NADA | NATIONAL AUTOMOBILE DEALERS ASSOCIATION

May 7, 2018

The Honorable Paul D. Ryan
Speaker of the House
United States House of Representatives
H-232 The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Majority Leader
United States House of Representatives
H-107 The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
H-204 The Capitol
Washington, DC 20515

The Honorable Steny H. Hoyer
Minority Whip
United States House of Representatives
H-148 The Capitol
Washington, DC 20515

Dear Speaker Ryan, Leader McCarthy, Leader Pelosi and Minority Whip Hoyer:

On behalf of America's 16,500 franchised new car and truck dealers and the 1.1 million people they employ, I am writing in **strong support of S.J. Res. 57**, a joint resolution providing for Congressional disapproval of the rule by the Consumer Financial Protection Bureau (CFPB) relating to indirect auto lending. The CFPB's rule, issued as "guidance," operates to reduce market competition and take away a consumer's ability to receive a discounted auto loan in the showroom. Access to affordable credit is essential to consumers, and the ability of a dealer to discount credit is often necessary to meet auto buyers' needs.

S.J. Res. 57 is a narrowly-tailored joint resolution that does not amend or change any fair credit law or regulation, or impair their enforcement. The legislation is a measured response to the CFPB's attempt to regulate the $1.1 trillion auto financing market, avoid congressional scrutiny by issuing "guidance," and impose a new policy without necessary procedural safeguards. S.J. Res. 57 passed the Senate on April 18 by a bipartisan vote of 51-47.

Congress has thoroughly considered this issue for more than five years through oversight and legislative action. The House Financial Services Committee raised the matter on a bipartisan basis during six CFPB oversight hearings. Moreover, by an overwhelmingly bipartisan vote of 332-96, including 88 Democrats, the House passed H.R. 1737, the "Reforming CFPB Indirect Auto Financing Guidance Act," which would have rescinded the CFPB auto finance guidance.

Extensive bipartisan congressional engagement has identified several reasons to disapprove the CFPB rule/guidance, including a lack of due process, concerns about CFPB exceeding its statutory jurisdiction, and the negative impact of the guidance on consumers and small business dealers.

In particular:

- The rule/guidance has been issued without any prior notice, opportunity for public comment, or consultation with the federal agencies Congress authorized to regulate dealers.
- Indirect auto lenders are pressured by the rule/guidance to eliminate a consumer's ability to receive a discount on auto credit by a dealer, which would fundamentally alter the entire auto finance market. This new policy would limit market competition, raise credit costs for auto buyers, and push many marginally creditworthy borrowers out of the auto credit market. The CFPB has admitted to Congress that it does not analyze the impact of the rule/guidance on consumers.
- Despite Congress' clear determination in Dodd-Frank to exempt dealers from the CFPB's jurisdiction and maintain regulatory oversight of dealers with the Federal Reserve Board, Federal Trade Commission and Department of Justice (DOJ), the rule/guidance assumes the CFPB can unilaterally assert jurisdiction over dealer discounts and the manner of dealer compensation for auto credit.
- The rule/guidance is based on a flawed method for identifying the background of consumers that relies solely on a borrower's zip code and last name. A non-partisan study of the CFPB's policy found a 41 percent error rate for classifying the background of a significant group of consumers, and even the CFPB's own review reveals a 20 percent error rate for the same group. (This non-partisan study has never been rebutted by the CFPB.).
- The rule/guidance fails to account for legitimate business factors that can affect finance rates (such as discounting a rate due to the presence of a competing offer or to accommodate a consumer's monthly budget constraint) to ensure that borrowers being compared are similarly situated.

The auto industry takes fair credit laws very seriously and strongly condemns fair credit violations. In furtherance of this commitment, NADA, joined by the other national dealer associations, developed and continues to promote a voluntary fair-credit compliance program, based on an effective Department of Justice (DOJ) model, that preserves consumer discounts on credit for legitimate business reasons. Unfortunately, the CFPB refused to acknowledge this alternative to mitigate fair credit risks in indirect auto lending.

Enactment of S.J. Res. 57 is important to keep auto loans affordable and accessible for consumers. America's franchised **auto dealers urge a "Yes" vote on S.J. Res. 57**. Thank you for your consideration.

Sincerely,

Peter K. Welch
President and CEO

Attachments: Why the Use of the Congressional Review Act for the CFPB Indirect Auto Lending Guidance is Justified – Support S.J.Res. 57
Fair Lending Myths vs. Facts
Infographic: Fair Credit for Auto Loans: Too Important for the CFPB to Get Wrong

cc: The Hon. Jeb Hensarling, Chairman, House Financial Services Committee
The Hon. Maxine Waters, Ranking Member, House Financial Services Committee
Members of the United States House of Representatives