on the online disclosure method, it would have to inform consumers annually about the availability of the disclosures. They could include an insert in regular consumer communication, such as a monthly billing statement, informing consumers that the annual privacy notice is available online and in paper by request at a toll-free telephone number.

NIADA submitted written comments to the CFPB applauding the CFPB's efforts to consider easing the regulatory burden on companies. However, we raised concerns that what was proposed did not ease the burden on small business. We believe that the requirement to notify consumers in writing that an annual privacy notice is available on line is trading one notice for another. We also raised concerns about the expense and usefulness of a dedicated toll free number. We encouraged the Bureau to support pending legislation in the Senate that does not contain these requirements.

A copy of our comments is attached hereto.

D. Meeting with CFPB Ombudsman's staff

Several weeks ago, the Ombudsman to the CFPB reached out to NIADA asking for a meeting to discuss the interaction between the Bureau and NIADA. The Ombudsman is an independent, impartial, and confidential resource to help resolve process issues arising from CFPB activities.

Executive Vice President Steve Jordan and I traveled to meet with the Ombudsman's staff about NIADA's interaction with the Bureau. We expressed our appreciation for the CFPB's willingness to include NIADA in discussion on many topics and willingness to gather information from us as it pertains to the industry. We did express our concerns with the Bureau's unwillingness at times to be open with the industry on certain initiatives, such as disparate impact.

The Ombudsman has asked to have a follow-up phone call in the coming days.

II. Department of Justice

No significant activity.

III. Department of Labor

No significant activity.

IV. Environmental Protection Agency

No significant activity.

V. Federal Trade Commission

A. Meeting with Division of Financial Practices

Eleven consumer advocacy groups petitioned the FTC to take action against CarMax for selling used vehicles with open recall notices. The group claimed that the advertising of CarMax's 125+ point inspection and subsequent sale of vehicles with open recalls is unfair and deceptive. Senator Charles Schumer (D-NY) also petitioned the FTC to take action against CarMax and other dealers selling used cars with open recall notices.

In response to those petitions, Executive Vice President Steve Jordan and I met with the Assistant Director and two staff attorneys in the Division of Financial Practices in mid-July to raise NIADA's concerns with the petitions, limitations of the sale of vehicles with open recalls, and the current recall process.

B. Used Auto Parts Guides

The FTC amended its Used Auto Parts Guides, which were written as a tool to prevent the unfair or deceptive marketing of used motor vehicle parts and assemblies containing used parts. The "Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry" state that the following are unfair and deceptive practices: misrepresenting that an industry product is new, misrepresenting the amount of use of an industry product, misrepresenting the identity of anyone who worked on an industry product after its removal from the original vehicle, and misrepresenting its condition or the amount of work done to it after its removal from the original vehicle.

Other changes include: limiting the use of the term "remanufactured," like the term "factory rebuilt" to be used only if the product was rebuilt "at a factory generally engaged in the rebuilding of such products"; applying the Guides to used tires; and shortening and updating the sample list of parts that may be industry products

VI. Internal Revenue Service

No significant updates.

VII. National Highway Traffic Safety Administration

No significant updates.

VIII. National Motor Vehicle Title Information System

No significant updates.



NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

2521 BROWN BOULEVARD
ARLINGTON, TX 76006-5203

817.640.3838 / FAX 817.649.5866
WWW.NIADA.COM

July 14, 2014

Submitted Electronically Via Regulations.gov

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

Re: Comments to Proposed Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P)
Docket No. CFPB-2014-0010 or Regulatory Identification Number (RIN) 3170-AA39

Dear Ms. Jackson,

The National Independent Automobile Dealers Association (“NIADA”) submits the following comments to the Consumer Financial Protection Bureau (“CFPB” or “Bureau”) regarding the Bureau’s proposed amendment to the annual privacy notice requirement under the Gramm-Leach-Bliley Act (“GLBA”) and Regulation P.

Introduction

NIADA is one of the largest trade associations in the United States representing the interests of the used motor vehicle dealer industry and it’s more than 38,000 licensed dealers in all fifty states. Since 1946, NIADA and our members have represented the best and brightest used motor vehicle dealers, including those that sell used vehicles in the retail, wholesale, auction, and Buy-Here, Pay-Here segments of the industry. Many of the NIADA’s dealer members own and operate small businesses as defined by the Small Business Administration with almost 50 percent of those members employing five or fewer employees.

Significantly, more than 40 percent of these dealers have been in business longer than 20 years. They are businessmen and women who subscribe to the NIADA Code of Ethics that emphasizes honor, integrity and fair dealing. They are the small car store that survives in the best of times and the worst of times because they are a part of their communities as fathers, mothers, Better Business Bureau members, Chamber of Commerce members, city councilmen, school board

members, churchgoers, youth organization sponsors and coaches, and citizens who look for ways to make our cities and our towns better places to live.

The Bureau issued this proposed rule change on May 13, 2014. Under the proposal, a financial institution would be permitted to post its annual privacy notice online as opposed to mailing the notice to its customers if the institution meets five conditions. First, the financial institution cannot share customers' nonpublic personal information with unaffiliated third parties except for purposes permissible under 12 C.F.R. §§ 1016.13 – 1016.15, none of which triggers opt out rights under the GLBA. Second, the financial institution must not include in its annual privacy notice an opt out under section 603(d)(2)(A)(iii) of the Fair Credit Report Act ("FCRA"). Third, if the financial institution provides an opt out under section 624 of FCRA, the annual privacy notice cannot be the only notice provided to satisfy the requirements of that section. Fourth, the financial institution has not changed the content of its privacy notice since it last provided an annual notice to its customers. And finally, the financial institution must use the model privacy notice.

Once those five prerequisites are met, the financial institution can elect the alternative delivery method to deliver the annual notice. To comply with the alternative delivery method, as proposed by the Bureau in this draft rule change, the financial institution would have to inform customers at least annually on another notice or disclosure that the privacy notice is posted on its website and that the financial institution will mail the policy to the customer upon request. The financial institution would be required to provide a toll-free number the customer can call to request the policy. The notice to the customer must include the URL that would take the customer directly to the institution's privacy policy. The policy would have to be posted on a page of the website that contains only the privacy policy without requiring any conditions to access the page (i.e. log-ins). If a customer requests the current privacy policy, the institution would have to mail it promptly.

After having reviewed the proposed amendments to the rule, NIADA offers the following comments.

I. The Proposed Amendment Does Not Provide Substantive Benefit to the Small Business

NIADA appreciates the Bureau's stated goal of reducing unnecessary or unduly burdensome regulations. We appreciate the Bureau's efforts to identify those regulations that impose significant costs of compliance on business while providing little substantive value to consumers. It has been stated by numerous commenters that the cost to comply with the current GLBA requirements to mail annual privacy policies is overly burdensome and extremely costly. NIADA agrees with this position. And while the proposed changes may provide relief to the large banks, credit unions, and other large financial institutions (as evidenced by the impact study the Bureau conducted on these entities), NIADA does not believe the Bureau's proposal provides any substantive relief to the small business.

For example, the Bureau's amendment requires financial institutions to send a notice to the consumer (perhaps on a periodic statement) that the annual privacy policy is available for view on the institution's website and available by mail by calling a toll-free number. Most non-depository small businesses, such as automobile dealers, do not send periodic statements like a large bank would to its credit card customers. Therefore, in order to take advantage of the Bureau's

alternative delivery proposal, these entities would be required to create and mail a notice informing the customer of the availability of the privacy policy on-line. In essence, this would be trading one form of notice for another, which is at best, a net zero savings.

But in order to achieve even a net zero savings, the small business would be required to secure a toll-free number that is dedicated to the sole purpose of allowing customers to call the institution and request privacy policies. While large financial institutions may have a plethora of toll-free numbers, one of which could be dedicated to this purpose, small financial institutions generally do not have that luxury. Most small financial institutions, especially automobile dealers, do not have any toll-free lines. Thus, to take advantage of the alternative delivery method, the small financial institution would have to incur the expense of securing a toll-free line as well as its subscription costs.

The concern about the costs imposed on the financial institution to secure the line is only magnified when one considers how infrequent consumer requests for privacy policies will be made. The Bureau acknowledges that many consumers do not read their annual privacy policies. This would seem to suggest that consumers either do not understand them, or more likely, do not care about them. Several commenters have made mention that they rarely receive requests from consumers for privacy policies. Most automobile dealers never asked. Given the infrequent requests that exist now, why would the Bureau compel businesses, particularly small business, to bear the expense of a toll-free line that is very likely to go unused?

Moreover, it is important to note that by and large, consumers are purchasing cars from dealers in and around their hometowns and in the same area code. The stated concern the Bureau raised about consumers having to bear an expense to contact a financial institution to request a privacy policy might hold true if a resident of South Sioux City, Nebraska has to call JP Morgan Chase in Manhattan. However, it is not the case when that consumer calls the local independent dealership down the street.

Furthermore, we live in the age of VoIP, anytime/anywhere calling plans, and even free international calling. Technology has removed many of the barriers that existed in the last century when the long distance phone call was a significant cost. Those days are in the past, and any regulation promulgated by the Bureau should accept the realities of modern technology.

As a result, NIADA believes that the costs of requiring a dedicated toll-free number to receive annual privacy notice requests far outweigh the benefit to consumers. Likewise, the cost to comply with the notice provided to consumers of the availability of the annual privacy policy is a significant burden on small business. The reality is that these costs will inhibit small businesses, particularly automobile dealers, from ever being able to use the alternative deliver method. Thus, while large institutions would enjoy the costs savings of the alternative delivery method, the harsh reality is it would be business as usual for the small business that needs to be freed from the costs of this regulatory burden.

II. The CFPB Should Model The Amendment After Pending Legislation

The United States House of Representatives passed H.R. 749 with bi-partisan support. That bill would exempt any financial institution from providing an annual privacy policy when that

institution provides nonpublic personal information about consumers to unaffiliated third parties only in accordance with exceptions under the Graham-Leach-Bliley Act (e.g. service providers, law enforcement, or as necessary to fulfill a transaction requested by the customer), and (2) has not changed its disclosure policies and practices since the most recent disclosure was sent to consumers.

Given the significant support this bill has received from both sides of the isle, the Bureau should support the bill and model any amendment to the rule after this legislation. The bill does not impose extra burdens on small businesses in the form of a dedicated toll-free number nor does it play a regulatory shell game by trading one requirement for another as the notice requirement would do. This legislation would truly provide the regulatory relief to financial institutions of all sizes and scopes, large and small. That was the stated desire of the Bureau, one which the NIADA fully supports.

III. Conclusion

NIADA appreciates the CFPB's willingness to seek comment on this issue. We encourage the Bureau to continue efforts to streamline regulation and lift the burden imposed on automobile dealers. We welcome the opportunity to engage in further discussions with the Bureau on this and other issues.

At your service,



Steve Jordan
NIADA
Executive Vice President



Shaun K. Petersen
NIADA
Outside Legislative & Regulatory Counsel



1701 Pennsylvania Avenue
Suite 300
Washington, DC 20006
Phone: (202) 351-6855
Fax: (202) 351-6855
www.federaladvocates.com

August 1, 2014

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

Rental Cars/Used Cars Recall

Three pieces of legislation are at issue: 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.”

While there has been no action for some time on S.921 that may be changing as the Senate Commerce Committee is expected to release soon its title of the MAP-21 reauthorization bill, the Senate Environment and Public Works Committee already having reported out its title on highway issues. Senate Commerce’s jurisdiction in the bill includes motor vehicle safety and rail issues. We have been told that the Commerce Committee’s MAP-21 title will include “something” on the rental car recall issue probably much from S.921. Senator McCaskill, who is the Chair of the Commerce Subcommittee on Consumer Affairs, is also a cosponsor of S.921 and a close ally of Senator Boxer, the leading proponent on 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 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 have redoubled our efforts, 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. On July 21, Steve Jordan, Shaun Peterson and Federal Advocates met with various Hill staff (see attached itinerary) to raise our objection/concerns with respect to both bills. To summarize the political situation in the Congress, House Republicans oppose both S.921 and S.2559; Senate and House Democrats support both; and, Senate Republicans are in a "wait and see" mode.

Lastly, 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.

Annual Privacy Notice Requirement

Perhaps in response/anticipation of pending Federal legislation on the subject (see following), the CFPB has proposed some changes to the Privacy Rule, specifically that portion that deals with the providing an annual privacy policy. On July 14, NIADA via Shaun Petersen,

Legislative and Regulatory Counsel, 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 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 – 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.

H.R. 4811, the "Bureau Guidance Transparency Act"

Introduced by Representative Stutzman, 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. That bill was reported by the House Financial Services Committee 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 is 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.

Auction Sales

We continue to report on this issue in recognition of its importance and the possibility of congressional action at some point. However, to date there have been no further developments either from the Hill or between the industry and law enforcement.

MAP-21 Reauthorization

Late last night, Congress passed the House version of the "Highway and Transportation Funding Act of 2014." That bill 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 for the eight-month length of the extension - October 1, 2014 to May 31, 2015.

Questions have been raised about whether \$10.8B is a sufficient patch to extend HTF solvency through May 31 since the Congressional Budget Office (CBO) recently estimated that \$8B was needed to avoid slowdowns in federal reimbursements through December 31 alone. The House-passed bill only provides an additional \$2.8B to cover all of January through May 2015, even considering that HTF expenditures typically slow down during the winter months.

Earlier in the process, the White House issued a Statement of Administration Policy in support of the House approach, much to the dismay of many industry stakeholders and the Democratic leadership of the Senate EPW Committee who pushed for a shorter extension, only through December 2014, in order to keep the pressure on Congress to act on a longer-term funding solution, possibly during the post-election *Lame Duck* session.

Along those lines, on July 9, the Senate Finance Committee passed its own version of a short-term HTF funding bill. The Senate bill also transferred \$10.8B into the HTF with similar offsets, but it did not include an extension of the MAP-21 authorization and it was silent on how long the funding fix would last.

Also related to the overall reauthorization effort, on July 29, Senate Committee on Commerce, Science, and Transportation's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a hearing titled, "Opportunities and Challenges for

Improving Truck Safety on our Highways.” Ahead of the surface transportation reauthorization, the hearing focused on opportunities and challenges to address truck safety on our highways. In light of several major truck crashes and increases in truck fatalities, the hearing examined efforts to address truck safety concerns, implementation of MAP-21, hours of service and fatigue, and initiatives of the Federal Motor Carrier Safety Administration and trucking stakeholders. Witnesses were: Anne Ferro, Administrator, Federal Motor Carrier Administration; Joan Claybrook, Consumer Co-Chair, Advocates for Highway and Auto Safety; Major David Palmer, Texas Department of Public Safety, Past President of the Commercial Vehicle Safety Alliance; William Dawson, UPS Freight Driver; and, Dave Osiecki, Executive Vice President and Chief of National Advocacy, American Trucking Associations.

Other Legislative Initiatives

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 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, 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, 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 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 a hearing was held on it by the Subcommittee on Privacy, Technology and the Law of the Judiciary Committee. 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: Added to bill tracking.

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

Introduced on June 27 by Congressman Cohen with 6 (now 13) 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: Two additional cosponsors added 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 12) 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 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 (17) 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.



Federal Advocates Inc.

1701 Pennsylvania Avenue
Suite 300
Washington, DC 20006
Phone: (202) 351-6855
Fax: (202) 351-6855
www.federaladvocates.com

NIADA Meetings

Monday, July 21

10:00AM Emmanuel Guillory, LA
Congressman Joe Barton
2107 RHOB
202-225-2002

10:30AM Cory Toth, Senior Advisor
Congressman McKinley
412 CHOB
202-225-4172

11:30AM Christian Fjeld, Senior Majority Counsel
Kathleen Benway, FTC Detail
Senate Commerce Committee
428 HSOB
202-224-0411

12:30PM Peter Feldman, Minority Counsel
Cherilyn Pascoe, Prof Staff Member and Investigator
Senate Commerce Committee
560 DSOB
202-224-1251

1:30PM Kelsey LaFreniere, LC
Senator Schumer
322 HSOB
202-224-6542

2:30PM CFPB Meeting
One Constitution Square
1275 First St. NE

Tuesday, July 22

10:00AM FTC Meeting
601 New Jersey Ave. NE