

September 3, 2020

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

***Re: National Banks and Federal Savings Associations as Lenders
Docket ID OCC-2020-0026***

The American Financial Services Association (AFSA)¹ writes regarding the Office of the Comptroller of the Currency's (OCC) Notice of Proposed Rulemaking regarding National Banks and Federal Savings Associations as Lenders (Proposed Rule). AFSA specifically asks that the OCC clarify that "funding a loan" under the Proposed Rule excludes banks purchasing retail installment contracts (RICs) from automobile dealerships or otherwise clarify that the Proposed Rule will not effect well-established practices in the indirect vehicle finance market.

We do not believe the OCC intended to include RIC purchases from automobile dealerships. Indirect vehicle financing does not suffer from the lack of clarity or certainty that the Proposed Rule seeks to address and has long been an OCC-regulated activity that benefits from decades of federal and state laws, case law, and regulations. Further, banks' RIC purchases are distinct from the loan funding because RICs constitute time-price sales under applicable laws. Perhaps most relevant to the Proposed Rule, it is well accepted that RICs are subject to state usury laws.

Currently, however, the Proposed Rule is so broadly written that it could introduce uncertainty to the marketplace. Without defining when a bank "funds the loan" under proposed §7.1031, it is possible that the broad and brief language could be misconstrued to deem banks providing indirect-auto financing as the "true lender." Accordingly, we ask that the OCC specify that this is not the intent and effect of the Proposed Rule.

We appreciate the OCC's attention to these issues. Please do not hesitate or contact me at 202-776-7300 or cwinslow@afsamail.org with any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Celia Winslow'.

Celia Winslow
Senior Vice President
American Financial Services Association

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.