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## NADA Wants Dealers Exempted from Finance Agency Overview



Rep. Barney  
Frank, (D-Ma),  
Moves to  
Create  
Consumer  
Finance  
Protection  
Agency

NADA is moving quickly to have franchise auto dealers *exempted* from oversight by a new agency that would regulate all financial products. The Consumer Finance Protection Agency (CFPA), which has the support of the Obama administration and numerous consumer groups, is aimed at eliminating credit abuses in the financial sector and would function much as the Securities and Exchange Commission does in its regulation of stock exchanges and investments.

NADA says including dealer-assisted financing within the scope of the CFPA “would create costly, duplicative and conflicting rules without any corresponding benefit to consumers, as vehicle financing is already heavily regulated by both state and federal laws.

The association is already running full page ads in *Congress Daily* and *Politico*, which are both read extensively by congressional lawmakers, suggesting that the cost of financing a new or used vehicle purchase will increase if automobile financing is made subject to overview by the CFPA. “Congress should tread lightly before going down this road,” the NADA ads say.

Legislation to create the agency (HR 3126) was introduced by Rep. Barney Frank (D-Ma) and will be heard by the House Financial Services Committee this fall. It currently has 15 co-sponsors. The goal is to promote transparency, simplicity, fairness, accountability, and access in the market for consumer financial products or services. It authorizes the CFPA to establish minimum standards and take administrative actions to: (1) prevent a person from committing or engaging in an unfair, deceptive, or abusive act or practice under federal law in connection with

any transaction with a consumer for a product or service; (2) ensure the appropriate and effective disclosure or communication to consumers of associated costs, benefits, and risks; (3) guide the manner, settings, and circumstances for the provision of products or services to ensure that their risks, costs, and benefits are fully and accurately represented to consumers; and (4) approve disclosures to consumers.

It also encourages states to prescribe standards applicable to persons (other than insured depository institutions or credit unions) to deter and detect unfair, deceptive, abusive, fraudulent, or illegal transactions in the provision of products or services and it requires the CFPA to establish a Consumer Advisory Board to advise and consult with the Agency and to provide information on emerging practices in the products or services industry.

There is no companion legislation in the Senate.

## MD AG Broadens Process for OEM Incentives To Dealer Sales Reps

The Maryland Attorney General's Office has given a number of OEMs who have stopped providing incentive monies to dealership sales people because of confusion over the new Maryland law regulating such payments, a way to proceed without cause for concern.

Acting in response to a request from Maryland State Senator Jamie Raskin, the AG's office has given its blessing to the following process by which it says the manufacturers can now legally resume incentive payments and also make retroactive payments in accordance with state regulations:

1. Manufacturers may send the incentive payment checks for salespeople to the dealerships;
2. Checks/Debits can be made payable directly to the individual salesperson;
3. The dealership will hand out the manufacturer incentive payments to salespeople at the same time it distributes dealership paychecks;
4. The dealership will include a statement in the employee's pay envelope indicating they will receive a form 1099 from the manufacturer, suggesting that the sales representative may want to adjust his/her withholding to account for these incentive payments.



MD State  
Senator  
Jamie  
Raskin

The Maryland General Assembly moved to regulate the payments earlier this year over concern that dealerships were being sidestepped by manufacturers on the payments to their salespeople and that salespeople were unaware or confused over their tax liabilities relative to those incentive payments.

In a letter to the manufacturers, Senator Raskin said "it was never the intent of the Maryland General Assembly to stop the payments," adding that with the guidance provided by the AG's office "the process for distributing incentive payments to dealer salespeople would be virtually unchanged from what it is today."

It is unclear at the moment whether the auto manufacturers which shut down their sales rep programs in Maryland will now join those who have continued to make the incentive payments with no problem.

## Clunker Audits Underway

### Dealers Urged to Check Credentials

The National Highway Traffic Safety Administration (NHTSA) has begun field audits of the "Cash-for-Clunkers" program with dealers and



early indications are that the process is comparatively benign.

There has been at least one instance of a person "posing" as an inspector, however, and dealers are urged to check the credentials of any inspector who visits the dealership.

The audits are being conducted by the NHTSA, **not** the IRS. Field reports suggest the auditors are interested in reviewing the paperwork that was submitted to CARS and generally does not want to review the entire deal jacket. Reportedly the auditors are primarily looking for:

1. Evidence of a good process
2. Blatant signs of fraud
3. Contingency arrangements; and
4. Evidence of fees being charged to consumers to participate in the program

The auditors are also not interested in determining eligibility of vehicles/transactions as this was the job of the people reviewing the original paperwork.

WANADA dealer members are urged to call the WANADA office if their auditor experience is different than the process noted above.

### DOT Sec. Promises Reimbursements by Sept. 30

Ray LaHood, Secretary of Transportation is serious about his statement to dealers that they will have all the "Cash-for-Clunkers" monies due them by the end of September, so serious in fact that he promised to handle submissions himself. That promise came at the NADA Washington Conference on Wednesday of this week during Q&A after his keynote speech. When asked by a Michigan dealer if he could look into why none of the dealer's rebate requests had not yet been acted upon, said LaHood: "If you have them with you, I'll take care of them myself."

Turns out the dealer did indeed have them with him and LaHood, true to his word, took them in hand and promised an answer the next day.

## VA Motor Vehicle Board Sets Guidelines for Offsite Vehicle Display

The Virginia Motor Vehicle Dealer Board (MVDB) and its committees met September 14, 2009, to consider a proposal concerning display of vehicles at malls, airports, and similar venues. The Board very clearly wanted to allow this practice to continue. However, it also wanted to avoid offsite selling activities. Therefore, it strictly limited the circumstances under which offsite displays can take place. The MVDB adopted the following guidelines:

- The vehicle should not be clearly visible from a public roadway
- Advertising on the vehicle should be limited to the MSRP sticker and any Buyers Guide or a MSRP-like sticker and Buyers Guide for used vehicles
- The price of the vehicle should not be displayed other than on the MSRP or MSRP-like sticker
- Other than the permissible sticker, there should be no advertising written or displayed on the vehicle

## Justice Dept. Moves to Improve Access to Vehicle History

The Department of Justice has awarded \$6.8 million to 12 states and to the American Association of Motor Vehicle Administrators (AAMVA) to protect consumers from vehicle fraud and unsafe vehicles, a step in the right direction for NADA and other longtime advocates for the interstate damage disclosure.

The funds will assist with implementation of the National Motor Vehicle Title Information System (NMVTIS), an electronic system launched for consumers in January 2009 that enables users to verify key automobile information. AAMVA received \$5.7 million to fully implement NMVTIS and make necessary system enhancements and relieve states from any user fees for the system in 2010. The states of Alabama, Alaska, Arizona, Connecticut, Delaware, Hawaii, Missouri, New York, North Dakota, Pennsylvania, Rhode Island, and South Carolina received up to \$100,000 each to assist with their participation in the system.

Consumers can access NMVTIS through [www.vehiclehistory.gov](http://www.vehiclehistory.gov) and find information about a vehicle's condition and history. For a nominal fee, they can retrieve the most recent odometer reading, title and brand history, nationwide salvage and total loss determination, and, in some cases, historical theft data.

NMVTIS also is the repository for the Department of Transportation's "Cash for Clunkers" vehicles. Fulfilling a requirement of the Consumer Assistance to Recycle and Save Act of 2009 (CARS), junk and salvage yards receiving vehicles traded-in under the CARS Program report certain information about those vehicles to NMVTIS, thus reducing the possibility for them being illegally reintroduced into the economy. Consumers can identify "clunker" vehicles nationwide by searching the NMVTIS database.

This vehicle history database is the only one in the country to which every insurance carrier and junk and salvage yard are required by federal law to report all salvage and total loss vehicles. Since April 2009, more than 6,000 junk and salvage yards and insurance carriers have reported critical "total loss" and salvage information related to more than 5.5 million vehicles.

Along with consumers, system users include state motor vehicle titling agencies, law enforcement officials, auto recyclers, salvage and junk yards, and insurance carriers. By capturing in one system specific pieces of information from state motor vehicle titling agencies, automobile recyclers, junk and salvage yards, and insurance carriers, NMVTIS protects states and consumers from fraud, keeps stolen vehicles from being retitled, and makes it more difficult for criminals to conceal stolen vehicles for criminal purposes.

## New Emission/Fuel Economy Regs to Boost Car Price by \$1,000

### Manufacturers Applaud National Standard and Reversal of Continuing Cal-LEV

The Obama administration this week proposed setting fuel efficiency standards at 35.5 mpg by 2016 and recommended the first-ever federal limits on tailpipe emissions.

The moves, expected and endorsed by most automakers, will preclude efforts by California and 13 other states, including Maryland, to adopt their own tougher standards. A mish mash of state regulation of tailpipe emissions was the one thing the auto industry had hoped to avoid by working with the Obama administration on new fuel economy and emission standards and it got its wish.



"Greater consistency and certainty among a variety of regulations will help us execute our product plan centered on new technologies and more highly fuel-efficient cars and trucks," said GM spokesman Greg Martin.

New Federal Rules  
will preempt  
California and other  
states from setting  
their own standards

Oddly, the proposal by the Obama administration comes after it reversed itself earlier this summer and reinstated California and other states' right to set their own low emission vehicle (LEV) standards. Nonetheless, it feels the new fuel economy and emission proposals amount to a national standard that all states can live with. "For too long, our auto companies have faced uncertainty and conflicting standards that made it difficult to plan," the president said in announcing the standards.

The new standards are expected to save the average car buyer more than \$3,000 in fuel costs, conserve 1.8 billion barrels of oil and reduce greenhouse gas emissions by nearly 950 million metric tons.

"American drivers will keep more money in their pockets, put less pollution into the air and help reduce a dependence on oil that sends billions of dollars out of our economy every year," EPA Administrator Lisa Jackson said. "We've taken the historic step of proposing the nation's first ever greenhouse gas emissions standards for vehicles, and moved substantially closer to an efficient, clean-energy future."

Transportation Secretary Ray LaHood said "these proposed standards will help consumers save money at the gas pump, help the environment and decrease our dependence on oil -- all while ensuring that consumers still have a full range of vehicle choices."

The Environmental Protection Agency and the National Highway Traffic Safety Administration will hold public hearings on the nearly 1,200-page proposal and analysis in Detroit and

Sacramento, Ca., with the hope of finalizing the regulations by March 2010 and having them go into effect in the 2012 model year.

## EEOC Report Due by Sept 30 for Dealers with 100+ Employees



Equal Employment Opportunity Commission (EEOC) reports (form EEO -1) are required to be submitted by employers who have 100 or more employees, and employers who employ a total of 100 or more employees from “affiliated entities.” The report must be generated from data collected during any pay period between July and September 2009. The data must include all full-time and part-time employees. These reports are due to the EEOC no later than September 30, 2009.

Affiliated entities are considered “affiliated” if they have centralized ownership, control or management. Even if each location or business operation is a separate corporation or business for tax and other purposes, they will still be considered affiliated entities if there is common ownership or control.

Multi-establishment employers must file the following multiple reports:

- A report for the principal or headquarters office;
- A report for each individual location which employs more than 50 persons;
- A consolidated report covering all locations and entities, including those with fewer than 50 employees; and
- A list showing the name, address, total number of employees, and the major activity for each location (i.e., the type of product manufactured or sold or the type of service provided). This information must accompany the consolidated report.

### Purpose of the Report

The information gathered in this report is primarily used for statistical purposes to measure the hiring practices of women and minorities, and eliminate employment discrimination based on race, color, religion, sex or national origin in private industry. The information is also used in investigating employment discrimination allegations and the enforcement of federal anti-discrimination laws.

### Penalties for Non-Compliance

In the event of a complaint of discrimination or harassment, either the EEOC or a local agency considering the complaint will review the reports to aid in a determination of the validity of the complaint. Detailed instructions and the forms are available at the EEOC website at [www.eeoc.gov](http://www.eeoc.gov).

## The Parts Manager's Daily Checklist

For maximum efficiency, a parts manager should follow a routine including daily, weekly, monthly, and even annual tasks. The following are suggested daily responsibilities:



1. Open the parts department. Establish a counterperson for service. Open shop counter in conjunction with service advisors. Turn on computer(s). Check security. Start perpetual inventory counts.
2. Check arriving personnel to open parts counters, set deliveries, check in stock and enter into inventory. File appropriate paperwork, including updating MSDS binder. Check with service department and body shop to give any updates on vehicles carried over which are waiting for parts.
3. Review invoices and counter tickets for coding, costing, discounts, purchases against the purchase order book or electronic account; turn in paperwork to the business office with appropriate account coding.
4. Post inventory adjustments, emergency sales, lost sales; run order updates; review any electronic messages.
5. Complete reports for shortages, overages, errors, and transportation claims; match invoices to packing slips.
6. Enter daily orders and spot check parts and invoices in delivery trucks.
7. Justify cash receipts against the driver's log.
8. Update bin locations, parts numbers and inventory counts. Correct any bin count irregularities and post the variances.
9. Review lost sales and emergency purchases.
10. Review special-order bins for aging and customer notification.
11. Check with service department and body shop to give any updates on vehicles carried over waiting for parts.
12. Review purchases from aftermarket vendors in purchase order book.
13. Check condition and maintenance of delivery vehicle.
14. Oversee the turning in of all money; secure the department or transfer management responsibility to the next shift.

## The True Cost of Healthcare

There is certainly enough talk about the rising cost of healthcare these days, but knowing the true cost of various medical procedures has been anything but easy to obtain, until recently. To help consumers become more price-aware, the federal government has begun releasing hospital payment information online at [www.hospitalcompare.gov](http://www.hospitalcompare.gov).

Take a guess on the correct national average payment by Medicare for each of the following conditions or procedures involving inpatient hospitalization (per occurrence):

1. *Chest Pain*

a)\$39,671    b)\$4,897    c)\$11,916    d)\$3,558

2. *Diabetes complications in an adult*

a)\$49,685    b)\$4,897    c)\$12,658    d)\$26,234

3. *Gallbladder removal (by Laparoscope)*

a)\$12,011    b)\$6,997    c)\$26,975    d)\$6,232

4. *Heart valve operation*

a)\$39,671    b)\$4,897    c)\$15,975    d)\$70,425

5. *Knee replacement*

a)\$5,671    b)\$34,897    c)\$11,916    d)\$19,252

Answers: 1-d; 2-b; 3-d; 4-a; 5-c

For all your health insurance needs contact:  
The WANADA employee benefits team at 202-237-7200.

### Thought for the Week ...

America is a large, friendly dog in a very small room. Every time it wags its tail, it knocks over a chair.

--Arnold Toynbee, historian

**Washington Area New Automobile Dealers Association**