

February 18, 2015

The Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

The vehicle finance industry is committed to fair lending and equal treatment for every consumer. Illegal discrimination in any form is unacceptable, and we welcome the opportunity to work with the Consumer Financial Protection Bureau (CFPB or Bureau). Our members are committed to full compliance with fair lending laws.

Based on this commitment, the American Financial Services Association (AFSA) commissioned an independent study by Charles River Associates (CRA) *Fair Lending: Implications for the Indirect Auto Finance Market* (CRA Study), which was published on November 19, 2014. The CRA Study analyzed the complexities of the indirect finance market and evaluated current regulatory fair lending practices, with special attention to the methodology used by the Bureau. CRA carefully reviewed all publicly available information on the CFPB's fair lending investigations, tested the Bureau's proxy methodology, and strived to reproduce the CFPB's findings using a proprietary industry data set that reflects the breadth and diversity of the marketplace.

The CRA Study concluded that observed variations in dealer reserve at the financial institution portfolio level are mitigated when market complexities are considered and adjustments are made for proxy bias and error. Furthermore, CRA found the Bureau's application of the Bayesian Improved Surname Geocoding (BISG) proxy methodology creates significant measurement error, which results in overestimations of minorities in the population by as much as 41 percent. In its own white paper on the method it uses to proxy for race – published prior to the CRA study – the CFPB acknowledged the overestimation (which it found to be 21 percent), but never indicated how, if at all, it has corrected for this discrepancy. Given such high error rates, proxy analysis has limited application to compliance monitoring and is unjustifiable for use when asserting legal violations or liabilities.

As the CRA study makes clear, the Bureau's present application of BISG methodology at a portfolio level of analysis may create the appearance of differential pricing on a prohibited basis when none exists, leaving the industry without a satisfactory means of ensuring compliance, and risks imposing unjustified liability based on flawed data and methodology.

The Associations request that the Bureau conduct a thorough review of the CRA study, provide a public response to its findings and recommendations, and correct any bias in its testing methodology, before pursuing further dealer mark-up discrimination claims through supervisory or enforcement action.

In its public response, the CFPB should address the following:

1. Portfolio level analysis of aggregated contracts sourced from dealers with different operating models, cost structures, pricing policies, locations, and competitive landscapes. These factors, along with the seasonality of auto sales and financing, are major factors that must be corrected for in an analysis at the portfolio level.
2. Implementation of economic controls to adjust for legitimate business factors such as new, used, trade-in, options, insurance and warranties. Failure to consider business factors for observed disparities increases the potential of reaching erroneous conclusions.
3. The Bureau must address and adjust for the bias within the BISG methodology and its overestimation of individuals within protected classes.

We share the Bureau's commitment to combating illegal discriminatory treatment in the vehicle finance market. This common goal is best achieved when fair lending standards are evidence-based, applied using analytically sound and transparent methods and predicated on accepted legal foundations. For these reasons, the industry wishes to engage the CFPB in a constructive dialogue on the CRA Study and strongly encourages the Bureau to adopt the recommendations above to improve the accuracy of the fair lending analysis.

Again, we welcome the opportunity to work with the Bureau on this important issue and look forward to your response.

Sincerely,

American Bankers Association
American Financial Services Association
Consumer Bankers Association
Financial Services Roundtable
US Chamber of Commerce