

December 9, 2021

George Bogdan
New York Department of Financial Services
One State Street, 20th Floor
New York, NY 10004

Re: Proposed New Rule 23 NYCRR 600

Dear Mr. Bogdan:

On behalf of the American Financial Services Association (“AFSA”),¹ thank you for the opportunity to provide comments on the Department of Financial Services’ (“DFS”) proposed Disclosure Requirements for Certain Providers of Commercial Financing Transactions (23 NYCRR 600). We appreciate DFS’ efforts to clarify the requirements for providers offering commercial financing. We believe clear rules that reflect the statute benefit consumers and financial institutions alike, and we look forward to engaging with the Department throughout the rulemaking process.

Though AFSA members primarily offer consumer credit, our members also provide financing to commercial entities. In particular, AFSA members are regularly engaged with New York’s automobile dealers to provide them with the financial services necessary to enable these dealers to acquire their inventories of vehicles—known as “floorplan” lending—and other similar lines of credit. Floorplan financing and other open-end credit arrangements in our industry are standard transactions that are already well-understood by sophisticated business parties.

When the legislature enacted Article 8 of the Financial Services Law covering commercial financing, the legislature recognized that the requirements may not be a fit for certain types of transactions. For this reason, Section 802 expressly exempts certain entities and transactions, including depository institutions and certain commercial financing arrangements with vehicle dealers and rental companies, among others. Although DFS notes these exemptions in the Regulatory Impact Statement filed with the rulemaking, the proposed rules themselves do not specifically include the exemptions. We believe expressly including the exemptions in the rules themselves will reinforce the statute and make clear which entities and transactions are subject to the proposed requirements. Accordingly, we respectfully request that DFS add a section to the proposed rules restating the exemptions from Section 802.

Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss it further, please do not hesitate to contact me at mkownacki@afsamail.org or at (202) 469-3181.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive style and is positioned below the word "Sincerely,".

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association