



May 18, 2020

The Honorable Gretchen Whitmer  
Governor of Michigan  
P.O. Box 30013  
Lansing, Michigan 48909

**Re: Executive Order 2020-77 FAQs and repossession in certain circumstances**

Dear Governor Whitmer:

I write on behalf of the American Financial Services Association (AFSA)<sup>1</sup> regarding one of the Executive Order 2020-77 FAQs, which states that repossession activities are not included in the definition of financial services for the purposes of the Executive Order.

AFSA members share your goal of mitigating the spread of the virus and have taken steps accordingly to adjust operations to reach this goal. Despite operational adjustments, it is critical that financial institutions continue to have access to certain towing services in order to prevent significant market disruption and ensure financial institutions can continue to provide relief to those customers who need it most. Accordingly, we believe further clarification related to repossession is necessary, and we request verification of our understanding of Executive Order 2020-77.

First, we assume this order is not intended to inhibit voluntary surrender, which allows a borrower to voluntarily turn over a vehicle based on his or her own assessment of their own financial situation and vehicle needs. Though this technically falls under the category of “repossession,” it can be done without consumer contact and it is done at the consumer’s request.

Second, we assume you do not intend to prevent creditors or lessors from securing vehicles at risk (subject to mechanics liens, fraud, impound, abandoned vehicles, seized vehicles, or other cases where the collateral may be in jeopardy). Leaving creditors without the ability to secure collateral in instances where it may be at risk would cause a significant disruption in the vehicle finance market, with implications for larger financial markets due to existing securitization and master credit agreements. It also wouldn’t protect consumers, who would not have the vehicle in their control anyway at that point, and who stand to benefit if a total loss on the vehicle can be

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<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, DC, 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.

avoided.

Third, we assume that your order relates to repossession of consumer vehicles used primarily for personal, family, or household purposes and not commercial fleets or inventory. Commercial credit can involve large fleets or inventory with hundreds of thousands to millions of dollars at risk. These vehicles can be secured without face-to-face contact.

Please correct us if we are mistaken in these three assumptions. We believe verification of these important points will help prevent a tremendous market disruption. If you have any questions, or if AFSA can be of any further assistance to you in any way, please do not hesitate to contact me at 952-922-6500 or [dfagre@afsamail.org](mailto:dfagre@afsamail.org).

Thank you so much for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danielle Fagre Arlowe', written in a cursive style.

Danielle Fagre Arlowe  
Senior Vice President  
American Financial Services Association  
919 Eighteenth Street, NW, Suite 300  
Washington, DC 20006-5517

cc:

Anita G. Fox, Director, Michigan Department of Insurance and Financial Services