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CFPB admits using bad math to restructure $900B auto finance industry: editorial

Investor's Business Daily, which tracks the latest financial and business news to help investors make more money in the stock market, published the following editorial on Oct. 1:

Shakedown: After accusing the ninth-largest bank auto lender of discriminating against minorities, the president's consumer watchdog admits his analysis is less than perfect.

Still, according to a federal order on Sept. 28, Cincinnati-based Fifth Third Bank will have to make $18 million in restitution for allegedly marking up loans for blacks and Latinos.

It will also have to cap the interest rates it charges customers, which Consumer Financial Protection Bureau chief Richard Cordray called "a significant step toward protecting consumers from discrimination."

Yet on Sept. 29, as the ink was still drying on the settlement, Cordray confessed under grilling by House

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Dealers converge in Washington

More than 500 new-car dealers and dealer association executives converged on Capitol Hill in late September for the NADA's Washington Conference, where they attended briefings and met with members of Congress to discuss key policy issues, such as protecting consumer choice in auto financing and supporting legislation that boost consumer recall completion rates.

In remarks to conference attendees, NADA Chairman Bill Fox stressed the importance of correcting misconceptions in the nation's capital about the retail-auto industry.

"There's a disturbing pattern of regulators wrapping 'red tape' around our industry and yet, they don't fully understand it," said Fox, a multi-franchise dealer in the upstate New York cities of Auburn and Phoenix. "That's why we need to keep working hard to get House Resolution 1737 passed, and explain that dealer-assisted financing is really a consumer issue."

In July, the House Financial Services Committee passed the NADA-backed H.R. 1737 to rescind the Consumer Financial Protection Bureau's flawed auto finance guidance that would limit or eliminate a customer's ability to receive discounted auto loans at dealerships. The bipartisan committee vote was 47-10. This bill also calls for more transparency from the

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Senators push dealers to not sell used vehicles with open recalls

Two U.S. senators pressed the National Automobile Dealers Association's top leaders to drop opposition to requiring the repair of recalled used cars before they are sold.

Congress has been grappling with the issue of buyers being unaware that they are buying a recalled vehicle that hasn't been repaired in the wake of deaths attributed to unrepaired used cars. The head of the National Highway Traffic Safety Administration has also prodded dealers to do more.

In letters sent Oct. 2 to the NADA and to the National Independent Automobile Dealers Association, U.S. Sens. Bill Nelson, D-Fla., and Richard Blumenthal, D-Conn., questioned whether dealers are placing economic concerns ahead of customers' safety.

NADA spokesman Jared Allen said most recalls don't require the immediate halt of

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banking panel chief Jeb Hensarling that the disparate impact methodology that his agency uses to determine lending bias "overestimates" racial disparities in loan pricing.

Hensarling presented Cordray with leaked internal agency memos showing agency officials have expressed reservations about their own math used to justify cracking down on the auto finance industry — for discrimination that, it turns out, even they aren't sure exists.

"We're trying to get it right. We're trying to understand what accurate means," Cordray said in stunning testimony ignored by the mainstream media.

Hensarling then asked, "Do you control for credit scores" to see if they explain racial disparities?"

"I'm not the biggest expert on this at the bureau," Cordray replied, but "I don't think it's fair to say credit scores can explain the disparities."

What he meant to say is they're not even checking. The complaint against Fifth Third states that investigators "did not make additional adjustments for creditworthiness or other objective criteria related to borrower risk." Yet it concludes: "These disparities are based on race and not based on creditworthiness or other objective criteria related to borrower risk."

"We're trying to get it right," Cordray said. Trying? Doesn't he owe it to defendants to get it right before he accuses them of something as serious as racism?

His confession would seem to discredit the earlier discrimination cases against Ally Bank and Honda, as well, which were based on the same discredited methodology. Yet he's aggressively pursuing other major auto lenders as we speak, with the ultimate goal, as revealed in those internal memos, of eliminating discretionary financing in auto loans.

In short, Cordray is trying to restructure the $900 billion auto finance industry based on bad math.

Even Democrats see this is wrong. Many have crossed the aisle to vote for bills to reform the CFPB and rein in its rogue director. One of them would create a commission to check Cordray's power, and another would appoint an inspector general to audit the cases that his race cops are making vs. lenders. Both bills were approved in late September with bipartisan support.

Seeing the heat turned up, the White House is circling the wagons, claiming Republicans are trying to "tie the CFPB in knots" and "gut consumer protections."

Of course, it's Cordray and his out-of-control agency that are hurting consumers. With their meritless discrimination cases, they are jacking up the cost of auto loans for average Americans, including minorities with good credit.

Washington

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agency and a public notice and comment period when future auto lending guidance is issued.

Dealers and state dealer groups at the Washington conference made more than 300 congressional visits on Capitol Hill to increase support for H.R. 1737 beyond the 147 cosponsors (86 Republicans and 61 Democrats) the legislation had amassed by late September. A full House vote is expected this fall.

Concerning proposed bills on recalls, Wes Lutz, chairman of the NADA's government relations committee, urged dealers to ask their members of Congress not to cosponsor H.R. 2198 and H.R. 1181, saying the legislation "misses the mark by requiring recalled vehicles be grounded instead of actually fixed."

"Imagine what would happen if dealers could only offer a fraction for customer trade-ins, or couldn't accept them at all. This could be the reality if the Blumenthal amendment is passed," said Lutz, a dealer in Michigan. "Dealers support a 100 percent recall completion rate. Congress should focus on legislation that helps increase recall completion rates."

There are 46 million vehicles on the road today under open recall, but many of the defects have nothing to do with vehicle safety, Lutz added.

Marketplace

Controller Strong candidate with more than 30 years in the automotive industry, including 2 years as Controller and 25 years in fixed operations; plus more than 13 years in public accounting, working with various dealerships and providing assurance and tax services. Jim Kegl, (815) 354-6374.

Auto Recondition Manager Extensive experience in reconditioning for resale. Full capacity to interact with all employees, including used-car manager, service director, techs and porters, in order to achieve customer satisfaction without disappointments. Anonymous, contact CATA for résumé, (630) 495-2282.

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David E. Sloan — President, Publisher
Erik K. Higgins — Editor, Director of Dealer Affairs

Check criminals make dealership acceptance policies a priority

By Rasha Ismail
CrossCheck, Inc.

A Chicago area man pleaded guilty in 2012 to writing 24 worthless checks to auto dealerships in Illinois and Wisconsin for more than $70,000. And he's at it again.

In a recent email, the Chicago Automobile Trade Association alerted its members to the man's activities and encouraged them to review their check acceptance policies with employees.

That's always good advice, especially since dealerships routinely accept four- or five-figure checks and often release vehicles based upon them. A check acceptance policy can reduce the incidence of fraud, but since few precautionary measures are guaranteed to work 100 percent of the time, some checks inevitably will be returned. Dealerships need to have collections policies in place to handle that, too.

Let's start with the check acceptance policy. You're free to take this and use it as your own:

Auto Dealership Check Acceptance Policy

Each check MUST HAVE these features:

1. It must be drawn on a local or in-state bank.
2. The bank's logo must be printed on it.
3. When you hold it up to the light, you can see a watermark or other security features.
4. It must have a padlock icon on the front and a security message including the words "ORIGINAL DOCUMENT" on the back.
5. It must have a MICR line, which is written in a unique font across the bottom of the check, showing the bank's routing number, the account number, and the check number.
6. The check number in the upper right corner and the check number in the MICR line must match
7. It must be for the exact amount owed.
8. The customer's name and complete address must be printed on it.
9. The check must have the proper date on it.
10. The check must be made out to the correct payee.
11. The dollar amount written in digits must match the dollar amount written in words.
12. The signature must be written while you watch.

Each check MUST NOT HAVE these features:

1. Smooth edges; either the top or left edge should be perforated.
2. Regular paper feel; checks are printed on special paper.
3. A blurry, misaligned or missing bank logo.
4. A blurry or smudged MICR line.
5. A signature you didn't see produced.

Follow this procedure:

1. Watch the customer write the check, including their signature.
2. Get their state-issued photo identification card, such as a driver's license.
3. Make sure the photo on the ID is the person writing the check.
4. Make sure the signature on the ID matches the signature on the check.

Be sure to review this policy with your employees because you will find that it will prevent a majority of check fraud attempts.

Prepare for Inevitable Collections

But it won't prevent all of them. The Chicago fraudster's check would have passed this test because he used legitimate checks from what had once been a legitimate bank account.

So you ought to prepare to collect the inevitable returned check. The laws controlling how you can legally go about doing that are extensive. At the Federal level, a good starting point would be a thorough understanding of the Fair Debt Collection Practices Act, but please be hyper-aware that this is just your starting point. At the state level, laws and regulations vary, and you'll need to do your own research to be confident that you correctly comply with all of them.

Penalties for non-compliance can be onerous. They begin with monetary damages for physical and emotional distress, lost wages, and statutory penalties. They go up from there, and attorney's fees may add significantly to the burden. You may be sued by the debtor, by the debtor's receptionist, by his family and even by his neighbors if you violate any of of the laws governing collections procedures.

The Outsourcing Option

Many dealerships choose to minimize the incidence of check fraud in the first place by having us verify a check before accepting it. It's almost certain that the Chicago fraudster's check would have failed if it had been run through our service because we probably would have found out that his checking account didn't exist. We would also probably have discovered that the fraudster had a criminal record for bouncing or paperhanging checks.

We say "probably" because even with our proprietary databases and time-tested methods, some bad checks still get through. And while it's true that precautionary measures can't work 100 percent of the time, it's also true that this doesn't have to affect your business.

With our check guarantee service in place, we'll analyze the check for you, in accordance with your Service Agreement, and if we guarantee it you will be 100 percent certain that you'll get paid and that you won't have to deal with collecting on it. If a guaranteed check is returned, we pay you anyway and then we deal with the problem.

After thirty-two years serving auto dealerships just like yours, we've created a suite of services tailored to auto dealerships that can drive revenue and mitigate risk on your showroom floor, in your service bays and in your parts department.

White House says Trans-Pacific trade deal would boost auto sector

The Trans-Pacific Partnership will immediately eliminate tariffs on about 80 percent of auto parts in all 12 of the countries in the pact, and that could have a dramatic impact on parts production, the Detroit News reported Oct. 6.

The TPP, which was formed in 2005, could help auto suppliers sell more U.S.-made parts abroad, but could in the long run allow some parts production to be moved abroad.

Auto parts imported to the U.S. currently are taxed with a 2.5 percent to 5 percent tariff. While officials noted that some parts — "green energy" ones including lithium-ion batteries will have tariffs for up to 15 years — the majority will be dropped immediately.

The deal also reduces the amount of content needed to classify a part as tariff free under the agreement. Parts will have to have 35 to 45 percent net cost from one of the 12 nations to qualify.

The North American Free Trade Agreement required 62.5 percent of the content from one of the three nations.

"Malaysia currently puts a 30 percent tax on American auto parts. Vietnam puts a tax of as much as 70 percent on every car American automakers sell in Vietnam," President Obama said in support of the TPP. "Under this agreement, all those foreign taxes will fall. Most of them will fall to zero. So we are knocking down barriers that are currently preventing American businesses from selling in these countries and are preventing American workers from benefiting from those sales to the fastest-growing, most dynamic region in the world."

Recalls

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driving.

"There is no evidence," Allen said, "that a blanket grounding of all used vehicles with open recalls will make the roads or consumers any safer. It would, however, severely depress the value of trade-ins with unremedied recalls, especially when parts aren't available or whenever a consumer wants to trade in one make for another.

"This would cost consumers money, keep many stuck in older cars, and push more used cars into the private-sale market, making it less likely that those vehicles ever get fixed."

The NADA wants all recalls completed, Allen said, "but achieving that requires policies that focus on consumer empowerment, not policies that are overly broad, harmful to consumers and ultimately counterproductive."

Transportation Secretary Anthony Foxx has also endorsed requiring the used-car repairs.

"We remain very concerned that used-car purchasers will be the only category of vehicle consumers unprotected against potentially dangerous recalled vehicles," the lawmakers wrote. "Does the NADA disagree that retailers bear responsibility and that ensuring customers' safety should take precedence over economic concerns?"

The NADA and other dealer groups sent a letter to Congress in July that urged them not to include used-car provisions, saying it would diminish used-car values and make dealers ground vehicles for months while awaiting parts.

AutoNation Inc., , the nation's largest car retailer, last month said it no longer will sell or lease used vehicles under recall until they are fixed. The move requires the temporary grounding of at least 5 percent of its fleet.

The Florida-based auto retailer, with 293 vehicle franchises selling 35 new-vehicle brands across 15 states, announced the new policy.

"There's no way to expect that customers would or should know of every safety recall on every vehicle they might purchase, so we will ensure that our vehicles have all recalls completed," said Mike Jackson, chairman, CEO and president of AutoNation. "We make it our responsibility as a retailer to identify those vehicles and remove them from the market until their safety issues have been addressed."

Federal law prohibits the sale of new cars under recall until they are repaired but does not require the same of used cars. Bills have been introduced in Congress to require the repairs first. The Senate Commerce Committee declined to add the provision to a highway reauthorization bill that the committee approved in July.

In April, NHTSA chief Mark Rosekind urged the nation's more than 17,000 new-car dealers to do more to ensure unsafe vehicles are repaired. "Americans are dying on our roads because of defective vehicles being rented or sold," he said.

Separate legislation is also pending to require rental car companies to fix recalled vehicles before allowing them to be leased.

"The standard needs to be that every time a rental car agency or a used-car dealer hands the keys to a consumer, that car is free of safety defects. Every time," Rosekind said.

NADA President Peter Welch met with Rosekind in March and asked the NHTSA to make data available to dealers, to make it easier to check for open recalls.

Welch thinks dealers should focus on ensuring used vehicles with the most serious issues have recall repairs completed before being sold, rather than a blanket rule.

"You have to use some common sense," Welch said in April. "We want to work toward a workable solution."