



American International
Automobile Dealers



ENSURE TRANSPARENCY AND PUBLIC PARTICIPATION FOR CFPB GUIDANCE
SUPPORT H.R. 4811

June 10, 2014

Dear Representative:

We, the undersigned organizations who represent businesses that make, sell, finance and service motor vehicles are writing to express our strong support for H.R. 4811, the “Bureau Guidance Transparency Act”. H.R. 4811 would improve and better inform guidance issued by the Consumer Financial Protection Bureau (CFPB) by requiring transparency and the opportunity for public participation before guidance is issued. We respectfully urge you to support H.R. 4811, which is scheduled to be considered by the House Financial Services Committee on June 10, 2014.

CFPB Avoidance of the Rulemaking Process - As you may be aware, on March 21, 2013 the CFPB issued an auto finance guidance that attempted to significantly alter the operation of a large and highly efficient auto finance market via “guidance.” By issuing guidance, the CFPB avoided the safeguards of the rulemaking process. This guidance was issued without prior notice, public comment, or any supporting documents to justify its major policy changes.

The auto finance guidance pressures indirect auto finance companies (lenders who finance auto loans originated by dealers) to eliminate the ability of dealerships to discount the interest rates offered to customers who finance their auto purchase. The Bureau embarked on this new policy, by its own subsequent admission to Congress, without first studying what impact these policy changes would have on the auto finance market, or the marginally creditworthy.

It is important for the CFPB to have the benefit of the public’s comments and opinions to better understand the market they are examining **before** issuing guidance. Had the CFPB solicited public comment before issuing its auto finance guidance, it would have learned that its new approach would likely: (1) raise credit costs for all consumers; (2) decreases access to credit, especially for the marginally creditworthy; and (3) not actually address the disparate impact problem it alleges.

H.R. 4811 requires the CFPB to conduct a public notice and comment period before issuing guidance. This process will result in better informed public policy by ensuring public participation before guidance is issued.

CFPB’s Lack of Transparency – The CFPB’s auto finance guidance has been highly controversial, and on bipartisan basis Members have asked the CFPB to explain and substantiate

its new policy -- specifically its allegations that dealer-assisted auto financing may have a “disparate impact” on certain groups of consumers. Despite multiple congressional oversight hearings and eleven letters sent by Democrats and Republicans to the Bureau, the CFPB has failed to fully answer essential questions, such as the accuracy of its data and the specific methodologies it employs.

The CFPB’s lack of transparency has deprived interested parties an opportunity to provide meaningful input. In addition, without the opportunity to review the CFPB’s statistical analysis, it is not known if the Bureau is relying on an accurate methodology. Consumer protection would benefit from increased transparency, as mandated by H.R. 4811, since the bill would require CFPB to provide support for the underlying conclusions and the compliance expectations contained in its guidance. In this way, outside and objective parties could review and analyze the CFPB’s information and methodologies to ensure their reliability.

Conclusion – H.R. 4811 gives the CFPB an opportunity to reissue its auto finance guidance correctly – with transparency and public review.

The industry has made considerable efforts to work with the CFPB to identify and address any potential problems with indirect auto financing. Discrimination in any market has no place in society, and we fully support efforts by the CFPB and other federal agencies to eliminate it. We stand ready to work with the CFPB and its sister agencies to eliminate disparate impact risk. If there had been an opportunity to review and comment on the CFPB’s auto guidance before it was issued, we believe constructive solutions could have been offered that would effectively address actual disparate impact risk, provide certainty for the regulated community, and preserve competition for consumers.

CFPB Director Richard Cordray stated in testimony before a Senate committee last November that he would “agree with some of the criticism [of the auto finance guidance]” and that he’d “like to have a little more openness and transparency.” H.R. 4811 promotes such openness and transparency.

A critical aspect of good public policy and consumer protection is employing a process that is data driven and transparent. The auto finance guidance that has resulted in tremendous regulatory uncertainty for the \$783 billion auto lending market is strong evidence that it is appropriate for Congress to institute procedural safeguards in this area. We strongly urge a “yes” vote on H.R. 4811 to ensure more transparency and public participation. Thank you for your consideration.

Sincerely,

National Automobile Dealers Association

Alliance of Automobile Manufacturers

American Financial Services Association

American International Automobile Dealers

Recreation Vehicle Industry Association

Recreation Vehicle Dealers Association