



April 4, 2016

Ms. Laurie Hobbs
Assistant General Counsel
Texas Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, TX 78705

Re: Proposed Rule Changes for Motor Vehicle Installment Sales

Dear Ms. Hobbs:

On behalf of the American Financial Services Association (“AFSA”),¹ thank you for the opportunity to comment on the Office of Consumer Credit Commissioner’s (OCCC) proposed rule changes for motor vehicle installment sales published in the March 4, 2016, issue of the *Texas Register* (41 TexReg 1614).

In the proposed rules, Section 84.203 is amended to change the definition of and computation of deferment charges. As written, the proposed amendments to the definition do not adequately identify what constitutes a deferment or whether a finance charge will now be considered a deferment charge for the purposes of the new rules. Accordingly, AFSA requests clarification on the treatment of the finance charge on a deferred payment as a deferment charge. AFSA also requests additional guidance from the OCCC regarding calculation of the deferment charge in order to provide affected financial institutions with greater clarity.

Additionally, AFSA respectfully requests that the OCCC consider the potential negative impact of the proposed deferment charge restrictions on creditors and consumers. Deferments are available to consumers at the discretion of creditors; accordingly, creditors may opt to discontinue the practice if the proposed rules create an excessive administrative burden. Without available deferments, the end result for consumers may be accelerated remedial action.

AFSA also requests additional clarification on the amendments to Section 84.611(e) in the following areas:

- **Retail installment sales contracts “serviced”;** “serviced” is not defined, and additional information on how the OCCC defines serviced is needed. Further, because the proposed amendment adds “serviced” to a list that already includes “originated or acquired,” it is unclear if a company that retains servicing rights for the lifetime of a contract would owe variable fees one time at the origination of the contract or each

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

year over the lifetime of the contract. Similarly, if a company pays the fee when the contract is originated or acquired and subsequently sells the receivable as part of an ABS transaction or whole loan sale, does the acquiring company have to pay the fee again? If this is the case, there could easily be a situation where the initial acquirer, the subsequent acquirer, and the servicer (i.e., the initial acquirer that retains servicing rights) all pay the fee, potentially all in the same year.

- **Dollar volume of retail installment sales contracts;** as written, the rules provide no guidance on the calculation of the dollar volume of contracts, and this creates several issues requiring clarification. Is this volume based on the account balance on a specific date? Is this the date the contract was acquired? Does this include contracts that are paid off in the same year they were purchased or serviced?

Finally, AFSA requests consideration of an amendment to the model retail installment sales contract form to include lines for both “Cash to buyer” and “Payoff by seller” on the itemized list under “Gross Trade-in” in the “Downpayment” section of the standard form. Although the issue is not included in the current proposed rules, it was raised in the context of discussing the proposal with AFSA members, and we respectfully request the OCCC consider amending the form at this time.

Thank you in advance for your consideration. We appreciate the opportunity to work with the OCCC throughout the rulemaking process. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

Sincerely,



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