

CFPB Watch for Auto Dealers July 2016

July 31, 2016 | [Michael A. Benoit](#)

The Consumer Financial Protection Bureau and the Federal Trade Commission continue to be focused primarily on areas other than auto financing and leasing. Only a couple of items we mention this month are expressly auto finance-related, but the rest might also be of interest to those in the auto sales, finance, or leasing business.

FTC to Study the Effectiveness of Disclosures. On May 24, the FTC announced that it will host a September workshop on testing how effective consumer disclosures are. Scheduled for September 15, the workshop will examine how companies test and evaluate consumer disclosures regarding advertising claims, privacy practices, and other information. The workshop, called "Putting Disclosures to the Test," is aimed at encouraging and improving disclosure evaluation and testing by industry, academics, and the FTC. The FTC is looking for presenters for the event and is accepting proposals at disclosuretesting@ftc.gov (link sends e-mail). More information on the proposal process is available on the workshop's website. Members of the public may also submit comments for the workshop online. The public comment period remains open until November 2.

CFPB Targets Payday Lenders, May Hit Dealers and Finance Companies. The CFPB proposed a rule aimed at payday lending. The rule would require lenders to take steps to make sure consumers have the ability to repay their loans and would cut off repeated debit attempts that rack up fees. The proposed rule would cover payday loans, auto title loans, deposit advance products, and certain high-cost installment and open-end loans. The CFPB's definition of covered loans is broad enough to encompass some typical auto finance activities, so dealers and finance companies should seriously consider participating in the comment process.

CFPB Intercepts Payment Processor. On June 6, the CFPB announced that it had sued Intercept Corporation, a third-party payment processor, and two of its executives for allegedly violating the Dodd-Frank Act's prohibition against unfair acts and practices by processing payments from consumer bank accounts on behalf of clients without adequately investigating, monitoring, or responding to signs of potential fraud by its clients and complaints from banks and consumers. Intercept transmits electronic funds transfers through the Automated Clearing House for its clients, which include title lenders, payday lenders, debt collectors, and sales financing companies, among others. Specifically, the CFPB alleged that Intercept ignored the high rate of returned payments for insufficient funds or invalid or closed accounts, which, according to the CFPB, signaled

that consumers may not have consented to the withdrawals or were misled about the terms of their payments. The CFPB also alleged that Intercept ignored other warning signs such as state and federal enforcement actions against its clients. The CFPB's complaint seeks monetary relief, injunctive relief, and penalties.

FTC's Report Card. On June 6, the FTC provided its 2015 Annual Financial Acts Enforcement Report to the Consumer Financial Protection Bureau on enforcement and related activities regarding the Truth in Lending Act, Consumer Leasing Act, and Electronic Fund Transfer Act.

CFPB Announces Auto Financing Aids. On June 9, the CFPB released an "auto loan shopping sheet," a step-by-step guide, and additional online resources as part of a new "Know Before You Owe" initiative to help consumers shop for auto financing. The Bureau claims that the shopping sheet helps consumers see the total cost of auto financing and make apples-to-apples comparisons among financing products. The "Know Before You Owe" initiative walks consumers through each step of the auto finance process to help them decide how much they can afford to borrow and what options are right for them.

The CFPB says its shopping sheet helps consumers to understand the total cost of financing (not just the monthly payment), comparison shop, and watch out for financing features and add-ons that could lead to costly surprises down the road. The Know Before You Owe auto financing initiative can be found at:

<http://www.consumerfinance.gov/consumer-tools/auto-loans/>, and the shopping sheet can be found at:

http://files.consumerfinance.gov/f/documents/201606_cfpb_auto-loan-worksheet.pdf.

CFPB Eyes Car Financing. On June 27, the CFPB released a report, entitled "Consumer Voices on Automobile Financing," that examines how consumers navigate the process of financing a vehicle. The report is based on findings from consumer focus group research conducted by the Bureau and consumer complaint data submitted to the Bureau. The Bureau reportedly found that while many consumers extensively research the types of vehicles they want to buy, most do not take as much time to research available financing options. Also, the Bureau's analysis of the complaint data shows that consumers sometimes had difficulty understanding financing features during the loan negotiations. (The Bureau continues to erroneously refer to all auto financing transactions as "loans.") According to the Bureau, the complaint data also highlighted consumer problems with the sales process for extended warranties and other add-ons, and few consumers reported focusing on the total cost of financing when they negotiated their financing contracts.

More CFPB Complaint Data. On June 28, the CFPB released its monthly complaint report, which highlights trends in the complaint data the Bureau receives through its Consumer Complaint Database. The monthly report includes complaint data specific to certain companies, overall complaint volume and complaint volume by state, and other trends in the data. Each month, the report spotlights complaints about a particular issue and complaints from a particular geographic location. The June report focuses on complaints related to vehicle financing and leases, installment loans, title loans, and pawn loans and highlights complaints from consumers residing in Arkansas.

The FTC Ups the Ante. The FTC announced on June 29 that it has approved final amendments to its rules that adjust the maximum civil penalty dollar amounts for violations of 16 provisions of law the FTC enforces, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The Act directs agencies to implement a "catch-up" inflation adjustment based on a prescribed formula. The maximum civil penalty amount, effective August 1, has increased from \$16,000 to \$40,000 for a number of violations.

Regulation Refresh. Among other updates to its eRegulations platform, the CFPB recently updated Regulation Z (Truth in Lending) so that it includes all amendments made to the regulation through March 2016. eRegulations is a web-based tool that lets the user search through CFPB regulations, read the official interpretation alongside the rule text, and see a timeline of the rule and any amendments.

So, there's this month's report. See you next month.

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7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

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