



**Financial Reform Conference:
Oppose adding House auto dealer loophole to base text**
Auto dealers should play by the same rules as everyone else

CRL Policy Brief June, 2010

Contact: Susanna Montezemolo at (202) 349-1867

Issue: Auto dealers, when they act as creditors and brokers on auto loans, should be held to the same rules and same accountability as banks, credit unions and even other auto lenders.

The auto dealer lobby successfully fought to receive a special exemption in the House from the rules of the Consumer Financial Protection Bureau (CFPB) in the financial reform bill even *when the dealers act as creditors and brokers on car loans*. But fair, honest and ethical competition requires a level playing field, as well as a fair and consistent system for accountability.

There is widespread agreement that there should be no carve-out for auto dealers. In addition to consumer and civil rights groups, the Department of Defense, the Military Coalition, the Credit Union National Association, and the Independent Community Bankers Association all *oppose* any amendment to the base text to give the auto dealers a free ride from CFPB's consumer protection rules.

The base text for the conference does not include any auto dealer loophole, but we expect there will be an effort to add such language during the conference. **We urge conferees to oppose any effort to grant auto dealers a special exemption from CFPB for many reasons, including:**

- **Auto dealers are lenders.** When a family gets a car and financing for the car from an auto dealer, the dealer acts as a lender or broker (or, more commonly, both). The dealer "sells" the financing, and negotiates the price, term and structure of the loan, even where the dealer sells the loan contract to a finance company after it strikes the loan deal with the customer.
- **Like mortgage brokers, auto dealers frequently add interest rate mark-ups to put car buyers in higher priced loans than the buyers qualify for to increase their own compensation.** These mark-ups cost consumers as much as \$20 Billion each year.¹
- **Dealer mark-ups have discriminated against minorities.** An analysis of the patterns of these mark-ups from litigation demonstrates that dealers are more likely to use their discretion to mark up interest rates for African Americans than for Caucasians, and to impose higher mark-ups for African Americans than for those Caucasian buyers who do get mark-ups. This discrimination was found in every state from which data was available during 2003-2007.²

¹ Center for Responsible Lending, Car Trouble: Predatory Auto Loans Burden North Carolina Consumers (April 2009) (<http://www.responsiblelending.org/other-consumer-loans/auto-financing/car-trouble-predatory-auto-loans-burden-north-carolina-consumers.html>)

² National Consumer Law Center, Racial Disparities in Auto Lending: A State-by-State Reminder Why Auto Dealers Must Be Subject to the Consumer Financial Protection Bureau (May 4, 2010)

- **Exempting auto dealers would be particularly harmful to vulnerable consumers, including members of the military and their families.** Abusive car loans made by auto dealers have drained billions of dollars from consumers, disproportionately affecting women, people of color and the military and their families. In February 2010, the Defense Department sent a letter to the Treasury Department noting that the CFPB is a much-needed tool to bring an end to common abuses in the auto industry, including bait-and-switch financing, the falsification of loan applications, loan discrimination, and the failure to repay liens on trade-in vehicles.³
- **Abusive financial practices by auto dealers trigger the most consumer complaints.** Abusive financial practices by auto dealers are the number one source of complaints received by the Better Business Bureau and state and local agencies. It does not make sense to limit their regulation.
- **Including all auto lenders will benefit, not burden, responsible car dealers.** Financial reform does not call for any taxes or fees on auto dealers, and the vast majority of auto dealers will not be subject to oversight. Responsible auto dealers should welcome a new tool to weed out those who engage in unscrupulous practices.

We urge you to *oppose* efforts to give auto dealers a pass on fair rules, accountability, and taxpayer subsidization of that special treatment.

(State by state data available at http://www.consumerlaw.org/issues/regulatory_reform/content/issue-brief-auto-dealer-racial-disparities.pdf) The Department of Justice recently brought a discrimination case against a bank and two Los Angeles auto dealers (Available at http://www.justice.gov/crt/housing/documents/narabank_pr.pdf)

³ <http://www.detnews.com/article/20100309/AUTO01/3090413/1022/rss10>.