

Lender Takeaways From CFPB's Auto Financing Reports

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It has been a busy summer for the Consumer Financial Protection Bureau in the auto lending space. On June 9, the CFPB released a "Know Before You Owe" shopping sheet for auto loans. On June 27, the CFPB published a report entitled "Consumer Voices on Automobile Financing" (the auto financing report). This report contains information on consumers' challenges in obtaining and understanding auto financing based on focus groups with consumers and narrative consumer complaints.

On June 28, the CFPB released its monthly complaint snapshot highlighting consumers' complaints on auto lending. In the midst of this, the CFPB published a series of blog posts directed at consumers on how to shop for auto loans, including a blog post on July 5 outlining how consumers should approach auto loans. The Federal Trade Commission also joined the auto finance carpool by posting a series of auto finance videos on July 8.

The CFPB finalized its larger participant rule for nonbank auto finance companies in June 2015 and released new auto finance examination procedures at the same time. We know of indirect lenders that are in the midst of examinations at this time. Lenders seeking insight on the CFPB's perspectives on certain auto loan products and sales practices should take note of the recent consumer-oriented guidance. The recent wave of publications provides useful reminders to lenders of the CFPB's focus on this area and the practices that the CFPB may view as potentially problematic.

In particular, the recent publications focus on the following auto financing issues:

- **Negotiation:** The auto financing report indicates that many consumers understand that they can negotiate the price of a vehicle, but not aspects of an auto loan, such as the interest rate or duration of the loan. Others did not fully understand various aspects of the loan during the negotiation process, including the loan term, interest rate or lender.

The Know Before You Owe shopping sheet denotes which loan items are negotiable and the CFPB's July 5 blog post encourages consumers to negotiate certain aspects of the loan, including interest rate, length of the loan, fees, optional add-on products, and some dealer fees. A June 16 blog post cautions servicemembers to fully understand and negotiate interest rates and terms, particularly where members of the military are offered certain promotions.



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Lenders should be careful not to mislead consumers about what aspects of the loan are negotiable.

- **Loan Duration:** The recent wave of publications clearly indicates the CFPB's concern with longer auto loan terms both because of the cost to the consumer over time and the potential additional costs that could arise with older used cars. The auto financing report warns consumers about auto loan terms that are longer than 60 months, noting that, "Consumers who take out longer loans run the risk of being 'upside down' on their loans ... and also run the risk of simply paying more for their vehicle and loan."

The Know Before You Owe shopping sheet notes that, "A longer loan term will increase the total cost [of the loan]." In remarks before the Consumer Advisory Board, CFPB Director Richard Cordray reiterated the CFPB's concern about longer loan terms, explaining that, "Sometimes, consumers are still paying off vehicles that they are no longer driving." The July 5 blog post contains a sample chart showing the cost of longer loan terms over the life of the loan and explains that longer loan terms "could be a problem if the life of the loan is longer than the expected life of the vehicle." Collectively, this guidance makes clear the CFPB's concerns about longer auto loan terms, particularly in the context of used vehicles.

- **Total Cost of Financing:** The auto financing report indicates that consumers focus on monthly payments or the total cost of a vehicle, rather than the total cost of financing. Some consumer complaints indicate that consumers are told that they can later refinance with a loan that has more favorable terms. The report, combined with the Know Before You Owe shopping sheet, highlights the CFPB's focus on ensuring that consumers understand how changing certain aspects of the loan terms could affect the overall cost of the loan.
- **Add-on Products:** Although the focus group results indicate that many consumers intentionally purchased add-on products for "peace of mind," the CFPB's analysis of consumer complaints notes that consumers report paying for add-on products that they did not want or that they were told were required for loan approval. Other complaints indicate that some consumers were not able to actually use the add-on products.

The Know Before You Owe shopping sheet contains entries for these types of products and notes that, "These are optional and will increase the total cost of the loan." The FTC's videos include a segment on add-on products that reminds consumers that the products are optional and can be negotiated. We know that the CFPB and other regulators have taken issue with add-on products in other contexts and the CFPB Auto Finance Exam Manual directs examiners to evaluate how lenders sell these products to consumers. Lenders should monitor consumer complaints, disclosures and sales practices in this high-risk area.

- **Servicing:** The June monthly complaint report highlights a number of consumer complaints regarding auto financing, including incorrect and late payment

processing, repossession without proper notification, and high deficiency balances. Although the consumer-oriented materials do not focus on auto loan servicing, the exam manual contains a module on payment processing and account maintenance and examiners are directed to review consumer complaints and potentially interview consumers in order to identify potential servicing violations. We also expect the CFPB to be particularly skeptical of certain auto finance collections practices. In particular, the CFPB has previously expressed concern regarding in-person collection practices.

Although the publications do not provide direct guidance to those that finance loans, auto lenders should keep the CFPB's findings in mind when designing consumer-facing materials, including marketing materials, disclosures and scripts. We expect that the CFPB will use the information from its study and consumer complaints to identify places where lenders engage in potentially unfair, deceptive, or abusive acts or practices when offering or servicing auto financing.

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