SUPPORT BIPARTISAN EFFORTS TO REFORM THE CFPB'S AUTO FINANCE GUIDANCE

COSPONSOR H.R. 5403

Issue

In 2013, the Consumer Financial Protection Bureau (CFPB) issued guidance that threatens to eliminate dealers' flexibility to discount the interest rate offered to consumers to finance vehicle purchases. The CFPB is attempting to change the $905 billion auto loan market and limit market competition *without* prior public comment and *without* analyzing the impact of its guidance on consumers. With the CFPB's actions likely to raise the cost of credit for car buyers, Congress should pass H.R. 5403 to rescind the CFPB's flawed auto finance guidance and make the Bureau more transparent and accountable when issuing future auto finance guidance.

Background

A majority of car buyers choose to finance their purchases through optional, indirect financing at dealerships. Dealers often discount these interest rates to earn their customers' business. The CFPB guidance attempts to pressure auto finance sources into changing the way they compensate dealers to a "flat fee" that dealers cannot discount for their customers. This action would eliminate a dealer's ability to "meet or beat" a competitors' finance rates and significantly limits the market competition that frequently provides customers a lower interest rate than those offered by banks or credit unions.

The CPFB claims it is basing this industry change on its belief that negotiated interest rates create a "significant risk" of unintentional "disparate impact" discrimination. Since there are a variety of legitimate business-related factors that can affect finance rates (such as beating a competing rate), there have been numerous calls for the CFPB to release the methodology it uses to measure whether disparate impact exists. *Despite eleven Congressional letters to the CFPB on a bipartisan basis, the CFPB has not publicly provided essential details of its methodology to substantiate its guidance.*

Reps. Marlin Stutzman (R-IN) and Ed Perlmutter (D-CO) introduced H.R. 5403, the *"Reforming CFPB Indirect Auto Financing Guidance Act,"* on September 8. NADA strongly supports this **bipartisan measure** which would rescind the flawed auto finance guidance, but would allow the CFPB to reissue it under a more transparent process. This new bill is a narrower version of H.R. 4811, the "Bureau Guidance Transparency Act," which established new rules for all CFPB guidance.

Key Points

- **H.R. 5403 would require the CFPB to follow a transparent process when issuing auto finance guidance.** The CFPB issued its auto finance guidance without prior notice, public comment, a hearing, or transparency. This bill would rescind the 2013 guidance and require public participation for future auto finance guidance before it is issued.
- **This narrow measure will help provide regulatory clarity for small businesses.** The CFPB auto finance guidance has been criticized for being ambiguous. H.R. 5403 would help ensure that the Bureau evaluates alternatives other than flat fees to provide businesses with greater clarity regarding their regulatory responsibilities.
- **This bill is pro-consumer because public input will help ensure that the consumer impact of the auto finance guidance is considered**. The CFPB admits it did not study the impact of its auto finance guidance on consumers. The CFPB must examine the consumer impact of its guidance, since its adverse effect on competition will likely increase the cost of credit for consumers.

Status

H.R. 5403 was introduced on September 8. The bill is a narrower version of H.R. 4811, introduced by Rep. Stutzman, which was reported out of the House Financial Services Committee on June 11 by a bipartisan vote of 35-24. H.R. 5403 currently has 7 Democratic and 6 Republican cosponsors. *Members of Congress are urged to cosponsor the H.R. 5403*.