Dealer-Assisted Auto Financing Should Remain Accessible and Affordable

Recent Action by CFPB Will Increase Costs and Decrease Access for New Car Buyers

ISSUE

On March 21, 2013, the Consumer Financial Protection Bureau (CFPB) issued guidance to indirect auto lenders (lenders who finance auto loans arranged by dealers) stating that the long-standing practice of discretionary pricing of auto financing at the dealer level may have an unintentional but still unlawful "disparate impact" on protected classes of consumers (i.e., a statistical analysis of past dealer transactions may indicate that certain groups of consumers paid more for credit than other groups of similarly-situated consumers). The CFPB advised indirect lenders that "eliminating dealer discretion" – the ability of dealerships to discount the interest rate they offer their customers – would limit the lenders' exposure to being sued by the CFPB for unintentional discrimination. The CFPB issued this guidance without explaining either the statistical process it uses to determine whether disparate impact exists or what effect eliminating the dealer's discounting ability would have on the marketplace. If the CFPB eliminates the dealership's ability to discount the Annual Percentage Rate (APR) offered to consumers, access to auto credit will decrease and the cost will increase, which is a policy outcome contrary to the best interests of consumers.

BACKGROUND

In 2012, 15.7 million auto loans were made, and the total amount of auto loan debt was $783 billion. Despite vigorous competition by banks and credit unions that lend directly to consumers, approximately 80 percent of car buyers choose to finance their purchases through dealerships via optional, indirect financing. Auto dealers, through their relationships with a variety of financing sources and their ability to discount the rates offered to consumers, are usually able to provide customers a lower interest rate than the rates offered directly by banks or credit unions. This ability of the dealer to "meet or beat" the rates offered by direct lenders produces intense competition in the marketplace that greatly benefits consumers throughout the entire credit spectrum.

The CFPB guidance is an attempt to coerce auto finance sources into changing the way they compensate dealerships. The CFPB has taken this action despite the fact that it has not revealed and explained its statistical methodology for determining if disparate impact is present, or studied the impact of its guidance or enforcement actions on the cost of credit for consumers. This opaque and anti-competitive approach threatens the documented benefits that optional dealer-assisted financing provides to millions of consumers every year.

KEY POINTS

- NADA, NAMAD and AIADA strongly oppose any form of discrimination in auto lending.
- The CFPB has not provided any information about the methodology of its statistical analysis of past transactions, or whether it is controlling for a variety of factors unrelated to the consumer's background that can affect finance rates. Thus, the possibility exists that the CFPB is coercing changes in the marketplace based on incorrect assumptions.
- The CFPB's drive to eliminate "meet or beat" financing by auto dealerships is being done without transparency, the opportunity for public comment, and the necessary data-driven analysis.
- Congress specifically barred the CFPB from exercising any authority over auto dealerships engaged in indirect lending in the Dodd-Frank law. The actions by the CFPB will have the unintended consequence of decreasing competition among lenders, which in turn will raise the cost of credit for consumers and price many consumers out of the vehicle financing market.

STATUS

Dealer-assisted financing decreases costs and increases access to credit for millions of car buyers every year. Members of Congress are urged to exercise oversight to ensure that the CFPB's roundabout attempt to regulate dealerships does not result in less competition that will harm consumers.

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