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AND CONSUMER CREDIT

Congress of the United States
House of Representatives
Washington, DC 20515

November 15, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

I write to express my continued concern over the compliance steps outlined in the Consumer Financial Protection Bureau's (CFPB) guidance of March 21, 2013 (CFPB Bulletin 2013-02), the accompanying press release entitled "Consumer Financial Protection Bureau to Hold Auto Lenders Accountable for Illegal, Discriminatory Markup," and subsequent statements by the CFPB regarding intended enforcement using a disparate impact theory of law. This enforcement activity was also referenced in other correspondence, including a May 28th letter to you from several of my Democratic colleagues on the House Financial Services Committee and a June 20th letter from House Republicans.

I appreciate and share your conviction that discrimination has no place in the extension of credit. Financial institutions in the indirect auto finance space are subject to fair lending regulations, as they should be. I firmly believe that, if there is evidence of a pattern of intentional discrimination by auto dealers, it should be dealt with aggressively through enforcement of existing law by the Federal Trade Commission and the Department of Justice, the agencies responsible for overseeing dealers.

However, there is a difference between disparate treatment targeting members of protected classes versus facially-neutral treatment that may inadvertently result in disparate impact. Disparate impact is not an appropriate way to enforce consumer protection laws against indirect auto lenders who, in many cases, never see a customer or have knowledge of a customer's race.

To the best of my knowledge, the Equal Credit Opportunity Act does not contain a disparate impact theory of discrimination. I am concerned that, with the recent steps taken, the Bureau is articulating entirely new dimensions of public policy surrounding fair lending, and doing so outside of the rulemaking process and without meaningful, public stakeholder input. Moreover, it is my understanding that the CFPB has not studied how the recommended shift to a flat fee structure for reserve compensation would affect the cost of credit to borrowers, particularly low- and moderate-income borrowers, who currently benefit from the many options available in a competitive auto finance marketplace.

It is imperative that the Bureau take the opportunity to conduct an in-depth study on this issue, including the ways in which the cost of credit for automobile purchases would be affected by

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moving to a flat fee dealer compensation structure. Additionally, I request that you thoroughly analyze the manner in which those caps affect the price of auto credit for consumers and how those caps will ultimately impact the March 21st guidance. It is important that you determine whether your actions may undermine a thriving automobile marketplace that has been one of the bright spots of an otherwise sluggish economic recovery.

I thank you for your consideration of this request and look forward to your response.

Sincerely,

Blaine Luetkemeyer
Member of Congress