Bureau of Consumer Financial Protection

This material is for reference only.

On May 21, 2018, the President signed a joint resolution passed by Congress disapproving the Bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act" (Bulletin), which had provided guidance about the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B. Consistent with the joint resolution, the Bulletin has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect. See more information on complying with the ECOA and Regulation B. The materials relating to the Bulletin on the Bureau's website are for reference only.

CONSUMER FINANCIAL PROTECTION BUREAU TO HOLD AUTO LENDERS ACCOUNTABLE FOR ILLEGAL, DISCRIMINATORY MARKUP

The Consumer Financial Protection Bureau (CFPB) released a bulletin explaining that certain lenders that offer auto loans through dealerships are responsible for unlawful, discriminatory pricing. Potentially discriminatory markups in auto lending may result in tens of millions of dollars in consumer harm each year, and the bulletin provides clear guidance to indirect auto lenders within the CFPB's jurisdiction on how to address fair lending risk.

Auto Loans by the Numbers

- **$783 billion:** approximate amount of outstanding auto loan debt in 2012
- **15.7 million:** estimated total number of consumer auto loan originations in 2012
- **3rd:** auto loans are the third largest source of outstanding household debt after mortgages and student loans

Overview

When consumers purchase an automobile, they may receive financing from an auto dealership rather than directly from a financial institution, a practice known as "indirect auto lending." In this process, the dealer often facilitates indirect financing through a third party lender, such as a bank, credit union, or other financial institution and the lender provides the dealer with an interest rate that the lender will accept for a given consumer.

Often, indirect auto lenders allow the dealer to charge the consumer an interest rate that is costlier for the consumer than the rate the lender gave the dealer. This increase in rate is typically called "dealer markup." The lender shares part of the revenue from that increased interest rate with the dealer.

Impact

Interest rate markups generate compensation for dealers while giving them the discretion to charge consumers different rates regardless of consumer creditworthiness. Pricing differentials based on creditworthiness and collateral are already factored into the rate offered to the dealer by the lender. Lender policies that provide dealers with this type of discretion increase the risk of pricing disparities among consumers based on race, national origin, and potentially other prohibited bases. Research indicates that markup practices may lead to African Americans and Hispanics being charged higher markups than other, similarly situated, white consumers.

Today's Bulletin

The CFPB has authority to examine large banks, and credit unions – and their affiliates – that have assets over $10 billion. The CFPB supervises more than 150 of the nation's largest financial institutions. The CFPB also has enforcement jurisdiction over many types of lenders. The Equal Credit Opportunity Act (ECOA) makes it illegal for a creditor to discriminate in any aspect of a credit transaction on bases including race, color, religion, national origin, sex, marital status, and age. Today's bulletin provides guidance for indirect auto lenders within the CFPB's jurisdiction on ways to limit fair lending risk under the ECOA.

The CFPB recommends that indirect auto lenders take steps to ensure that they are operating in compliance with fair lending laws as applied to dealer markup and compensation policies. These steps may include, but are not limited to:

- Imposing controls on dealer markup, or otherwise revising dealer markup policies;
- Monitoring and addressing the effects of markup policies as part of a robust fair lending compliance program;
- Eliminating dealer discretion to mark up buy rates, and fairly compensating dealers using a different mechanism that does not result in discrimination, such as flat fees per transaction.

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit www.ConsumerFinance.gov.