



To: NIADA Executive Committee
From: Shaun K. Petersen
Re: Legislative and Regulatory Report
Date: March 21, 2015

I. Congressional Activity

A. Recall issues

i. Proposals

1. Ban on sale until recalls fixed
2. Tied to registration in states – no registration until recall fixed
3. No specific disclosure bill introduced

B. Marketplace and Internet Fairness Act

- i. Bill being worked on as result of lobbying in November
- ii. States may not impose use tax on purchaser who paid sales tax at time of purchase
- iii. Specific exemption for motor vehicles

C. CFPB Reform

- i. Similar bill to last Congress
- ii. Rep. Pearlmuter (D-CO) sponsor and new Republican sponsor likely Rep. Stivers (R-OH)

D. Annual Privacy Notice Requirement

- i. Bill being marked up to eliminate need for annual privacy notice when nonpublic information not shared and financial institution has not changed polices with regard to disclosure

E. Military Allotment Issue

- i. Department of Defense ban on use of allotments for acquisition of personal property including motor vehicles
- ii. Letters to Sen. Tillis (R-NC) and Sen. Graham (R-SC)

iii. Meetings on the Hill

II. Consumer Financial Protection Bureau

A. Complaint Portal On-Boarding

It has come to our attention that the CFPB has been sending invitations to buy here pay here dealers and/or their related finance companies inviting them to sign up with the Bureau's on-line complaint portal. We are in communication with the Bureau's staff to understand the criteria for which the Bureau is sending these invitations.

B. Complaint Narrative

Last summer, the CFPB announced a proposal wherein consumers would be able to provide a narrative with any complaint filed with the Bureau. Under the proposal, the Bureau would make public the narrative if the consumer elected to do so. NIADA filed comments in opposition to this proposal arguing that the public would construe complaint narrative on a government website with some aura of authenticity and truthfulness.

This month, the Bureau adopted its proposed plan. The CFPB will not publish a complaint narrative unless the consumer has given consent by checking an opt-in form. A consumer can withdraw his or her consent at any time by informing the CFPB and the narrative will be removed from the database. The CFPB will provide companies using the company web portal a "set list of structured company response options" and a company will have the opportunity to recommend which option, if any, it would like included as a public-facing response. A company will not be required to provide a public-facing response, and while the CFPB states that it generally plans to adopt a company's recommended response, it reserves discretion "to assess whether there are good-faith bases for the recommendations."

C. Larger market participant auto financing rule

In December, we submitted comments to the CFPB's proposed rule defining non-bank larger participants in the auto finance market. The Bureau proposed to define larger participants as entities that has 10,000 aggregate annual originations – lending, leasing, or refinancing. The Bureau excluded BHPH dealers from the rule but reserved the right to promulgate a BHPH specific rule because of the Bureau's belief that those dealers have different business model.

We recommended to the Bureau that it consider a threshold of 50,000 annual originations, but would accept a 10,000 threshold. We adamantly opposed the Bureau's reservation to have a BHPH specific rule arguing that BHPH dealers do the exact same thing other lenders do – finance consumers' acquisition of motor vehicles.

The Bureau has not yet announced a final rule.

D. Arbitration study

The CFPB released its arbitration study that was commissioned by Congress when Dodd-Frank was passed. The Bureau made several findings in the study:

- Tens of millions of consumers are subject to arbitration clauses
- Of the 1,800 cases the Bureau studied, consumers filed approximately 600 arbitration cases and 1,200 individual federal lawsuits.
- Consumers were awarded substantially less than arbitration than in federal court awards.
- Millions of consumers are eligible for financial redress through class action settlements (approximately 32 million on average each year).
- Arbitration acts as a barrier to class action cases.
- No evidence that arbitration leads to lower costs for consumers
- Three out of four consumers subject to arbitration clause did not know about it
- While companies rarely force individual lawsuits into arbitration, they commonly invoke arbitration clauses to block class actions. As an example, credit card issuers with an arbitration clause that were sued in a class action invoked the clause to block class actions 65 percent of the time.

The Bureau has not recommended any action based off of this study as of yet. Interested parties will be meeting with Bureau to discuss the study before action is established.

III. Department of Justice

A. BHPH Dealer Enforcement Action Settlement

The Department of Justice and North Carolina Attorney General's Office settled its enforcement action against two Charlotte area BHPH dealerships and their dealer principal. The DOJ and AG sued the dealerships claiming they intentionally targeted African Americans for extension of credit on unfair and predatory terms without meaningfully assessing credit worthiness. The government also alleged the dealerships did not comply with repossession and recovery laws in North Carolina.

The parties signed a consent decree that imposes the following requirements on the dealerships:

- Develop written policies and procedures for credit applications that includes examples of all forms and describes additional information required from applicants that will provide for a meaningful assessment of income and ability to pay

- Monthly payments cannot exceed 25% of net income
- Limits the number of deferred down payments to 8 bi-weekly and caps the total dollar amount of deferred down payments at \$800
- Provide written GPS disclosure document
- Put notice on each car indicating mileage, year, make, model, sales price and down payment required
- Provide notice that dealer will provide a free CarFax/Auto Check
- Provide notice that encourages consumer to get an independent inspection
- Caps interest rates at least 5% below state maximum
- Mandates a lower rate if consumer demonstrates a lower credit risk by:
 - Making a down payment that exceeds the posted down payment amount by at least fifty percent;
 - Documents average net monthly income in excess of \$2,499.00;
 - Having previously financing a separate car with those dealerships with no defaults; or
 - Provides, at his or her own expense, a current (same day) credit report showing a 550 FICO score or better
- Pricing vehicles at no more than 15% above the published NADA retail value for vehicles of a similar condition, body type, year, and mileage;
- Not require the payment of doc fees at time of sale in addition to its posted or advertised down payment
- Use good faith efforts to provide actual written notice to the consumer to cure the first instance of default for failure to make a required payment by allowing the payment of past due installments and any late charges within (15 days
- Not repossessing until 2 consecutive missed payments
- Refund to the customer 30% of the down payment actually received, less the reasonable repo fees, if a vehicle is repossessed for non-payment within 45 days of the date of sale and is not redeemed by the borrower (no refund required if the vehicle has been driven in excess of 2,000 miles before repossession)
- Create a \$225,000 compensation fund

B. Santander Settlement Agreement

The Department of Justice and Santander Consumer USA Inc. agreed to settle allegations that Santander improperly repossessed over 1,100 vehicles from military servicemembers between January 2008 and February 2013 in violation of the Servicemembers Civil Relief Act (SCRA).

Santander allegedly initiated and completed 760 repossessions, without court orders, of motor vehicles owned by SCRA-protected service members. Under the SCRA, courts are entitled to court to review and approve any repossession if the service member took out the loan, and made a payment, before entering military service. Courts may appoint attorneys

for the servicemember and delay the repossession or require the lender to refund prior payments before repossessing. Santander's failure to obtain court orders before repossessing deprived servicemembers of these rights. The agreement requires Santander to pay \$10,000 plus compensation for any lost equity (with interest) to each of these service members.

The DOJ also claims Santander sought to collect fees from an additional 352 repossessions that unrelated motor vehicle lenders had conducted in violation of the SCRA before Santander acquired the loans. The agreement requires Santander to pay \$5,000 to each of these service members. Santander also must repair the credit of all affected service members.

The total cost of the settlement is \$9.35 million.

IV. Federal Trade Commission

A. Used Car Rule Comments

This month, we filed comments to the FTC's proposed changes to the Used Car Rule. The Commission proposes that dealers having a vehicle history report disclose that fact to the consumers on the Buyers Guide and provide a copy upon request to the consumer. The proposed changes would also amend the statement explaining As-Is on the Guide.

We opposed the proposed changes pertaining to vehicle history reports arguing the following:

- Vehicle history report is not defined in the proposal
- The Buyers Guide was meant to be a warranty disclosure document only
- Vehicle history information provided through the Guide would be incorporated into the contract
- Dealers have no control over vehicle history information and should not be held liable for information they do not control

We also opposed the modification to the As-Is statement to the extent it included a sentence that does not define As-Is but rather informs consumers they may pursue dealers for other misconduct.

B. Advertising Settlements

Two dealerships were sued and fined for failing to abide with prior consent orders with the Commission that required them to clean up their advertising.

C. Warranty Settlement

BMW agreed to settle a claim from the FTC that its MINI Division violated the Magnuson-Moss Warranty Act by telling consumers that BMW would void their warranty unless they used MINI parts and MINI dealers to perform maintenance and repair work. The law prohibits companies from requiring that consumers – in order to maintain their warranties – use specific brands of parts or specified service centers (unless the part or service is provided to the consumer without charge).

V. State issues

A. Recalls

The New Jersey Assembly has passed a bill that would require motor vehicle dealers to pull recall information from the NHTSA recall database and disclose it to consumers prior to sale. The bill has not yet been heard in the Senate. NIADA is currently examining the bill's language to determine our position.

B. GPS/Starter Interrupt Devices

- i. The New Jersey Assembly has also passed a bill that would ban the use of GPS/starter interrupt devices as the condition of a motor vehicle financing agreement. NIADA has been in communication with NJIADA and the Payment Assurance Technology Association (PATA) on strategies to oppose the bill.
- ii. The Virginia General Assembly has introduced a bill that would ban the use of starter interrupt devices as a condition of a motor vehicle financing agreement. NIADA has worked with VIADA and PATA to express opposition to the bill. NIADA submitted a letter in opposition to the bill's sponsor.
- iii. The New York and Nevada legislatures are considering similar bills. We will continue to monitor those bills and provide appropriate comments.
- iv. California – similar bill prohibiting use – IADAC and PATA working on amendments

C. Oregon BHPH bill

- i. Requirements/prohibitions of the bill:
 1. require licensure of BHPH dealers similar to pay day loan and auto title lenders
 2. defines BHPH dealer as a dealer that enters vehicle finance contracts at least 10% of which are BHPH contracts

3. BHPH contract is defined as a retail installment contract under \$50,000 for the purchase of a vehicle originated by a dealer when that dealer does not assign the contract to an unaffiliated third party within 45 days of sale
 4. caps interest rates at 20% and requires a reduction in interest rate dependent on down payment
 5. requires dealers to perform an ability to pay analysis
 6. prohibits dealers from disclosing purchase price only after determining creditworthiness
 7. prohibits certain clauses in contracts (i.e. confession of judgment, hold harmless)
 8. prohibits interest from being charged after repossession
 9. prohibits repossession until consumer is more than 30 days in default
 10. prohibits dealers from requiring a set of keys be left with the dealer as part of the agreement
 11. bans the use of GPS and starter interrupt technologies
- ii. Strategy
1. Utilizing BHPH commission
 2. Building coalition with other industry partners
 3. Searching for prominent BHPH dealers in Oregon
 4. Meet with key legislators and agency

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March 2, 2015

The Honorable Thom Tillis
U.S Senate
G55 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Tillis:

Thank you for meeting with me and representatives of the National Independent Automobile Dealers Association (NIADA) last week. I am the President of a used car dealership located at 3900 Bragg Boulevard in Fayetteville. Our dealership is a small, family owned business employing 13 people. We have been honored to be in business for nearly 23 years.

An essential core value of our dealership is the active pursuit of professional development. Since opening our doors, we have been proud members of NIADA. NIADA is one of the largest trade associations in the United States representing the interests of the independent dealer. Most of NIADA's 16,000 members, including the 927 members located in North Carolina, are small businesses similar to ours employing 5 or fewer employees. It has been a privilege to serve on the board of directors of the NIADA and its affiliate in the Carolinas as a past president. I continue to actively participate in the leadership of both organizations.

In addition to our desire for professional development, we place significant emphasis on giving back to the community. Our dealership sponsors various activities such as educational programs at neighboring elementary schools and outreach programs of the local Chamber of Commerce and the Military Affairs Council at Ft. Bragg.

I appreciate your staff taking time out of their busy day to discuss the recent amendment to the Department of Defense Financial Management Regulation prohibiting the use of the military allotment system to purchase, lease or rent personal property. This change will have significant impact on our dealership's operations, and I believe, will negatively impact active servicemembers.

For decades, the military allotment system has provided servicemembers with the worry-free option of directing a portion of their pay to financial institutions for payment of their financial obligations. This system has proven very helpful to military personnel who were worried about getting regular payments to their creditors, particularly when they are on the move from base to base or deployed overseas.



Providing the highest quality pre-owned vehicles since 1992.

In November 2013, the Secretary of Defense directed the Comptroller of the Department to form an interagency team that was charged with assessing whether changes were needed in the military allotment system. The interagency team was comprised of representatives from the Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Currency, and the Department of Defense. Notably, not a single individual representing business interests was invited to participate.

Nearly one year later, the Secretary of Defense announced the prohibition to take effect January 1, 2015. However, when making that announcement, the Secretary did not provide any rationale for the change except a vague reference to eliminating “unscrupulous commercial lenders” from abusing the system. In making this statement, the Secretary did not release any findings, data, or evidence in support. Moreover, there have been no public hearings, comments, or participation in the process of the Secretary making such a drastic change in policy.

As a member of NIADA, I adhere to a strict code of ethics that I have made an integral part of my business. Neither I, nor NIADA, tolerate any type of unfair, deceptive, or predatory lending practice. Universally cutting off use of the military allotment system for servicemembers to acquire personal property under the guise of eliminating predatory lending paints all lenders that use the system with the same broad brush as unscrupulous. Such a characterization is unfounded, unfair and untrue.

By making such a sweeping change, the Secretary is hurting the very servicemembers he is intending to protect. Over my years of providing financing to military servicemembers through the allotment system and employing spouses of servicemembers, I have both seen and heard the benefits the allotment system provides primarily because the servicemember is in complete control. He/she can cancel the allotment at any time with no questions asked. Moreover, the allotment system provides the servicemember with the flexibility to split their payments up among their bi-monthly pay periods. Likewise, it eliminates any concern about being charged overdraft or non-sufficient funds charges that are attached with other types of electronic funds transfers.

While advocates of this change will suggest that other payment options are available for the servicemember in purchasing a car, the reality is other payment options may not be as readily available to servicemembers particularly given their transiency. This change will ultimately limit credit accessibility for servicemembers as a whole and may cause the cost of that credit to increase.

As I stated earlier, there is no place for predatory lending especially against the men and women who defend our country. I strongly support the use of existing federal and state unfair and deceptive practices laws to prosecute those that engage in such practices. However, adopting this broad policy ban does nothing to eliminate predatory conduct of unscrupulous lenders and hurts the very people it is intended to protect.

I encourage you to consider language in the pending FY16 Department of Defense Reauthorization Bill that will rescind the amendment to the Department's regulation. If the Secretary feels such a change is needed, then I would encourage language in the bill that would require him to hold public hearings, invite comments from industry, servicemembers, and other interested parties, not just regulators. Any increase in the costs of credit to these servicemembers should be considered as well. Likewise, I encourage the Department and Congress to consider programs that would provide greater financial literacy for servicemembers and not restrictions on payment methods that have value to them.

Thank you again for your consideration. Both NIADA and I stand ready to assist with any additional assistance you require on this important issue.

Sincerely,

Christopher G. Martin
President

Cc: Robert Wilkie
Steve Jordan
Shaun Petersen
Sante Esposito



March 13, 2015

The Honorable Lindsay Graham
U.S. Senate
290 Russell Senate Office Building
Washington, DC 20510

Dear Senator Graham:

I am the owner of a used car dealership located at 4032 W. Beltline Boulevard in Columbia. Our dealership is a small, family owned business employing 10 people. We have been honored to be in business for 30 years.

An essential core value of our dealership is the active pursuit of professional development. Since opening our doors, we have been proud members of NIADA. NIADA is one of the largest trade associations in the United States representing the interests of the independent dealer. Most of NIADA's 16,000 members, including the 260 members located in South Carolina, are small businesses similar to ours employing 5 or fewer employees. It my privilege to currently serve as the President of the NIADA affiliate in the Carolinas.

In addition to our desire for professional development, we place significant emphasis on giving back to the community. For several months of the year, we donate a portion of each car sold goes to local charities. We also support many community clubs and charities through donations and sponsorships. I also serve on several boards that serve non-profits in the Midlands of South Carolina.

I write to express concern over the recent amendment to the Department of Defense Financial Management Regulation prohibiting the use of the military allotment system to purchase, lease or rent personal property. This change will have significant impact on our dealership's operations, and I believe, will negatively impact active service members.

For decades, the military allotment system has provided service members with the worry-free option of directing a portion of their pay to financial intuitions for payment of their financial obligations. This system has proven very helpful to military personnel who were worried about getting regular payments to their creditors, particularly when they are on the move from base to base or deployed overseas.

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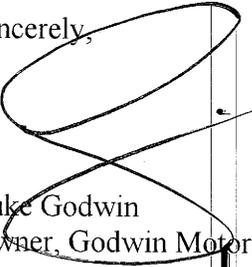
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Sincerely,



Luke Godwin
Owner, Godwin Motors

Cc: Sarah Daniels
Steve Jordan
Shaun Petersen
Sante Esposito



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: March 2015 Regulatory Update
Date: April 3, 2015

I. Consumer Financial Protection Bureau

A. Complaint Narrative

Last summer, the CFPB announced a proposal wherein consumers would be able to provide a narrative with any complaint filed with the Bureau. Under the proposal, the Bureau would make public the narrative if the consumer elected to do so. NIADA filed comments in opposition to this proposal arguing that the public would construe complaint narrative on a government website with some aura of authenticity and truthfulness.

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B. Arbitration Study

The CFPB released its arbitration study that was commissioned by Congress when Dodd-Frank was passed. The Bureau made several findings in the study:

- Tens of millions of consumers are subject to arbitration clauses

- Of the 1,800 cases the Bureau studied, consumers filed approximately 600 arbitration cases and 1,200 individual federal lawsuits.
- Consumers were awarded substantially less than arbitration than in federal court awards.
- Millions of consumers are eligible for financial redress through class action settlements (approximately 32 million on average each year).
- Arbitration acts as a barrier to class action cases.
- No evidence that arbitration leads to lower costs for consumers
- Three out of four consumers subject to arbitration clause did not know about it
- While companies rarely force individual lawsuits into arbitration, they commonly invoke arbitration clauses to block class actions. As an example, credit card issuers with an arbitration clause that were sued in a class action invoked the clause to block class actions 65 percent of the time.

The Bureau has not recommended any action based off of this study as of yet. Interested parties will be meeting with Bureau to discuss the study before action is established.

C. PayDay and Auto Title Lending

The Bureau released a press release with a proposal that would govern pay day, auto title, and certain longer term installment loans. According the Bureau's release, the proposals under consideration would also apply to high-cost, longer-term credit products of more than 45 days where the lender collects payments through access to the consumer's deposit account or paycheck, or holds a security interest in the consumer's vehicle, and the all-in (including add-on charges) annual percentage rate is more than 36 percent. This includes longer-term vehicle title loans and certain installment and open-end loans. We are currently reviewing the proposal to ensure that it will not apply to BHPH dealers.

D. FDCPA Annual Report

The CFPB release its annual report about the Bureau's activities in 2014 under the Fair Debt Collection Practices Act. The Bureau emphasized it routinely found the following violations:

- Excessive or inconveniently timed telephone calls
- Misleading representations in collection litigation, such as findings by CFPB examiners that one or more entities would dismiss 70% of the lawsuits they filed when the consumer filed an answer because the entities could not locate supporting documentation
- False threats of litigation
- Prohibited disclosures to third parties, with CFPB examiners finding that one or more collectors had provided faulty training materials that resulted in their representatives regularly identifying their employers to third parties without being expressly requested to do so

- False and misleading representations in debt collection communications

The report also addressed comments received to the Advance Notice of Proposed Rule Making on debt collection. The Bureau received more than 23,000 comments, including those submitted by NIADA, and addressed some key topics including whether debt collection rules should apply to first party collectors. No timetable was given on when a rule can be expected.

II. Department of Justice

A. Odometer Fraud by Salesman

A car salesman was sentenced to serve one year and one day in prison on charges related to an odometer tampering scheme. Jeffrey Levy was also ordered to pay \$115,818.80 in restitution to victims who purchased vehicles without knowing the odometers displayed incorrect mileages. Levy was a salesman at Galpin Ford in North Hills, California. In his guilty plea, Levy admitted that he referred customers and friends to his co-conspirator, Shama Salpeter, who rolled back odometers in the driveway of his residence in Woodland Hills. Levy knew that some of his customers had exceeded the maximum allowed mileage under the terms of their leases and wished to avoid fees and penalties. He knew that other customers wanted to lower the mileage on their odometers to make their vehicles more valuable when they traded in the vehicles. After Salpeter altered the odometers, Levy's customers returned or traded in their vehicles with false, lower mileage readings. Levy accepted the vehicles without alerting Galpin Ford that the odometer readings were false.

III. Department of Labor

A. Definition of Spouse Under FMLA

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. The Department of Labor issued a Final Rule on February 25, 2015 revising the regulatory definition of spouse under the FMLA. An eligible employee seeking to take unpaid, job-protected leave to care for a spouse with a serious health condition (and certain other close family members related by marriage) for exigency leave related to a spouse's military service, or for military caregiver leave, may claim a legal same-sex, common law, or foreign-celebrated marriage (if potentially valid under any state law). Validity of the marriage is based on the law of the place of celebration, not the law where the employee resides or the employer is located.

A federal court in Texas has granted a request for a preliminary injunction request made by the states of Texas, Arkansas, Louisiana, and Nebraska with respect to the Department's

Final Rule revising the regulatory definition of spouse under the Family and Medical Leave Act (FMLA). A hearing date has been set for April 10th.

IV. Environmental Protection Agency

No significant activity.

V. Federal Trade Commission

A. Used Car Rule Comments

This month, NIADA filed comments to the FTC's proposed changes to the Used Car Rule. The Commission proposes that dealers having a vehicle history report disclose that fact to the consumers on the Buyers Guide and provide a copy upon request to the consumer. The proposed changes would also amend the statement explaining As-Is on the Guide.

We opposed the proposed changes pertaining to vehicle history reports arguing the following:

- Vehicle history report is not defined in the proposal
- The Buyers Guide was meant to be a warranty disclosure document only
- Vehicle history information provided through the Guide would be incorporated into the contract
- Dealers have no control over vehicle history information and should not be held liable for information they do not control

We also opposed the modification to the As-Is statement to the extent it included a sentence that does not define As-Is but rather informs consumers they may pursue dealers for other misconduct.

A copy of NIADA's comments is attached hereto.

B. Operation Ruse Control

The FTC announced that it had partnered with 32 law enforcement partners on a nationwide and cross-border crackdown to protect consumers when purchasing or leasing a car. The results of this sweep known as Operation Ruse Control led to 252 enforcement actions, including 6 from the FTC. The FTC cases yielded more than \$2.6 million in monetary judgments.

The cases include both civil and criminal charges of deceptive advertising, automotive loan application fraud, odometer fraud, deceptive add-on fees, and deceptive marketing of car title loans.

The FTC had its first two cases involving add-on products. The FTC charged that National Payment Network deceptively pitching consumers an auto payment that it claimed would save consumers money. However, the FTC states that the company did not disclose that the significant fees it charged for the service often cancelled out any actual savings. The fees to enroll in NPN's program averaged \$775 on a standard five-year auto loan.

Similarly, the FTC alleged that Matt Blatt Inc. and Glassboro Imports, LLC, with dealerships in New Jersey, failed to disclose or adequately disclose the fees associated with the National Payment Network program.

NPN has agreed to refund more than \$1.5 million to consumers, and waive another \$949,000 in fees to current customers during the fee waiver period. The dealerships also will pay \$184,000.

In addition to these cases, Operation Ruse Control continued the FTC's focus on advertising violations. Cory Fairbanks Mazda of Longwood, Fla., Jim Burke Nissan of Birmingham, Ala., and Ross Nissan of El Monte, Calif., have agreed to settle charges that they ran deceptive ads that violated the FTC Act, and also violated the Truth in Lending Act (TILA) and/or Consumer Leasing Act (CLA). The FTC claims that the ads touted sales, lease or financing options that seemed attractive but were cancelled out by fine-print disclaimers. In other instances, the disclaimers did not disclose relevant terms, such as required down payments.

The FTC also sued a company that offers an auto loan modification program. Regency Financial Services of Lake Worth, Fla., and its CEO Ivan Levy, allegedly charged consumers upfront fees to negotiate an auto loan modification on their behalf, but then allegedly provided nothing in return. The FTC asked the Court for a preliminary injunction and asked the court to seize the company's assets.

C. Warranty Settlement

BMW agreed to settle a claim from the FTC that its MINI Division violated the Magnuson-Moss Warranty Act by telling consumers that BMW would void their warranty unless they used MINI parts and MINI dealers to perform maintenance and repair work. The law prohibits companies from requiring that consumers – in order to maintain their warranties – use specific brands of parts or specified service centers (unless the part or service is provided to the consumer without charge).

D. Memorandum of Understanding With CFPB

The FTC and the CFPB agreed to reauthorize their memorandum of understanding on how the two agencies will interact with each other to avoid duplication of federal law enforcement and regulatory efforts. Here are the highlights:

- **Law enforcement.** Coordinate efforts to protect consumers from illegal practices while avoiding unnecessary burdens on business by communicating about companies under investigation and sharing lists of entities subject to orders or judgments.
- **Rulemaking and guidelines.** Communicate about planned or ongoing rulemakings and industry guidance.
- **Consumer complaints.** Share consumer complaints about financial products and services.
- **Research.** Meet periodically to discuss ongoing research and share the results before any public announcement.
- **Consumer education.** Communicate at least quarterly about what we're doing to educate consumers, including the special financial issues facing military families and older Americans.
- **Operational planning.** Discuss on a semi-annual basis emerging issues consumers face in the financial marketplace, the remedies we use, and task forces or working groups we participate in.
- **Information sharing and confidentiality.** Maintain the confidentiality of nonpublic information and appropriately address third-party requests for information.

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.

IX. Oregon Senate Bill 276

Oregon's Department of Consumer and Business Services introduced Senate Bill 276 with the goal of "stemming abusive financial practices in BHPH transactions." Under the bill, a BHPH dealer would be required to:

- Obtain the same type of license from DCBS as payday or auto title lenders.
- Cap interest rates at no more than 20 percent or the federal funds rate plus 17 percent, whichever is lower.
- Reduce interest rates to account for the amount of the consumer's down payment.
- Form a good faith belief that the consumer has the ability to perform on the contract by using underwriting standards passed by DCBS.
- Disclose the vehicle's purchase price before determining creditworthiness.
- Remove clauses from contracts that waive consumer rights to assert claims or defenses.
- Stop accruing interest once a vehicle has been repossessed.
- Enter into only one contract secured by one vehicle title at a time.
- Provide a specific disclosure in the language used to negotiate the transaction.
- Wait to repossess a vehicle until after 30 days from when nonpayment has occurred.
- Stop refusing to accept a scheduled installment payment or refusing to accept a late fee or repossession fee if the consumer offers to pay the full amount.
- Charge consumers no more than 7.5 percent of the purchase price for repossession fees.
- Stop using GPS or starter-interrupt devices.

Working with the Oregon IADA, the NIADA BHPH Commission contacted BHPH dealers in the state to explain the adverse impact the bill would have on the industry. The commission also reached out to BHPH dealers across the country to inform them about the Oregon bill and the potential for similar legislation to pop up in other states if efforts to defeat it in Oregon were not successful.

NIADA hired Shawn Miller, a lobbyist in Oregon with years of experience advocating against legislation detrimental to business. He has been actively meeting key legislators. In addition, Shawn and I met with the legislative and policy staff of DCBS to explain the industry and express our concerns about the bill. We feel good about the progress of the bill and will continue to monitor its status while advocating for its defeat.



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March 31, 2015

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

Key House Committees of Jurisdiction

The key subcommittee assignments are now complete. In the House of Representative, the key committees of interest to the Association are the Committee on Transportation and Infrastructure with jurisdiction over MAP-21 reauthorization (which could be the vehicle for the recall issue), NHTSA, and motor vehicle safety (distracted driver, seat belts, drunk driving, etc.); the Energy and Commerce Committee with jurisdiction over motor vehicles and consumer issues related thereto as well as shared jurisdiction over NHTSA; and, the Financial Services Committee with jurisdiction over the Consumer Financial Protection Bureau (CFPB), the FTC, and Dodd-Frank. Within these committees, the focus is on the relevant subcommittee of jurisdiction. The membership of those for the new Congress follows. Note: other House committees are also important but play a secondary role regarding the Association's priority issues. Examples of those committees are the Judiciary Committee with jurisdiction over the internet sales issue and the Ways and Means Committee with jurisdiction over tax issues in general.

(1) Transportation and Infrastructure Committee

Note: Bill Shuster (PA) is still the chairman of the Full Committee

Subcommittee on Highways and Transit: MAP-21 reauthorization, etc.

Sam Graves, Missouri, Chairman
Eleanor Holmes Norton, District of Columbia, Ranking Member

Republicans:
Don Young, Alaska
John J. Duncan, Jr., Tennessee
John L. Mica, Florida

Frank A. LoBiondo, New Jersey
Duncan Hunter, California
Eric A. "Rick" Crawford, Arkansas
Lou Barletta, Pennsylvania
Blake Farenthold, Texas
Bob Gibbs, Ohio
Richard L. Hanna, New York
Daniel Webster, Florida
Jeff Denham, California
Reid J. Ribble, Wisconsin
Thomas Massie, Kentucky
Tom Rice, South Carolina
Mark Meadows, North Carolina
Scott Perry, Pennsylvania
Rodney Davis, Illinois
Rob Woodall, Georgia
John Katko, New York
Brian Babin, Texas
Crescent Hardy, Nevada
Ryan A. Costello, Pennsylvania
Garret Graves, Louisiana
Mimi Walters, California
Barbara Comstock, Virginia
Bill Shuster, Pennsylvania (Ex Officio)

Democrats:

Jerrold Nadler, New York
Eddie Bernice Johnson, Texas
Steve Cohen, Tennessee
Albio Sires, New Jersey
Donna F. Edwards, Maryland
Janice Hahn, California
Richard M. Nolan, Minnesota
Ann Kirkpatrick, Arizona
Dina Titus, Nevada
Sean Patrick Maloney, New York
Elizabeth H. Esty, Connecticut
Lois Frankel, Florida
Cheri Bustos, Illinois
Jared Huffman, California
Julia Brownley, California
Michael E. Capuano, Massachusetts
Grace F. Napolitano, California
Corrine Brown, Florida
Daniel Lipinski, Illinois
Peter A. DeFazio, Oregon (Ex Officio)

(2) Energy and Commerce Committee

Note: Joe Barton (TX) and David McKinley (WV) are still members of the Full Committee

Subcommittee Commerce, Manufacturing and Trade: Commercial practices (the Federal Trade Commission) including consumer affairs and consumer protection, consumer product safety (the Consumer Product Safety Commission); and, motor vehicle safety.

Republicans

Michael C. Burgess M.D. (TX), Chairman

Leonard Lance (NJ), Vice Chairman

Marsha Blackburn (TN)

Gregg Harper (MS)

Brett Guthrie (KY)

Pete Olson (TX)

Mike Pompeo (KS)

Adam Kinzinger (IL)

Gus Bilirakis (FL)

Susan Brooks (IN)

Markwayne Mullin (OK)

Fred Upton (MI) (Ex Officio)

Democrats

Jan Schakowsky (IL), Ranking Member

Yvette D. Clarke (NY)

Joseph P. Kennedy, III (MA)

Tony Cardenas (CA)

Bobby L. Rush (IL)

G. K. Butterfield (NC)

Peter Welch (VT)

Frank Pallone, Jr. (NJ) (Ex Officio)

(3) Financial Services Committee

Note: Steve Stivers (OH) is still a member of the Full Committee

Subcommittee on Financial Institutions and Consumer Credit: CFPB and Dodd-Frank

Republicans

Randy Neugebauer, Chairman

Steve Pearce, Vice Chairman

Frank Lucas

Bill Posey

Mike Fitzpatrick

Lynn Westmoreland

Blaine Luetkemeyer
Marlin Stutzman
Mick Mulvaney
Robert Pittenger
Andy Barr
Keith Rothfus
Bob Dold
Frank Guinta
Scott Tipton
Roger Williams
Mia Love

Democrats

Wm. “Lacy” Clay (MO-01), Ranking Member
Kyrsten Sinema (AZ -09)
Denny Heck (WA-10)
Michael E. Capuano (MA-07)
John K. Delaney (MD-06)
Juan Vargas (CA-51)
Carolyn B. Maloney (NY-12)
Nydia M. Velázquez (NY-07)
Brad Sherman (CA-30)
Gregory W. Meeks (NY-05)
Rubén Hinojosa (TX-15)
Stephen F. Lynch (MA-08)
David Scott (GA-13)

Key Senate Committees of Jurisdiction

In the Senate, the key committees of interest to the Association are the Committee on Environment and Public Works with jurisdiction over MAP-21 reauthorization (which could be the vehicle for the recall issue), NHTSA, and motor vehicle safety (distracted driver, seat belts, drunk driving, etc.); the Commerce Committee with jurisdiction over motor vehicles and consumer issues related thereto as well as shared jurisdiction over NHTSA; and, the Banking Committee with jurisdiction over the Consumer Financial Protection Bureau (CFPB), the FTC, and Dodd-Frank. Within these committees, the focus is on the relevant subcommittee of jurisdiction. The membership of those for the new Congress follows. Note: other Senate committees are also important but play a secondary role regarding the Association’s priority issues. Examples of those committees are the Judiciary Committee with jurisdiction over the internet sales issue and the Finance Committee with jurisdiction over tax issues in general.

(1) Environment and Public Works Committee

Subcommittee on Transportation and Infrastructure: MAP-21 reauthorization, etc.

Republicans:

Sen. David Vitter (R-La.), Chair
Sen. John Barrasso (R-Wy.)
Sen. Shelly Moore Capito (R-W.V.)
Sen. Mike Crapo (R-Idaho)
Sen. John Boozman (R-Ark.)
Sen. Jeff Sessions (R-Ala.)
Sen. Roger Wicker (R-Miss.)
Sen. Deb Fischer (R-Neb.)

Democrats:

Senator Barbara Boxer, Ranking Member
Senator Thomas R. Carper
Senator Ben Cardin
Senator Bernie Sanders
Senator Sheldon Whitehouse
Senator Jeff Merkley
Senator Kirsten Gillibrand

(2) Commerce, Science and Transportation Committee

Subcommittee on Surface Transportation: Motor vehicle safety and recalls

Republicans:

Jerry Moran - Chair
Roy Blunt
Ted Cruz
Deb Fischer
Dean Heller
Cory Gardner
Steve Daines

Democrats:

Richard Blumenthal - Ranking Member
Claire McCaskill
Amy Klobuchar
Edward J. Markey
Cory Booker
Tom Udall

Subcommittee on Consumer Protection, Product Safety, and Insurance: Consumer safety

Republicans:

Jerry Moran - Chair
Roy Blunt
Ted Cruz

Deb Fischer
Dean Heller
Cory Gardner
Steve Daines

Democrats:
Richard Blumenthal - Ranking Member
Claire McCaskill
Amy Klobuchar
Edward J. Markey
Cory Booker
Tom Udall

(3) Banking, Housing and Urban Affairs Committee

Subcommittee on Financial Institutions and Consumer Protection: CFPB and Dodd-Frank

Republicans:
Patrick J. Toomey (Chairman)
Mike Crapo
Dean Heller
Mike Rounds
Tim Scott
Bob Corker
David Vitter
Mark Kirk

Democrats:
Jeff Merkley (Ranking Member)
Jack Reed
Charles E. Schumer
Robert Menendez
Mark R. Warner
Elizabeth Warren
Joe Donnelly

Richard C. Shelby (ex officio member)
Sherrod Brown (ex officio member)

Military Pay Allotment

In November 2013, the Secretary of Defense directed the Comptroller of the Department to form an interagency team that was charged with assessing whether changes were needed in the military allotment system. The interagency team was comprised of representatives from the Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Currency, and the

Department of Defense. Not a single individual representing business interests was invited to participate. Nearly one year later, the Secretary of Defense announced the prohibition on the use of pay allotments for the purchase of certain personal items including motor vehicles to take effect January 1, 2015. However, when making that announcement, the Secretary did not provide any rationale for the change except a vague reference to eliminating “unscrupulous commercial lenders” from abusing the system. In making this statement, the Secretary did not release any findings, data, or evidence in support. Moreover, there have been no public hearings, comments, or participation in the process. As a result of the decision, process and impact on dealers, NIADA reached out to key Members of Congress. A meeting was held with staff of Congressman Walter Jones (R-NC-3) and Senator Thom Tillis (R-NC). Those Members were chosen because they both serve on the Armed Services Committee of their respective House and because Chris Martin, from North Carolina, attended the meeting to shed a real life perspective on the impact of the prohibition on dealers. Both meetings were followed up with letters to the Members including suggested legislative language to address the issue - language to nullify the decision and/or language to require the DOD to explain its methodology for arriving at the decision. NIADA was asked to provide the language for possible consideration in the pending FY15 Department of Defense Authorization Bill. NIADA also briefed the Majority staff of the House Armed Services Committee and advised staff of the Jones meeting. At the suggestion of Senator Tillis’ staff, a similar letter was sent to Senator Lindsey Graham (R-SC) who is the Chair of the Subcommittee on Personnel of the Armed Services Committee. That letter was sent by Graham constituent, Luke Godwin of Godwin Motors, Columbia, S.C. NIADA will continue pursuing the issue.

Reforming CFPB Indirect Auto Financing Guidance Act

In the House, the plan is to have a bill introduced in the near future. Congressman Perlmutter (D-CO-7), the cosponsor of the bill from the previous Congress, is again committed to being an original sponsor. On the Republican side, instead of Congressman Stutzman (R-IN-3), there may be another lead sponsor. Not yet decided. Once introduced, the goal is to secure “three digit” cosponsors. Unlike last year when the plan was to not move ahead legislatively but put pressure on the CFPB to rescind its guidance (which it has not done to date), this time the strategy is to move legislation to enactment absent positive action by the CFPB. Accordingly, again unlike last year when action was deferred in the Senate, this year the plan is to have a bill introduced in the Senate by bipartisan representation from the Committee on Banking, Housing, and Urban Affairs, with jurisdiction over the CFPB. NIADA is working with NADA on this issue.

Marketplace and Internet Tax Fairness Act

Congressman Bob Goodlatte (R-VA-6), Chairman of the House Judiciary Committee, and Congresswoman Anna Eshoo (D-CA-18) have developed a discussion draft bill on the remote sales tax issue. Per efforts of the Association, the bill specifies that states may not impose use tax on a purchaser who paid sales tax at the origin rate at the time of purchase. It specifically exempts aircraft, vehicles, vessels and business purchases. These are all cases in which states currently collect today, either when the vehicle is registered or because businesses pay their use tax. As a general rule, where states are successfully collecting today, the bill preserves the status. A summary of the text refers to the exemption as preventing “double taxation.” The Judiciary

Committee has received comments back from a wide range of stakeholders and is currently reviewing them.

Rental Cars/Used Cars Recall

To date, two bills have been introduced on this issue.

S.617, Repairing Every Car to Avoid Lost Lives Act (RECALL ACT), was introduced on March 2 by Senator Edward Markey (D-MA) with one cosponsor. The bill was referred to the Committee on Commerce, Science, and Transportation. The bill requires the State agency responsible for motor vehicle registrations to (1) notify motor vehicle owners of pending safety recalls when applying for a new registration or upon renewal of a registration; and, (2) require, with certain exceptions, all motor vehicle owners to complete all applicable safety recalls. Failure by the State to comply with these requirements would result in the withholding of 5% of Federal-aid safety funds apportioned to the State.

H.R.1181, Vehicle Safety Improvement Act of 2015, was introduced on February 27 by Congresswoman Janice Schakowsky (D-IL-9) with 9 cosponsors. The bill was referred to the House Committee on Energy and Commerce. The official subject summary of the bill is not yet available. Federal Advocates met with staff of both offices to convey NIADA's interest in the issue.

Motor Vehicle Whistleblower

S.304, Motor Vehicle Safety Whistleblower Act, was introduced on January 29 by Senator John Thune (R-SD) with 7 cosponsors. The bill was referred to the Committee on Commerce, Science, and Transportation and reported by the Committee on February 26. S. 304 prescribes certain whistleblower incentives and protections for motor vehicle manufacturer, part supplier, or dealership employees or contractors who voluntarily provide the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation of any notification or reporting requirement which is likely to cause unreasonable risk of death or serious physical injury. Authorizes the Secretary to pay awards to one or more whistleblowers in an aggregate amount of up to 30% of total monetary sanctions collected pursuant to an administrative or judicial action resulting in aggregate monetary sanctions exceeding \$1 million. Prohibits an award to any whistleblower that knowingly and willfully makes false representations. Subjects such a whistleblower to criminal penalties. Note: the bill has been reported by the Committee with bipartisan support.

Annual Privacy Notice Requirement

Two bills have been introduced on the issue following similar action last Congress. The bills are identical except for #3 below in the Senate bill. NIADA is on record as supporting the House version as #3 imposes a potentially costly and timely requirement on dealers. Chris Brown in the Congressman's office has been advised regarding our preference.

H.R.601, Eliminate Privacy Notice Confusion Act., was introduced on January 28 by Congressman Blaine Luetkemeyer (R-MO-3) with 40 cosponsors. The bill was referred to the Committee on Financial Services. H.R. 601 amends the Gramm-Leach-Bliley Act to exempt from its annual privacy policy notice requirement any financial institution which: (1) provides nonpublic personal information only in accordance with specified requirements, and (2) has not changed its policies and practices with regard to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers. Note: on March 25 the bill was reported from Committee.

S.423, Privacy Notice Modernization Act of 2015, was introduced on February 10 by Senator Jerry Moran (R-KS) with 21 cosponsors. The bill was referred to the Committee on Banking, Housing, and Urban Affairs. A hearing was held on the bill on Feb. 12. The bill amends the Gramm-Leach-Bliley Act to exempt from its annual written privacy policy notice requirement any financial institution which: (1) provides nonpublic personal information only in accordance with specified requirements, (2) has not changed its policies and practices with respect to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers, and (3) otherwise provides customers access to such most recent disclosure in electronic or other form permitted by specified regulations.

Auction Sales

This issue has not resurfaced for some time now. We will continue to monitor any possible developments.

MAP-21 Reauthorization

A decision on whether to move a long-term highway and transit bill or focus on a short-term patch will come after Easter recess, House Transportation Chairman Bill Shuster said. "I'm focused on getting something done before May 31 but if we have to do it, then we'll have to address that," Shuster said when asked about a short-term patch to shore up the Highway Trust Fund. "After Easter recess is probably when we've got to make a decision." Some members of the House Ways and Means Committee have already said a short-term fix is the realistic option but Shuster said he's still optimistic about a multiyear bill at this point. Transportation officials are urging Congress to pass a short-term extension of highway programs if they can't complete a multi-year plan this spring, warning that failure to act may slow or halt local infrastructure projects. While still pressing for a robust long-term funding plan, transportation officials are arguing that they want to get something done to keep programs running before funding runs out in May. "We've certainly made the case to Members of Congress that not acting before May 31 is going to result in significant disruption to the local projects around this country," Bud Wright, President and Executive Director of the American Association of State Highway and Transportation Officials. Michael P. Melaniphy, President and Chief Executive of the American Public Transportation Association, said local transportation systems are evaluating plans in case Federal funding is disrupted. But he's expecting "more of a short term" continuing resolution if a highway bill doesn't make it by the deadline. While reauthorization hearings are underway, there is still no surface transportation bill on the table. The officials also said they want the Federal government to revamp transportation funding plans to reflect a changing population that

increasingly demands options for getting around that don't involve a car. Despite local support for public transit funding — the American Public Transportation Association says public transit tax initiatives had an almost 70 percent passage rate in 2014 — a sweeping transit transportation overhaul seems unlikely in this year's Congress.

In addition, the American Road and Transportation Builders Association recently called for Congress to increase the Federal gasoline tax by 15 cents per gallon, offset by a federal tax rebate for Middle America. The proposal shows a single tax filer with an adjusted gross income of \$100,000 or less receiving a rebate of \$90 per year, what ARTBA says is the average annual cost to them of a 15 cent-per-gallon increase. The group says the rebate at the levels they propose would offset the increase for 94 percent of Americans. The proposal essentially shifts the burden of finding new money away from the Highway Trust Fund, and onto a tax rebate. ARTBA's proposal notes it's up to the tax-writing committees "to figure out how to pay for the tax rebate," valued at \$103.3 billion over six years. ARTBA suggests using repatriation to pay for the rebate instead of directing that money to the Highway Trust Fund for the next long-term bill. At the same time, transportation advocacy groups aren't the only ones trying to put the kibosh on any kind of devolution talk as work on the highway and transit bill ramps up. Leaders of the House Transportation Committee have made it public enemy No. 1. At a recent hearing, T&I Ranking Member Peter DeFazio declared his desire to shun the idea once and for all. "We still have a few devolutionists around here," DeFazio said. "I just want to put a nail in the coffin, a stake through the heart and garlic around the neck." DeFazio used his first question to ask witnesses to outline why devolution would be a bad idea. Committee Chairman Bill Shuster used his first question for the same purpose. Senate Environment and Public Works Committee Chairman Jim Inhofe did the same at a Senate hearing last month. In the meantime, reauthorizations hearings continue.

The Senate Committee on Environment and Public Works held a hearing on February 25 entitled, "The Importance of MAP-21 Reauthorization: Perspectives from Owners, Operators, and Users of the System." The purpose of the hearing was to examine the link between a long-term federal surface transportation bill and economic productivity, and the importance of partnering with states to maintain, modernize and expand infrastructure to ensure a reliable national surface transportation network. Witnesses were Steve Heminger, Executive Director, Metropolitan Transportation Commission; Thomas J. Riordan, President and CEO, Neenah Enterprises, Inc.; Carlos Bracerias, Executive Director, Utah Department of Transportation; Walt Rowen, President, Susquehanna Glass Company; and, David Gardner, Vice President Supply Chain and Customer Experience, Ingredion Incorporated. The Senate Commerce Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security held an oversight hearing on March 4 entitled "Surface Transportation Reauthorization - Oversight and Reform of the Federal Motor Carrier Safety Administration." This hearing was the first in a series of hearings that examine the reauthorization of highway safety programs. The hearing focused on truck safety programs and Federal Motor Carrier Safety Administration regulations. Witnesses were Scott Darling, III, Acting Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation; Joseph W. Comé, Deputy Principal Assistant Inspector General for Auditing and Evaluation, Office of the Inspector General; Susan Fleming, Director, U.S. Government Accountability Office; and, Christopher Hart, Acting Chairman, National Transportation Safety Board. On March 17, the House Committee on Transportation and Infrastructure held a hearing on "Surface Transportation Reauthorization Bill:

Laying the Foundation for U.S. Economic Growth and Job Creation Part II.” Witnesses were Patrick McCrory, Governor, State of North Carolina; on behalf of the National Governors Association; Ralph Becker, Mayor, Salt Lake City, Utah; on behalf of the National League of Cities; and, John Cox, Director, Wyoming Department of Transportation; on behalf of the American Association of State Highway and Transportation Officials.

Also of interest, on March 23-24, the 2015 SelectUSA Summit was held bringing together 2,500 participants, including investors from more than 60 countries, to showcase the diversity of investment opportunities available nationwide. The purpose was for Investors to learn about the practical tools, information, and connections they need to move investments in the United States forward. One of the sessions was on “Innovative Approaches to Infrastructure Investing,” that focused on public-private partnership models and best practices for investors. In 2014, President Obama launched the Build America Investment Initiative to increase investment in ports, roads, bridges, broadband networks, water and sewer systems, and other projects by facilitating partnerships between federal, state, and local governments and private-sector investors. Panel participants were The Honorable Anthony Foxx, Secretary of Transportation; The Honorable John Hickenlooper, Governor of Colorado; Bill Banks, Global Infrastructure Leader, Ernst & Young; Nicolás Rubio de Cárdenas, US President, Cintra; and, Christopher Leslie, Chief Executive Officer, Macquarie Infrastructure Partners Inc.

President’s Transportation Bill (MAP-21 Reauthorization)

The U.S. Department of Transportation’s version of a multiyear highway bill includes significant proposals designed to get unrepaired vehicles off the roads faster, including seeking to require all new car dealers to check for uncompleted recalls when owners take their vehicles in for service. Under the new bill, NHTSA would get new authority to take immediate action to respond to any condition of a motor vehicle or motor vehicle equipment that creates the likelihood of death or serious injury to the public if not discontinued immediately, without prior notice or hearing. The new bill retains reforms proposed last year but would require new car dealers to check when a owner takes a car in for service to determine if there are any uncompleted recalls. The proposal would also establish a two-year pilot grant program to determine if state motor vehicle departments could notify owners of uncompleted recalls at the time they were registering or renewing a vehicle registration. Some in Congress have called for making getting recalled vehicles fixed mandatory before owners could renew their license plate. It would also hike the maximum daily fine for failing to comply with NHTSA rules from \$7,000 to \$25,000. NHTSA would get authority to issue new standards on ensuring electronics and software function properly and the power to file criminal charges against vehicle hackers, giving the agency the ability to charge people who use electronic devices to affect the performance of a motor vehicle or motor vehicle equipment of which they are not the individual owner. The proposal would also require all distributors and dealers to register tires at the time of purchase and notify the manufacturer because of low completion rates for tire recalls. Under current law, only tire dealers owned or controlled by a manufacturer are required to register tires with the manufacturer. The bill would also require tire manufacturers to give owners a free replacement tire for a recall for six months rather than the current 60 days. More details are forthcoming. See inclusion in highlights below.

Note: if the Congress' treatment of the Administration's last big transportation package is any gauge, this version is unlikely to receive much serious consideration.

Yesterday, March 30, the Administration unveiled "The Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act," or GROW AMERICA Act, a \$478 billion, six year transportation reauthorization proposal that provides increased funding for the nation's highways, bridges, transit, and rail systems. The Administration's proposal is funded by supplementing current revenues from the Highway Trust Fund in combination with a 14 percent transition tax on up to \$2 trillion of untaxed foreign earnings that U.S. companies have accumulated overseas. This is intended to prevent Trust Fund insolvency for six years and increase investments to meet national economic goals. Highlights of the proposal are:

\$317 billion for the highways and highway safety. The proposal will increase the amount of highway funds by an average of about 29 percent above FY 2015 enacted levels, emphasizing "Fix-it-First" policies and reforms that prioritize investments for repairs and improvements to the safety of roads and transit services, with particular attention to investments in rural and tribal areas. The proposal will also provide more than \$10 billion for the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration to improve safety for all users of highways and roads.

\$115 billion for transit. The proposal increases average transit spending by 76 percent above FY 2015 enacted levels. The GROW AMERICA Act proposes a \$5.1 billion increase in investments to address public transit's maintenance backlog to reduce bus and rail system breakdowns; create more reliable service; and stop delays that make it harder for all commuters to get to work. The proposal also includes the innovative Rapid Growth Area Transit Program, which will provide \$3.4 billion over six years to fast growing communities for bus rapid transit and other multimodal solutions to get ahead of the challenges caused by rapid growth.

Tools and resources for regional coordination and local decision making. The proposal includes policy reforms to incentivize improved regional coordination by Metropolitan Planning Organizations (MPOs). High-performing large MPOs will be granted control of a larger portion of funds under the Surface Transportation Program (STP) and the Transportation Alternatives Program (TAP) and these MPOs will also receive funds through a set aside under the new Fixing and Accelerating Surface Transportation (FAST) program.

Tools for dangerous vehicle and tire defects. The GROW AMERICA Act will give NHTSA the authority to issue imminent hazard orders requiring vehicle manufacturers to immediately take action to alleviate harm in cases where there is an imminent risk of injury or death. Additionally, it will address vehicle and tire recall efforts by taking steps to ensure the public is informed of recalls at franchise dealerships, independent tire stores and state departments of motor vehicles. The Act also provides consumers more time to get tire defects fixed for free.

\$18 billion for a multi-modal freight program. The Act provides \$18 billion over six years to establish a new multimodal freight grant program to fund innovative rail, highway, and port projects that will improve the efficient movement of goods across the country. The GROW

AMERICA Act will also give shippers and transportation providers a real seat at the table for making investment decisions and incentivizes States to collaborate and establish long term freight strategic plans.

\$28.6 billion for rail investments. The proposal includes \$28.6 billion over six years for high performance and passenger rail programs with a focus on improving the connections between key regional city pairs and high traffic corridors throughout the country. This system will provide 80 percent of Americans with convenient access to a high-performance passenger rail system within 25 years.

Competitive funding to spur innovation. The proposal will provide \$7.5 billion over six years - an increase of more than 100 percent - for the highly successfully TIGER competitive grant program and \$6 billion embedded in the highway and transit requests for a competitive grant program called Fixing and Accelerating Surface Transportation (or "FAST"). Modeled after the Department of Education's Race to the Top program, FAST will award States, Tribes, and MPOs that adopt bold, innovative strategies and best practices in transportation that will have long-term impact on all projects across the transportation programs.

Project delivery and the Federal permitting and regulatory review process. The GROW AMERICA Act will build on recent efforts to expedite project approval timelines while delivering better outcomes for communities and the environment. The proposal expands on a series of successful efforts by the Administration to expedite high priority projects and identify best practices to guide future efforts without undermining bedrock environmental laws or public engagement. Not only will important projects break ground faster, but the increased level of transparency and accountability will lead to delivering better environmental outcomes, as the proposal will improve interagency coordination by advancing concurrent, rather than sequential, project reviews and will improve transparency of project reviews and timelines through online "dashboards." It will also increase flexibility for recipients to use Federal transportation funds to support environmental reviews, and help to integrate overlapping requirements.

Cost effective investments. The proposal will strengthen the performance incentives to maintain safety and conditions of good repair, and expand research and technology activities in order to improve the productivity of our transportation systems, thereby increasing taxpayer return on investment.

\$6 billion to attract private investment in transportation infrastructure. The Transportation Infrastructure Finance and Innovation Act (TIFIA) program leverages Federal dollars by facilitating private participation in transportation projects and encouraging innovative financing mechanisms that help advance projects more quickly. The GROW AMERICA Act calls for \$6 billion in funding over six years, which is estimated to support \$60 billion in loans. The GROW America Act will strengthen the Railroad Rehabilitation and Improvement Financing (RRIF) financing Program by reducing the cost of obtaining a loan, making RRIF more accessible to short line and regional railroads. The proposal will raise the cap of Private Activity Bonds to \$19 billion, making room for more projects considering a public-private partnership approach to be able to take advantage of this cost-saving tool.

FY16 Congressional Budget Resolutions

Note: see the Dodd Frank language in the House Resolution below.

Note: the following points regarding the House-passed and Senate-passed Budget Resolutions come directly from the Republican side of the two Budget Committees; i.e., the rhetoric is theirs.

Note further: The congressional budget does NOT have the force and effect of law. It is adopted in the form of a concurrent resolution that means that a final version must be approved by both Houses on or before April but does not go to the President for approval or disapproval. It is simply the Congress imposing upon itself a funding discipline. Nor are the policies assumed in the resolution binding on the Congress. The only thing binding by a budget resolution is the overall level of funding via the appropriations process for FY16. How the Appropriations Committees choose to allocate the overall level between various programs is their decision. The following are highlights from both Resolutions. The differences have to be resolved.

House Budget Resolution:

- Balances the budget in less than 10 years without raising taxes.
 - Cuts \$5.5 trillion in spending – higher than any previous House Budget Committee proposal.
 - Calls for a fairer, simpler tax code to promote job creation and a healthy economy.
 - Places the country on a path to paying off the debt by growing the economy and making government more efficient, effective and accountable.
 - Calls on Congress to pass a balanced budget amendment to the Constitution.
- Repeals Obamacare in full – including all of its taxes, regulations and mandates.
 - Promotes freedom of choice, affordability, and patient-centered health care solutions.
 - Eliminates IPAB, an unelected, unaccountable board of bureaucrats charged with making coverage decisions on health care.
- Ensures a strong National Defense.
 - Provides for a strong national defense through robust funding of troop training, equipment and compensation.

- Boosts defense spending above the President's levels while putting in place a plan to responsibly address the current spending caps and the threat of sequester.
- Ends the Obamacare raid on Medicare.
 - Strengthens Medicare by making structural improvements to save the program.
 - Eliminates the “double dipping” of Disability Insurance and Unemployment Insurance.
 - Prevents the President's plan to raid the regular Social Security Trust Fund.
 - Restores Federalism.
 - Rejects the notion that Washington knows best and devolves power back to the states.
 - Promotes innovation and flexibility for Medicaid, nutrition assistance, education and other programs.
- Cuts waste, corporate welfare and improves accountability.
 - Cuts waste, eliminates redundancies and ends the practice of Washington picking winners and losers in our economy.
 - Calls for reforms to the regulatory system to improve transparency, efficiency, effectiveness and accountability.
- Transportation
 - A reliable and robust transportation system is vital to growing America's economy. Businesses depend on roads, bridges and other infrastructure to move goods to markets. This budget begins to make the needed reforms to ensure we have fiscally responsible transportation policies.
 - The financial well being of the Highway Trust Fund is eroding year after year. Over the past decade, gas-tax receipts fell while spending continued to grow. Despite \$63.1 billion in taxpayer bailouts, CBO projects the Highway Trust Fund still faces insolvency by the end of Fiscal Year 2015. Without reform, the Highway Trust Fund faces two outcomes. Under current law, the Highway Trust Fund cannot incur negative balances, so spending will automatically decrease and the Department of Transportation (DOT) will have to ration the amounts it reimburses to states to maintain a “prudent balance” in the fund. Alternately, Congress will need to continue to provide additional bailouts, in the form of transfers from the general fund, paid for with borrowed money.

- Our budget advocates sensible reforms to ensure the solvency of the Highway Trust Fund while at the same time providing flexibility for a surface-transportation reauthorization that does not increase the deficit. The budget includes a reserve fund to provide for innovative thinking to bring a new surface-transportation bill to passage, as long as that legislation is deficit neutral.
 - Further, this budget recognizes the need to explore innovative financing mechanisms to support surface-transportation infrastructure and safety programs – for example, with further public-private sector partnerships demonstrated in the Transportation Infrastructure Finance and Innovation Act program. The budget also recommends giving states more flexibility to fund the highway projects they feel are most critical.
 - Beyond the Highway Trust Fund, this budget targets inefficiencies and duplication in a wide range of federal transportation programs to increase effectiveness for travelers and save taxpayer dollars.

- Dodd Frank
 - This budget makes great strides in repealing onerous policies enacted under Dodd-Frank that are hurting financial institutions both large and small and the businesses and families they serve. This will help eliminate several programs that have proven specifically harmful to our economy and taxpayers.
 - Although the proponents of Dodd-Frank went to great lengths to denounce bailouts, the law only perpetuates them. The Federal Deposit Insurance Corporation (FDIC) now has the authority to access taxpayer dollars in order to bail out the creditors of large, “systemically significant” financial institutions. Our budget calls for ending this practice. Instead of rewarding corporate failure with taxpayer dollars, we ought to ensure the responsibility for large, failing firms lies with the shareholders who own them, the managers who run them, and the creditors who finance them.
 - Our budget also supports canceling the ability of the Bureau of Consumer Financial Protection (created by Dodd-Frank) to fund its operations from the Federal Reserve’s yearly remittances to the Treasury Department. These remittances are earnings generated by the Federal Reserve and were originally intended to be deposited in the Treasury to help fund general government.

Senate Budget Resolution:

- Balances the Budget in 10 Years by limiting spending growth, reaches a \$3 billion surplus in the tenth year, and achieves \$4.4 trillion more in deficit reduction than the President’s budget.

- Ensures Flexibility for Funding National Defense - makes national defense a priority and provides for the maximum allowable defense funding under current law, including a fiscally responsible path for further spending increases.
- Provides repeal and replacement of Obamacare
- Preserves Social Security - reduces spending in other areas to fully offset Social Security's rising deficits and avoid the corresponding increase in publicly held debt.
- Extends Medicare Trust Fund solvency
- Protects Medicare from insolvency and extends the life of the Medicare Trust Fund by five years.
- Improves Medicaid Based on the CHIP Model
- Continues funding for CHIP and creates a new program based on CHIP to serve low-income, working-age, able-bodied adults, and children who are eligible for Medicaid.
- Boosts jobs initiatives through an economic growth reserve fund.
- Enhances U.S. energy security - supports increased oil and gas exploration and a robust energy infrastructure that will lower energy cost for consumers.

Bill Tracking

Note: some of the following bills lack a subject summary. That is because the internal Hill bill information system has still not “caught up” with the number of bills introduced. It will. Also, some of the following bills may drop off the tracking list depending upon what is learned about their subject matter.

H.R.171, To repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act

Introduced on January 26 by Congressman Adam Smith (R-NE-3) with no cosponsors. The bill was referred to the Subcommittee on Commodity Exchanges, Energy, and Credit of the financial Services Committee. The Senate companion bill is S.89. H.R.171 repeals the Dodd-Frank Wall Street Reform and Consumer Protection Act. It revives or restores the provisions of law amended by such Act as if it had not been enacted.

S.89, Financial Takeover Repeal Act of 2015

Introduced on January 7 by Senator David Vitter (R-LA) with no cosponsors. The bill was referred to the Committee on Finance. The House companion bill is H.R.171. S.89 repeals the Dodd-Frank Wall Street Reform and Consumer Protection Act. It revives or restores the provisions of law amended by such Act as if it had not been enacted.

S.107, Terminating the Expansion of Too-Big-To-Fail Act of 2015

Introduced on January 7 by Senator David Vitter (R-LA) with no cosponsors. The bill was referred to the Committee on Banking, Housing, and Urban Affairs. S.107 amends the Financial Stability Act of 2010, title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), the Federal Deposit Insurance Act, and the Federal Reserve Act to eliminate all supervision by the Board of Governors of the Federal Reserve System (Board) of domestic and foreign nonbank financial companies, including new or heightened standards and safeguards and minimum leverage capital requirements. Eliminates the duty of the Financial Stability Oversight Council to identify systemically important financial market utilities and payment, clearing, and settlement activities. Repeals the authority of the Council, acting through the Office of Financial Research, to: (1) require the submission of periodic and other reports from any domestic or foreign nonbank financial company, or (2) request the Board to examine a U.S. nonbank financial company for the sole purpose of determining whether it should be Board-supervised. Repeals specified additional Board authority to supervise certain nonbank financial companies, including the prohibition against management interlocks between such companies and certain other financial companies. Repeals the requirement that the Board study and report to Congress on: (1) specified issues with respect to the resolution of financial companies under chapter 7 (Liquidation) or 11 (Reorganization) of the Bankruptcy Code, and (2) international coordination relating to the resolution of systemic financial companies under the U.S. Bankruptcy Code and applicable foreign law. Repeals the authority of the Council to recommend to the Board: (1) prudential standards and reporting and disclosure requirements for Board-supervised nonbank financial companies, and (2) any requirement that each nonbank financial company report periodically the company's credit exposure as well as its plan for rapid and orderly resolution in the event of material financial distress or failure. Repeals the requirement that the Council study the feasibility, benefits, costs, and structure of a contingent capital requirement for Board-supervised nonbank financial companies. Eliminates reporting requirements for such companies. Repeals the Payment, Clearing, and Settlement Supervision Act of 2010 (title VIII of Dodd-Frank).

H.R.957, Bureau of Consumer Financial Protection-Inspector General Reform Act of 2015 or the CFPB-IG Act of 2015

Introduced on February 12 by Congressman Steve Stivers (R-OH-15) with 3 cosponsors. The bill was referred to the Committees on Oversight and Government Reform and Financial Service. Amends the Inspector General Act of 1978 to repeal the authority of the Chairman of the Board of Governors of the Federal Reserve System to appoint the Inspector General of the Consumer Financial Protection Bureau (CFPB). Amends the Dodd-Frank Wall Street Reform and Consumer Protection Act to create an Inspector General for the CFPB. Requires the President, within 60 days after enactment of this Act, to appoint a CFPB Inspector General.

S.510, Bureau of Consumer Financial Protection-Inspector General Reform Act of 2015 or CFPB-IG Act of 2015

Introduced on February 12 by Senator Rob Portman (R-OH) with 12 cosponsors. The bill was referred to the Committee on Banking, Housing, and Urban Affairs. Amends the Inspector

General Act of 1978 to repeal the authority of the Chairman of the Board of Governors of the Federal Reserve System to appoint the Inspector General of the Consumer Financial Protection Bureau (CFPB). Requires the CFPB Inspector General to be appointed by the President, by and with the advice and consent of the Senate.

H.R.1261, To amend the Consumer Financial Protection Act of 2010 to bring the Bureau of Consumer Financial Protection into the regular appropriations process, and for other purposes

Introduced on March 4 by Congressman Sean Duffy (R-WI-7) with no cosponsors. The bill was referred to the House Committee on Financial Services.

H.R.1266, To amend the Consumer Financial Protection Act of 2010 to make the Bureau of Consumer Financial Protection an independent Financial Product Safety Commission, and for other purposes.

Introduced on March 4 by Congressman Randy Neugebauer (R-TX-19) with 20 cosponsors. The bill was referred to the House Committee on Financial Services.

H.R.1265, Bureau Advisory Commission Transparency Act

Introduced on March 4 by Congressman Sean Duffy (R-WI-7) with 2 cosponsors. The bill was referred to the Committees on Financial Services and Oversight and Government Reform. Amends the Consumer Financial Protection Act of 2010 to apply the Federal Advisory Committee Act applicable to each advisory committee and subcommittee of the Consumer Financial Protection Bureau. Note: on March 25 the bill was reported from Committee.

H.R.1195, Bureau of Consumer Financial Protection Advisory Boards Act

Introduced on March 2 by Congressman Robert Pittenger (R-NC-9) with one cosponsor. The bill was referred to the House Committee on Financial Services. Note: on March 25 the bill was reported from Committee.

H.R.1486, To amend the Consumer Financial Protection Act of 2010 to bring the Bureau of Consumer Financial Protection into the regular appropriations process, and for other purposes

Introduced on March 19 by Congressman Andy Barr (R-Ky-6) with 5 cosponsors. The bill was referred to the House Committee on Financial Services.

S.423, Privacy Notice Modernization Act of 2015

Senator Jerry Moran (R-KS) introduced the bill on February 10 with 21 cosponsors. The bill was referred to the Committee on Banking, Housing, and Urban Affairs. A hearing was held on the bill on Feb. 12. The bill amends the Gramm-Leach-Bliley Act to exempt from its annual written privacy policy notice requirement any financial institution which: (1) provides nonpublic

personal information only in accordance with specified requirements, (2) has not changed its policies and practices with respect to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers, and (3) otherwise provides customers access to such most recent disclosure in electronic or other form permitted by specified regulations.

S.560, Promoting Automotive Repair, Trade, and Sales Act of 2015 or the PARTS Act

Introduced on February 25 by Senator Orin Hatch (R-UT) with one cosponsor. The bill was referred to the Committee on the Judiciary. The bill declares that it is 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, 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 as originally manufactured; or (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: (1) "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; and (2) "offer to sell" to include marketing or pre-sale distribution. Applies this Act to any patent issued, or application filed, before, on, or after the effective date of this Act.

H.R.1057, Promoting Automotive Repair, Trade, and Sales Act of 2015 or the PARTS Act

Introduced on February 25 by Congressman Darrell Issa (R-CA-49) with 3 cosponsors. The bill was referred to the House Committee on the Judiciary. The bill declares that it is 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, 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 as originally manufactured; or (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: (1) "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; and (2) "offer to sell" to include marketing or pre-sale distribution. Applies this Act to any patent issued, or application filed, before, on, or after the effective date of this Act

S.617, A bill to ensure that owners of all motor vehicles in use on United States roadways are made aware of, and obtain repairs for, manufacturer-issued safety recalls in a timely manner

Introduced on March 2 by Senator Edward Markey (D-MA) with one cosponsor. The bill was referred to the Committee on Commerce, Science, and Transportation.

H.R.1181, Vehicle Safety Improvement Act of 2015

Introduced on February 27 by Congresswoman Janice Schakowsky (D-IL-9) with 9 cosponsors.
The bill was referred to the House Committee on Energy and Commerce.