



Volume 106, No. 20

October 19, 2009

CFPA, a new consumer protection agency, may snare dealers

Congress is working to overhaul the nation's financial regulatory system in light of the collapse of major banks last year, and a proposed federal watchdog agency might scrutinize the nation's 19,000 new-vehicle dealers.

The House Financial Services Committee was scheduled to vote Oct. 14—after this newsletter's deadline—on creating a new Consumer Financial Protection Agency (CFPA). The bill, House Resolution 3126, would subject auto dealers to numerous new and, in some cases, duplicative regulations.

Dealer groups insist that

financial reform should focus on what led to an economic crash last year. Auto dealers were victims, not a cause, of the credit meltdown.

They also contend that effective federal and state laws governing dealer-assisted financing already exist, and that more can be accomplished by enforcing existing laws rather than creating a massive new agency.

In light of the current credit crisis and the lowest auto sales in a generation, the National Automobile Dealers Association argues that a dramatic restructuring of auto finance would create

unintended consequences, increasing consumer costs that could further depress auto sales.

Congressman Barney Frank (D-Mass.), chairman of the House Financial Services Committee, said in September that he would exclude auto dealers from being regulated by the provisions of the proposed CFPA.

But a consumer coalition of about 30 groups, including the Consumer Federation of America, Consumers Union, National Council of La Raza and Public Citizen, thinks otherwise.

"We strongly urge you to

ensure that all activities of auto dealers related to the financing of cars are fully included under the jurisdiction of the (proposed) CFPA," the groups said in an Oct. 12 letter to Frank and to Rep. Spencer Bachus (R-Ala.), the House committee's ranking minority member.

Frank's discussion draft bill last month exempted dealers from some new regulations—if buyers got their own financing or paid cash. According to the NADA, 94 percent of all new-vehicle purchases involve financing.

The White House pro-

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More floor plan financing available under government loan program

Three floor plan finance sources for franchised dealers — Ford Motor Credit Company, BMW Financial Services, and World Omni Financial Corporation — will receive a combined \$2.3 billion in Term Asset-backed securities Loan Facility (TALF) funds to support their floor plan lending operations, it was announced this month.

The following briefly summarizes this development:

- The reduced amount of floor plan financing for dealers in the last year

stems in part from the inability of floor plan finance sources to secure an ongoing supply of affordable funds;

- Under normal market conditions, many floor plan finance sources (particularly non-depository institutions) rely on the securitization market to provide funds for their floor planning operations;

- The securitization process involves finance sources bundling their floor plan lines of credit and selling them as a securitized bond to private investors.

The payments finance sources receive from the private investors provide them with the cash needed to continue their floor plan operations.

- With the onset of the credit crisis last year, the securitization market ground to a halt and cut off this critically important source of funds. In response, the Federal Reserve Board announced in November 2008 the creation of the TALF, which seeks to get investors to begin purchasing securitized bonds

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'Red Flags' compliance: 4th launch date a charm?

After more false starts than a Brett Favre retirement, the Red Flags Rule to combat identity theft is scheduled to take effect Nov. 1.

All motor vehicle retailers, who originate loans or leases must have in place a formal program to prevent crimes in which someone obtains credit or access to a customer's account using the indentifying information, such as Social Security and Drivers License numbers.

The Federal Trade Commission rules setting forth this new requirement are referred to as the Red Flags Rule. The term "Red Flags" means a pattern, practice or specific activity that could indicate identity theft.

Those who have not done so in advance of the previous deadlines now must adopt a formal identity theft prevention program to guard against Red Flags and take appropriate action when they detect a Red Flag, including investigating further into the identity of the customer seeking credit, and reporting any incidents if ID theft or attempted ID theft is confirmed.

Documentation is critical

Like the Safeguards Rule, the Red Flags Rule requires a dealership to follow a series of enumerated steps and, within each step, take certain specified actions. Just as important, or even more important, than going through the steps and taking the actions, is the DOCUMENTATION of each step and each action taken, from the initial evaluation, to the consideration of sources of information, to the adoption of a formal ID theft prevention plan, to employee training, every step must be documented.

More on the matter is at www.ftc.gov, or send questions to redflags@ftc.gov.

In Memoriam

Albert "Al" Goodman, who once operated two north suburban Lincoln-mercury dealerships, died Sept. 20 at the age of 84.

Mr. Goodman was proprietor of Holiday Lincoln-Mercury in Evanston and Park Ridge Lincoln-Mercury, and was a past president of the Chicago Metropolitan Lincoln-Mercury Dealers Association. He also was a director of the CATA. Previously, Mr. Goodman served in the Army during World War II.

He is survived by his wife of 59 years, Alice; a son, Paul; daughters Reva and Barbara; and five grandchildren. Donations accepted by the American Cancer Society, (847) 328-5147.

Weeks remain for consumer, business tax incentives

After the "cash for clunkers" program frenzy, sales crashed in September for most automakers and their dealers. But now is a great time to remind customers that they still can take advantage until Dec. 31 of the generous tax deduction for state sales taxes (and some other state fees) on the purchase of qualifying new vehicles.

These savings, which in Illinois would be about \$1,680 on a \$28,000 car, will not be available after Dec. 31, so remind customers that now is a great time to buy.

"For those thinking about buying a new car, this deduction may give them a little more drive to make their purchase this year," said Internal Revenue Service Commissioner Doug Shulman. "This deduction enables taxpayers to buy now and get cash back later on their tax returns."

The deduction is limited to the state and local sales and excise taxes paid on up to \$49,500 of the purchase price of a qualified new car, light truck, motor home or motorcycle.

The deduction amount is phased out for taxpayers whose modified adjusted gross income is between \$125,000 and \$135,000 for individual filers, and between \$250,000 and \$260,000 for joint filers.

New vehicles must be purchased between Feb. 16 and Dec. 31, 2009, to qualify for the deduction. The special deduction is available regardless of whether a taxpayer itemizes deductions on their return.

Business customers can be reminded that they can take advantage of generous accelerated depreciation and expensing tax incentives if they purchase certain qualifying vehicles. Those incentives are part of the federal stimulus bill signed in February, the American Recovery and Reinvestment Act of 2009.

Among other aspects, the depreciation limitation on the amount of certain passenger automobiles is increased from \$2,690 to \$10,690 in the first year. Vehicles must be used for business at least 50 percent of the time.

The CATA Bulletin is published by the
Chicago Automobile Trade Association
18W200 Butterfield Rd. Oakbrook Terrace, IL 60181-4810

The CATA Bulletin is published and mailed every other Friday except during the Chicago Auto Show, when it is not published.

Listings of items for sale are subject to the approval of the CATA. Candidates for employment must submit a full resume to the Editor.

Review past editions dating to 1998 or search by subject at <http://cata.drivechicago.com>.

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Will hybrids have to emit fake vroom sound for pedestrian safety?

People listening to cars traveling at 5 mph could detect a gas-powered car at 28 feet away but could not hear a hybrid in silent battery mode until it was just 7 feet away.

Automakers apparently have been so successful in making quieter cars that they have created a problem: They aren't noisy enough.

So safety experts, worried that plug-in hybrids and electric cars pose a threat if pedestrians, children and others can't hear them approaching, want automakers to supply some digitally enhanced vroom.

Indeed, just as cell phones have ring tones, "car tones" may not be far behind — with an option for owners of electric vehicles to choose the sound their cars emit. Working with Hollywood special-effects wizards, some hybrid auto companies have started tinkering in sound studios, rather than machine shops, to customize engine noises.

The Fisker Karma, an \$87,900 plug-in hybrid expected to go on sale next year, will emit a sound pumped out of speakers in the bumpers. Company founder Henrik Fisker describes the sound as "a cross between a starship and a Formula One car."

Nissan also is consulting with the film industry on sounds that could be emitted by its forthcoming Leaf battery-electric vehicle, while Toyota has been working with the National Highway Traffic Safety Administration, the National Federation of the Blind and the Society of Automotive Engineers on sounds for electric vehicles.

"One possibility is choosing your own noise," said Nathalie Bauters, a spokeswoman for BMW's Mini division, who added that such technology could be added to one of BMW's electric vehicles in the future.

The notion that battery E.V.'s and plug-in hybrids might be too quiet has gained backing in Congress, among federal regulators and on the Internet. The Pedestrian Safety Enhancement Act of 2009, introduced early this year, would require a federal safety standard to protect pedestrians from ultra-quiet cars.

Toyota spokesman John Hanson, said: "I don't know of any injuries related to this, but it is a concern. We are moving rapidly toward broader use of electrification in vehicles, and it's a fact that these cars are very quiet and could pose a risk to unsighted people."

A study last year financed by the National Federation of the Blind evaluated the effect of sounds emitted by hybrid

and internal-combustion cars traveling at 5 miles per hour.

People listening in a lab could correctly detect a gas-powered car's approach when it was 28 feet away, but could not hear the arrival of a hybrid operating in silent battery mode until it was only seven feet away.

Some electric-vehicle drivers have taken a low-tech approach to alerting pedestrians. When Paul Scott of Santa Monica, Calif., drives his 2002 Toyota RAV4 electric car, he often rolls down the windows along busy streets and turns up his radio so people know his virtually silent vehicle is there.

Scott, vice president of the advocacy group Plug In America, said he would prefer giving drivers control over whether the motor makes noise, unlike, say, the Fisker Karma, which will make its warning noise automatically.

"Quiet cars need to stay quiet — we worked so hard to make them that way," he said. "It's the driver's responsibility not to hit somebody."

Scott has already warmed up to the idea of a car ring tone. "It should be a manually operated noisemaker, a button on the steering wheel triggering a recording of your choice," he said. "It could play 'In-a-Gadda-Da-Vida,' or anything you like."

Northwood University adds 4 scholarships, up to \$9,000 a year

Northwood University, which attracts many eventual dealer principals to its Automotive Marketing/Management program, has added four new education scholarships that offer \$4,000 to \$9,000 a year for students.

A Presidential Scholarship recipient would receive \$9,000 a year, or \$36,000 over four years. Other new scholarships include the Freedom Scholarship (\$30,000/\$7,500 a year), the Free-Enterprise Scholarship (\$20,000/\$5,000 a year), and the Entrepreneur Grant (\$16,000/\$4,000 a year).

The university also offers athletic scholarships. To review all Northwood academic scholarships, visit the university's Web site, www.northwood.edu, and follow the Freshman Merit Scholarship Estimator in the site's Financial Aid section.

The Chicago Automobile Trade Association also offers two Northwood scholarships to students whose parents or legal guardians work at a CATA-member dealership, and to dealership employees considering a Northwood degree. Each scholarship grants the

recipient \$6,500 a year for up to four years. The current recipients are in their sophomore and freshman years.

Northwood University has three campuses: Midland, Mich.; West Palm Beach, Fla.; and Cedar Hill, Texas.

For consideration, scholarship applicants must have a high school grade point average of at least 2.5 on a 4.0 scale. Continued eligibility is subject to maintaining a 2.5 GPA at Northwood.

For more information on the CATA scholarships, call Dave Sloan at (630) 424-6055.

Illinois title, registration fees going up in '10

Vehicle title and registration fees increase in Illinois Jan. 1, 2010. Registrations that expire in January 2010 or later are affected by the increase.

Registration fees for passenger vehicles, ceremonial vehicles and flat-weight vehicles up to 8,000 pounds (B class) all increase from \$79 to \$99. Recreational vehicles are exempt from the fee increase, except for recreational vehicles that display specialty plates, which are subject to the new \$99 fee plus any applicable specialty plate fees.

The Certificate of Title fee increases from \$65 to \$95; Transfer of Registration, from \$15 to \$25; and Duplicate/Corrected Certificate of Title, from \$65 to \$95.

Renewal fee extensions are based on the current expiration date. If the current expiration is December 2009 or earlier, the extension fee is \$6.50 a month. If the current expiration is January 2010 or later, the extension fee is \$8 a month.

Title transactions are based on the date the Secretary of State's office receives the correctly completed application (stamped date on the application). The office must receive the correctly completed application before Jan. 1 or the new title fee applies.

Some possible scenarios for registration renewal and title transactions:

Applications received prior to Jan. 1

1. Applicant purchases a vehicle on Dec. 15 and the Secretary of State's office receives the title and registration paperwork on or before Dec. 31.

Registration Fee:	\$ 79
Title Fee:	<u>\$ 65</u>
Total Due:	\$144

2. Applicant purchases a vehicle on Dec. 15 and the Secretary of State's office receives the title and transfer paperwork on or before Dec. 31.

Transfer Fee:	\$15
Title Fee:	<u>\$65</u>
Total Due:	\$80

Applications received after Jan. 1

1. Applicant purchases a vehicle on Dec. 15 and the Secretary of State's office receives the title and registration paperwork on or after Jan. 1.

Registration Fee:	\$ 79
Title Fee:	<u>\$ 95</u>
Total Due:	\$174

* Expiration date of registration sticker remains Dec. 31, 2010.

CFPA

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posed regulating all dealer transactions. Frank's exemption is too narrowly drawn, the NADA charges, because it still would subject financing to regulation. Auto lending already is regulated by all 50 states, the Federal Reserve Board and the FTC.

The NADA also takes issue with the consumer groups, saying auto-related

complaints represented just 1 percent of all FTC complaints last year.

Bailey Wood, an NADA spokesman, said offenses like payment packing, misrepresenting fees, falsifying loan applications, forgery "are already illegal."

But he said dealers invest a lot of effort in providing financing for their customers. "It is only fair for them to be able to cover their costs and (realize) some profit from their efforts."

TALF

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(also known as asset-backed securities or ABS) again by providing them with low cost, non-recourse loans.

- Following meetings with the NADA and other industry organizations, the FRB agreed to include auto retail, lease, and floorplan ABS in the new lending facility.

- Although the TALF has been enormously successful in reopening the securitization market for retail credit (the TALF has funded more than \$38 billion in auto retail ABS since March 2009), it did not reopen the market for auto floor plan securitizations. This is due to the TALF's requirement that securitized bonds be AAA-rated and the credit agencies' unwillingness to provide this rating to floorplan securitizations in the midst of the industry restructuring.

- To address this situation, the NADA coordinated with numerous industry representatives and met on repeated occasions with the FRB, the Federal Reserve Bank of New York (which administers the TALF), the Treasury Department, and the credit rating agencies.

During these meetings, NADA representatives explained in detail a variety of factors that demonstrate the strength of auto floor plan collateral in today's marketplace (which is a significant factor in determining the appropriate rating for floorplan ABS). These efforts helped the rating agencies provide the required AAA ratings for the transactions mentioned above.

While this neither creates a new finance source to which dealers can submit floorplan applications nor independently restores floorplan lending to the level that was present before the credit crisis set in, it is a major step forward in obtaining more favorable lending conditions for franchised dealers.

The NADA will continue to work towards expanding credit capacity for dealers.