



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: February 2015 Regulatory Update
Date: March 2, 2015

I. 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. Once we have clear understanding as to what that criteria is, we will share it with you.

B. Letter to Director Cordray on AFSA Study

The American Bankers Association, American Financial Services Association, Consumer Bankers Association, Financial Services Roundtable, and US Chamber of Commerce sent a letter to Director Cordray urging the Bureau to conduct a thorough review of its disparate impact methodology in light of the recently released AFSA study that shows the flaws in the Bureau's process. A copy of the letter can be found here. www.cfpbmonitor.com/files/2015/02/JointTradeLetterCordray_02-18-15.pdf

II. 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

A copy of the consent decree can be found here: <http://www.justice.gov/opa/pr/us-justice-department-and-north-carolina-attorney-general-reach-settlement-resolve>.

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.

A copy of the agreement can be found here: <http://www.justice.gov/opa/pr/justice-department-reaches-settlement-santander-consumer-usa-resolve-allegations-concerning>.

III. Department of Labor

No significant activity.

IV. Environmental Protection Agency

No significant activity.

V. Federal Trade Commission

A. Debt Collection Report

The FTC sent a letter to the Director of the CFPB outlining the FTC's work in enforcing the Fair Debt Collection Practices Act. The FTC highlighted 10 new debt collection cases against 56 defendants, the most filed in any year. The FTC stated the received nearly \$140 million in judgments.

A copy of the letter can be found here:

<http://www.ftc.gov/system/files/documents/reports/federal-trade-commission-enforcement-fair-debt-collection-practices-act-report-consumer-financial/150209cfpbreport.pdf>.

B. Equal Credit Opportunity Act Report

The FTC sent a report to the CFPB outlining the FTC's work in enforcing the Equal Credit Opportunity Act. The FTC highlighted its public workshop on big data and how big data impacts the extension of credit, employment offers, and insurance to consumers. Other webinars and education activities were highlighted. A copy of the report can be found here: <http://www.ftc.gov/system/files/documents/reports/federal-trade-commission-enforcement-activities-under-equal-employment-opportunity-act-regulation-b/150218ecoareport.pdf>.

C. Automobile Shipment Broker Settles Allegations of Misrepresenting Online Reviews

AmeriFreight is an automobile shipment broker that arranges the shipment of consumers' cars through third-party freight carriers. The company allegedly misrepresented online reviews by failing to disclose that it gave cash discounts to customers to post favorable reviews. The proposed order prohibits the company from misrepresenting that their products or services are highly rated or top-ranked based on unbiased consumer reviews, or that customer reviews are unbiased. It also requires the respondents to clearly and prominently disclose any material connection, if one exists, between them and their endorsers.

VI. Internal Revenue Service

No significant activity.

VII. National Highway Traffic Safety Administration

A. Request of Congress to Ground Used Vehicles Pending Repair

U.S. Transportation Secretary Anthony Foxx and National Highway Traffic Safety Administrator Mark Rosekind called on Congress to pass legislation that would require rental car agencies and used car dealers to fix safety defects before renting or selling vehicles subject to a recall.

VIII. National Motor Vehicle Title Information System

A. Advisory Board meeting

I participated in the NMVTIS Advisory Board meeting held on February 23 in Washington, D.C. The Board received information on the states participation in and reporting into the

NMVTIS database and use of the database by law enforcement and consumers. There was significant discussion on merging the information on the safecar.gov database into the NMVTIS website so there is a single point source for consumers to get information on recalls and vehicle history information. The Board also had a request from a member to file comments to the FTC's proposed changes to the Used Car Rule.

IX. Meetings with Republican and Democratic Attorneys General

Executive Vice President Steve Jordan, Past President Chris Martin, and I attended separate meetings of the Republican Attorneys General Association and the Democratic Attorneys General Association in Washington, D.C. The purpose of our attendance was to continue to build relationships with the Attorneys General.

X. Congressional Meetings

Executive Vice President Steve Jordan, Past President Chris Martin, me, and Federal Advocates participated in several meetings with key members of Congress to discuss the Department of Defense's ban on the use of the military allotment system for purchase of personal property. Please see the Federal Advocates report for detailed discussion on the meetings.