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Financial regulation overhaul **Vote on Brownback amendment delayed till May 18 at earliest**

In the battle to overhaul the nation's financial regulations, local car dealers find themselves pitted against not just President Obama but also the world's most powerful military force.

A vote was expected May 13 on an amendment to exempt most auto lending from new government oversight. But the amendment's author, Sam Brownback (R-Kan.), said he withheld the matter while wrangling for more support.

"We decided not to run it because we felt it would be

too close for us," Brownback said. "We needed more time to work the amendment" and secure 60 votes to pass it.

The Senate is not expected to hold votes May 17 because of primaries in Arkansas and Pennsylvania, so the next chance would be May 18.

The matter had been the subject of more lobbying than any other aspect of the massive financial-regulation overhaul package pending in the Senate, including an unusual letter from the Pent-

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Survey says, 'Holiday hours'

Holidays can pose a challenge for retailers. "Should I be open for sales on Christmas Eve? What about the service department? What are my competitors doing?"

Call the CATA for a flyer to list your dealership(s) and the business hours you expect to keep on this year's

notable remaining holidays.

Fax completed flyers to the CATA at (630) 495-2260. Responses received by May 26 will be tallied and reported in the May 31 edition of this newsletter.

Also, See a Page 4 story on Memorial Day entitlements due to unionized employees.

CATA: Working for you

Among the various benefits for member dealers is a free presence on the CATA Web portal, www.drivechicago.com, to list new- and used-vehicle inventories.

Important, nonmembers do not appear on DriveChicago.com.



Talks advance on estate tax

Lawmakers are looking to give taxpayers the option of prepaying their estate tax, sources close to the issue said this month.

If taxpayers choose that option, payments would be at a lower tax rate than if made after death. It currently is unclear what the lower rate would be for prepayments.

According to the latest talks, the tax rate would be set at 35 percent for those estates worth more than \$3.5 million, but the exemption would ultimately increase over time to \$5 million and would not be indexed for in-

flation.

Providing taxpayers with a prepayment option and lowering the estate tax to 35 percent has been discussed for months, but sources said conversations on the matter turned a corner after lawmakers learned the proposal would be less expensive than originally expected.

The proposal's official cost is unknown, since it hasn't been scored and lawmakers have yet to ink the deal. However, a potential method to pay for it could be to place limits on Grantor

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For dealers, managers

New event premieres June 17: CATA dealer meeting & exposition

The Chicago Automobile Trade Association's annual meeting dawns in a new format June 17, with informational presentations, a big-tent lunch barbeque, prizes, and a chance for dealers to explore business opportunities with the CATA's allied members.

The first-ever CATA Dealer Meeting & Expo opens at 10 a.m. at the CATA office in Oakbrook Terrace. The brief

meeting will identify winners in the CATA board of directors voting, held earlier in June.

Then dealers and their managers can explore several 30-minute "best practice" seminars in the building's various meeting rooms, and interact with representatives from about 30 allied-member companies in booth displays assembled much like a trade show.

The new format succeeds the association's longstanding golf outing, which traditionally was held in conjunction with the annual meeting.

"Our businesses have seen a lot of change over the last 24 months, and it's difficult for many dealers to get time away from their stores," said CATA Chairman Kevin Mize. "We decided that if dealers were able to get away this year, we would reward

them with something more substantive than a golf outing."

The event is free to dealership personnel. A registration form will be disseminated in about one week. Only CATA allied members with exhibits will be present at the event.

"This will be a nice mix of business and pleasure," said Mize. "We're excited to bring this new event to our members."

Popularity of small cars means smaller profits for automakers, dealers

When automakers reported their sales for April, most industry watchers were bullish about the numbers. Analysts noted that sales, which came in at an annual rate of 11.2 million, were 20 percent ahead of a year ago, and that consumer confidence was at its highest since September 2007.

But overlooked by most observers is a change in buyer preferences that could make this upturn a lot less profitable than the last one in this highly cyclical industry.

"Consumer downshifting into smaller, and arguably less profitable, segments provides a weak foundation for a robust net income outlook," says Warren Browne, a General Motors executive turned analyst in Detroit.

Browne said volume growth is mostly

coming in small and mid-size segments that historically return profits that are small or non-existent. Through April, these two segments represented 38.2 percent of light vehicle sales, compared to 36 percent during the same period last year.

Meanwhile, light truck segments that produce higher profits have remained flat or lost share. That includes large and small pickups, large and small vans, and small and mid-size sport-utility vehicles.

Except for those two hearty perennials, the Ford F-series and Chevy Silverado pickups, and the full-size Honda Accord, the other seven vehicles among the top 10 sellers are on the small side.

That consumers are thinking small isn't entirely due to gasoline prices or

the economy. Analysts attribute it partly to new market entrants and new features creating consumer interest. Both GM and Ford for instance, are introducing important new subcompacts this year: the Chevrolet Cruze and the Ford Fiesta.

Browne remains relatively pessimistic about car sales for the rest of the year, saying downward pressure will come from high unemployment, low housing starts, and weak consumer confidence.

He expects manufacturers to sell 11.6 million cars and trucks this year. While that is up 11 percent from 2009's dismal performance, it is a far cry from the 16 million to 17 million that was considered normal just a few years ago.

And if the big stuff isn't selling, that could double the pain.

Marketplace

CFO/Controller 25+ years dealership experience. Identify, implement profit opportunities in all departments; help develop step-by-step strategies to achieve desired profit goals. Familiar with all domestic lines, 16 import brands. Have consulted for several of Top 10 North American dealer groups. Mark Thomas, (708) 932-5596. Résumé on file at the CATA.

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Review past editions dating to 1998 or search by subject at www.cata.info.

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Wall Street reform hurts consumers, dealers, economic recovery

BY RAY SCARPELLI SR.

CHICAGO METRO NADA DIRECTOR

WASHINGTON – More than 100 new-car dealers were in Washington in late April to take an important message directly to their senators: Over-regulating auto dealers and imposing new fees and other burdens will curb access to credit for middle-class families that need to buy a car or truck to get to work. It also will slow the economic recovery.

The Senate this month began debate on the Wall Street reform bill, including an amendment sponsored by Sen. Sam Brownback (R-Kan.) which would preserve the ability of dealers to provide affordable financing for their customers. Proponents of the proposed Bureau of Consumer Financial Protection want to include dealers in the agency's oversight, which likely would limit or eliminate dealer-assisted financing. "We are up against very powerful forces, with the Obama administration, Department of Defense and consumer groups attempting to give senators the impression that dealer-assisted financing is detrimental to consumers," says David Regan, NADA vice president of legislative affairs.

In other news . . .

The revised June 1, 2010, enforcement date for the **FTC Red Flags Rule** is rapidly approaching. Dealers should make sure that their required Identity Theft Prevention Programs (ITPPs) incorporate all of their covered accounts; include all relevant Red Flags; contain effective response and detection procedures; address all of the Rule's other requirements; and are appropriately tailored to their particular operations. NADA University has three resources to help you determine if your dealership is adequately prepared:

- "A Dealer Guide to the FTC Red Flags and Address Discrepancy Rules: Protecting Against Identity Theft" is a 90-page guide from the NADA's Driven Management Series that explains the two rules, focusing on the Red Flags Rule, and provides detailed information, FAQs and a step-by-step compliance chart. The guide includes a sample ITPP, worksheets, and other materials to assist dealers in developing and maintaining written ITPPs specific to their dealerships. Driven guides are free to NADA and ATD members. After completing your free enrollment in NADA University, go to the Training Center, click on NADA-ATD Resource Toolbox, then the Driven tab. You'll find the "Red Flags Guide" under "Legal."

- "Red Flags: Stopping Identity Thieves Before They Strike" is an online course that takes an interactive approach to teaching all aspects of the Red Flags Rule, utilizing activities, visual enhancements and testing to reinforce learning. Free in 2010 to NADA and ATD members, the course offers members-only downloads of a sample ITPP, sample compliance report, and two sets of worksheets that dealers can use to accomplish account identification and risk assessment and to identify, detect and respond to Red Flags. After completing your free enrollment in NADA University, go to the Training Center, click on NADA-ATD Learning Hub, then "Legal/Regulatory."

- "A Deeper Dive Into the FTC Red Flags Rule" is a Webinar archived from 2009 that features attorneys from the FTC's Division of Privacy and Identity Protection, which drafted and enforces the Red Flags Rule, along with NADA Regulatory Affairs Director Paul Metrey. The panel recaps the required elements of the Rule, focusing on implementation considerations for

dealers. During a Q&A session, Webinar attendees pose their questions directly to the FTC attorneys. This Webinar archive is available through the NADA U Store for \$99 for dealers who do not have a NADAvt subscription.

- A NADAvt subscription costs \$199 a month per rooftop with annual new-vehicle volume less than 300 units; or \$399 a month for rooftops with volume over 300 units. A NADAvt subscription gives you and all your employees access to all NADA and ATD online courses (20+ by year-end), all NADA and ATD convention workshops, all educational webinars produced—and more. Visit www.NADAUniversity.com for details, or call NADA U Customer Service at (800) 557-6232.

Congress extends COBRA subsidy to May 31

The 2009 stimulus bill included a provision that provided a 65 percent subsidy on COBRA insurance premiums for certain workers who lost their jobs in late 2008 and 2009. This benefit has been extended and, as a result, workers who are involuntarily terminated between Sept. 1, 2008, and May 31, 2010, may be eligible for the subsidy.

NADA-ATD 20 Group offers sample composites online

Now prospective 20 Group members can see for themselves what NADA's Online Composite and Management Tools can do. Explore a demo composite at www.nada20group.org. Go to the Member Login section, enter username 331153841 and password @81689. Truck dealers enter username 331154949 and password 3241*6.

A new Kia group launched this month; an Infiniti group begins in July; and Audi, Acura and Lexus line groups are forming

May 31 holiday benefits for non-union workers in line with union employees

Dealers treat the Memorial Day holiday variously, with some operating all day, some part of the day, and some not at all. But dealers must remember their unionized employees' rights related to holiday pay.

As a general matter, the vast majority of area dealers recognize the same holidays and adhere to highly similar terms regarding holiday compensation. Holiday pay procedures largely depend on the policies and/or practices in place at individual dealerships.

At unionized dealerships,



some specific rules and restrictions are imposed on union workers. In all cases, unionized employees must

work on their regularly scheduled workdays both immediately before and after a holiday to qualify for holiday pay, unless the employee's absence is excused by an employer, e.g., vacation or other approved leave.

All three unions with a presence at CATA dealerships—IAM Local 701, and Teamsters Local 731 and 179—share similar holiday rules and recognize May 31 as a holiday.

Holiday pay for probationary employees varies among the unions. Employers should consult their

union agreements to confirm employee eligibility.

Summarized, the holiday pay for unionized employees is:

IAM Local No. 701

Pay equal to eight or 10 hours times applicable rate of pay.

Teamsters Local No. 731

Pay equal to hours employee ordinarily works times hourly rate of pay for their classification.

Teamsters Local No. 179

Pay equal to 8 hours at minimum hourly rate.

Regulation

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gon calling for a crackdown on dealers. In an aggressive foray into the Senate floor debate on May 12, Obama issued a statement in opposition to the Brownback amendment that would have exempted from coming under the purview of a proposed new Consumer Financial Protection Bureau. Ed Tonkin, chairman of the NADA, returned fire by calling much of what Obama said “pure fiction.”

In his statement, Obama said the amendment would create a “special loophole for auto dealer-lenders” that “would carve out a special exemption for these lenders that would allow them to inflate rates, insert hidden fees into the fine print of paperwork and include expensive add-ons that catch purchasers by surprise.”

And he added, “Unfortunately, countless families—particularly military families—have been the target of these deceptive practices.”

Later that day, the Senate voted 98 to 1 to create a “consumer protection liaison” for military service members and their families.

Standing on the front line of the regulation fight was Jan Gaudio, a retired rear admiral. He told tales of soldiers who had been baited by dealers into high-interest loans or extra payments.

Tonkin said the Brownback amendment does not exempt dealers from oversight. “Any dealer, bank, credit union or other finance company that actually underwrites and funds auto loans would be subject to the proposed consumer protection agency,” Tonkin said. “And we’re absolutely fine with that.”

“What we don’t support is including auto dealers who simply assist customers to find auto financing. These dealers are not banks. They are facilitators. And dealer-assisted financing is already heavily regulated—and should not be subject to double regulation.”

Obama said the Brownback amendment would undermine “strong consumer protections with a special loophole for auto dealer-lenders,” and he opposed carve-outs for any industry.

Tonkin countered that, despite what Obama suggested, unfair and deceptive practices are illegal and would remain so under the Brownback amendment. “Moreover, all of the laws that dealers now are subject to—the Equal Credit

Opportunity Act, the Truth In Lending Act, the Federal Consumer Leasing Act, the Fair Credit Reporting Act, the Gramm Leach Bliley Act, and the Federal Trade Commission Act—still would exist and apply to dealers if the Brownback amendment is approved.”

Dealers said that although they offer financing options to buyers, they largely act as a middleman between lenders and consumers and generally don’t lend their own money. Adding rules, such as requiring them to register or submit to regular examinations by federal officials, would lead to a higher cost of doing business, which could be passed on to consumers or discourage dealers from offering financing options altogether.

Estate tax

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Retained Annuity Trusts (GRATs). The House-passed small business jobs bill includes a similar provision.

The estate tax stands repealed in 2010. But barring congressional action, it returns next year to pre-2001 levels by socking estates worth more than \$1 million with a tax that tops out at 55 percent.