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To: NAAA  
From: Sante Esposito  
Subject: June Monthly Report

### **Safety Recalls**

The Association continues to focus on three legislative vehicles as possible opportunities for proponents pursuing legislation that would prohibit the sale or lease of a motor vehicle that is subject to recall unless and until the recall defect has been remedied. The chief proponents are Senators Richard Blumenthal (D-CT) and Edward Markey (D-MA) and Congresswoman Janice Schakowsky (D-IL-9), all sponsoring legislation to that end (S.1634 and H.R. 3446). The three possible legislative vehicles of focus are the autonomous vehicle (AV) bill, the FY19 Transportation Appropriations Bill and a mega infrastructure bill.

Regarding the AV bill, there are still three holds on the Senate bill – Feinstein, Blumenthal, and an unidentified Republican – preventing Floor consideration. Should the bill – which currently is fraught with problems - proceed to the Floor – and the latest expectation is that if it does, it will be later this year and a much watered-down version - the Association will monitor the amendment process to see if Blumenthal et al will pursue a safety recall amendment

Regarding the FY19 Transportation Appropriations Bill, both Appropriations Committee reported their version of the bill. No safety recall amendment was offered during the markups. Floor action is pending on both bills.

Regarding a mega infrastructure bill, recent reports this month indicate renewed interest, specifically on the part of the Transportation and Infrastructure Committee, to pursue a possible infrastructure bill after the November election. Developments are being monitored.

### **CFPB (now BCFP): Kraninger**

President Trump has chosen Kathy Kraninger as director of the Consumer Financial Protection Bureau. Kraninger joined the Office of Management and Budget as an associate director in 2017, and has overseen the budget for financial regulators — experience that the White House believes will be beneficial in her new role. She previously worked for the Department of Homeland

Security and in various roles — also mostly with a homeland security focus — on Capitol Hill, including on the staff of Republican Senator Susan Collins of Maine and the Senate Appropriations Committee, which is chaired by Republican Richard Shelby of Alabama. Collins and Shelby are likely to be key allies in Kraninger's confirmation effort. Kraninger is a 2007 graduate of Georgetown University Law Center and before that graduated from Marquette University. She grew up in Pittsburgh and Cleveland.

### **BCFP: Court Decision**

A federal district court in New York ruled Thursday that agency's structure violated the constitution. In the opinion, the U.S. District Court for the Southern District of New York said it sided with a dissent in an earlier case that said the bureau is 'unconstitutionally structured because it is an independent agency that exercises substantial executive power and is headed by a single Director. The case was brought in February 2017 by the CFPB and the New York attorney general against RD Legal Funding for allegedly scamming 9/11 first responders and National Football League concussion victims. Senior United States District Judge Loretta Preska recommended cutting Title X of Dodd-Frank — the section that created the CFPB — in its entirety. The key importance of today's news may be this: because the decision in the Southern District of NY will establish a split between federal courts in two circuits, legal experts say the issue could now be expected to wend its way toward the Supreme Court, perhaps even to be considered in its session to begin in the fall. And while investors have become conditioned not to fear the Bureau, the Trump administration, the overwhelming majority of the House and Senate Republicans, plus the payday loan and other non-bank/specialty finance companies that have found themselves targeted, would be thrilled to see the Bureau killed off in the courts rather than by their own hand.

### **BCFP: Reform Efforts**

On March 13, Congressman Dennis Ross (R-FL-15) introduced H.R. 5266, To Amend the Consumer Financial Protection Act of 2010 to Make the Bureau of Consumer Protection an Independent Financial Product Commission, and for other purposes. The bill would replace the Director of the Bureau with a 5-person commission, which the Association supports, and change the name of the CFPB to the Financial Product Safety Commission. The bill has five cosponsors. The bill is highlighted here both because of the issue and because it has bipartisan support — almost a rarity when it comes to CFPB reform. Status update: one cosponsor added since the last report.

With Senate action on H.R.10 (see following) or similar legislation unlikely and with the CFPB reform language in House version of the FY18 Financial Services Appropriations Bill (also following) not included in the FY18 Omnibus Bill (it was not included in the final version last year as well even though it was in the House-passed bill), it appears the most likely scenario for any CFPB reform will come from administrative actions taken by the CFPB plus when the current director is replaced.

To review, on June 8, by a party line vote of 233-186, the House passed H.R.10, the Financial CHOICE Act. The bill amends the Dodd-Frank Wall Street Reform and Consumer Protection

Act, among other Acts, to convert the Consumer Financial Protection Bureau into a consumer law enforcement agency; subject the agency to the congressional appropriations process, expanded judicial review, and additional congressional oversight; eliminate supervisory authority over financial institutions; and limit the agency's authority to take action against entities for abusive practices.

To review, the House FY18 Financial Services Appropriations Bill included a number of CFPB reform provisions:

- Bringing the Bureau into the regular appropriations process.
- Elimination of supervision authority.
- Removal of authority to regulate small-dollar credit.
- Removal of Bureau UDAAP authority.
- Repeal of authority to restrict arbitration.
- Exemption from risk retention requirements for nonresidential mort-
- Prohibition on requiring a single ballot.
- Repeal of the Volcker Rule and other provisions.

Regarding administrative reform, the President's FY19 Budget proposes to sharply reduce funding for the CFPB over the next two years as it restricts the agency's enforcement authority to "prevent actions that unduly burden the financial industry and consumer choice."

The budget would cap agency's budget at \$485 million for the fiscal year 2019, equivalent to the 2015 level, and \$610 million for 2020. The CFPB's final budget requested under its Obama-appointed leadership was \$630.4 million for FY2018. The White House said the two-year "restructuring period" will allow for an "efficient transition" of the agency as it seeks to impose "financial discipline" and "reduce wasteful spending." The Administration also aims to subject the agency to a legislative overhaul starting in fiscal year 2020, and bring its budget under congressional oversight.

The budget proposal comes as the Administration begins to introduce significant steps to restrict the operations of the agency created under the Obama administration following the financial crisis. Directives have been sent to Bureau staff to review all past and proposed actions taken by the Bureau. Mick Mulvaney, the CFPB's interim chief and a long-time critic of the agency, recently requested a \$0 budget for the January-March quarter and said it would draw down from a reserve. After the two-year transition, the CFPB's budget would increase modestly every year. House Republicans and the Treasury Department have proposed various steps to weaken the agency, including bringing its budget under Congressional oversight.

### **S.J. Res. 57, Disapproving CFPB's Auto Financing Guidance**

To review, on May 21, the President signed into law (P.L. 115-172) S.J. Res. 57. On May 8, by a vote of 234-175, with 1 voting present, the House passed S.J. Res 57. Previously, on April 18, the Senate, by a vote of 51-47 (Sens McCain and Duckworth not voting) passed S.J. Res. 57. Unlike past bills that rescinded the guidance but also allowed the CFPB to revisit the issue via an open process, S.J. Res 57 does not give them that additional "authority" - it is a straight

disapproval of the “rule” (guidance) making it null and void. The Resolution is as follows:

### JOINT RESOLUTION

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by Bureau of Consumer Financial Protection relating to “Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act”.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Bureau of Consumer Financial Protection relating to “Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act” (CFPB Bulletin 2013-02 (March 21, 2013), and printed in the Congressional Record on December 6, 2017, on pages S7888-S7889, along with a letter of opinion from the Government Accountability Office dated December 5, 2017, that the Bulletin is a rule under the Congressional Review Act), and such rule shall have no force or effect.

### **Congressman Mike Kelly (R-PA-3)**

Congressman Kelly is exploring the possibility of legislation on e-titling. Per Brendan Fulmer, his LA, that could take the form of a pilot program. Areas to look at may include different definitions of flood and salvage vehicles, preventing title washing, recall issues, and state revenue concerns. Following an initial conversation and meeting with the Association, NAAA is in the process of compiling background information for the Congressman with next steps to follow. No change in status since the last report.

### **House Automotive Caucus**

On Oct. 27, the Caucus sponsored an event on “Used Car Buying 101” with presentation by NIADA. The purpose was to educate Members/staff on the process of purchasing a used car. In August, the Caucus hosted a NAAA sponsored staff visit to Odesa Dulles Auction.

### **Senate Auto Caucus**

Per the Association, on June 16, the Caucus held an event to explain and highlight the workings of the auto auction industry. A presentation by NAAA was followed by a mock auction with audience participation. In May, the Caucus held a self-drive auto event in DC for Members and staff.

### **Bill Tracking**

Note the format per the change in format by the Congress for the listing of bills. More information on each bill will be provided when it becomes available on the official site. Note: summary of subject matter will only appear once. Note further: “Latest Action” will only be included when substantive: hearing, markup, Floor action, etc.

**H.R.1031** — 115th Congress (2017-2018) **To eliminate the Bureau of Consumer Financial Protection by repealing title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly known as the Consumer Financial Protection Act of 2010.** **Sponsor:** [Rep. Ratcliffe, John \[R-TX-4\]](#) (Introduced 02/14/2017) **Cosponsors:** (17, now 30) **Committees:** House - Financial Services

Status Update: no change since the last report.

**S.370** — 115th Congress (2017-2018) **A bill to eliminate the Bureau of Consumer Financial Protection by repealing title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly known as the Consumer Financial Protection Act of 2010.** **Sponsor:** [Sen. Cruz, Ted \[R-TX\]](#) (Introduced 02/14/2017) **Cosponsors:** (4, now 7) **Committees:** Senate - Banking, Housing, and Urban Affairs

Status Update: no change since the last report.

**S.387** — 115th Congress (2017-2018) **A bill to amend the Consumer Financial Protection Act of 2010 to subject the Bureau of Consumer Financial Protection to the regular appropriations process, and for other purposes.** **Sponsor:** [Sen. Perdue, David \[R-GA\]](#) (Introduced 02/15/2017) **Cosponsors:** (16, now 19) **Committees:** Senate - Banking, Housing, and Urban Affairs

Status Update: no change since the last report.

**S.365** — 115th Congress (2017-2018) **A bill to amend the Consumer Financial Protection Act of 2010 to remove the funding cap relating to the transfer of funds from the Board of Governors of the Federal Reserve System to the Bureau of Consumer Financial Protection, and for other purposes.** **Sponsor:** [Sen. Rounds, Mike \[R-SD\]](#) (Introduced 02/13/2017) **Cosponsors:** (0, now 1) **Committees:** Senate - Banking, Housing, and Urban Affairs

Status Update: no change since the last report.

**H.R.1018** — 115th Congress (2017-2018) **To replace the Director of the Bureau of Consumer Financial Protection with a 5-person commission, and for other purposes.** **Sponsor:** [Rep. DesJarlais, Scott \[R-TN-4\]](#) (Introduced 02/13/2017) **Cosponsors:** (1) **Committees:** House - Financial Services

Status Update: no change since the last report.

**S.105** — 115th Congress (2017-2018) **Consumer Financial Protection Board Act of 2017** **Sponsor:** [Sen. Fischer, Deb \[R-NE\]](#) (Introduced 01/11/2017) **Cosponsors:** (3, now 4) **Committees:** Senate - Banking, Housing, and Urban Affairs

Status Update: no change since the last report.

H.R.3625 — 115th Congress (2017-2018)

**CFPB-IG Act of 2017**

**Sponsor:** Rep. Stivers, Steve [R-OH-15] (Introduced 07/28/2017) **Cosponsors:** (1)

**Committees:** House - Oversight and Government Reform, Financial Services

Status Update: no change since the last report.

S.1579 — 115th Congress (2017-2018)

**Bureau of Consumer Financial Protection Advisory Board Enhancement Act**

**Sponsor:** Sen. Rounds, Mike [R-SD] (Introduced 07/19/2017) **Cosponsors:** (2)

**Committees:** Senate - Banking, Housing, and Urban Affairs

Status Update: no change since the last report.

S.626 — 115th Congress (2017-2018)

**CFPB-IG Act of 2017**

**Sponsor:** Sen. Portman, Rob [R-OH] (Introduced 03/14/2017) **Cosponsors:** (9)

**Committees:** Senate - Banking, Housing, and Urban Affairs

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Status Update: no change since the last report.