Congress of the United States
Washington, DC 20515

December 18, 2013

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

Dear Director Cordray:

As members of the Florida Congressional delegation, we write to express our concerns regarding guidance issued by the Consumer Financial Protection Bureau (CFPB) on March 21, 2013 that could negatively impact the auto dealer industry, indirect vehicle financing market, and consumers in our state and nationwide. It is our understanding that the CFPB issued this guidance based on an assessment of disparate impact under the *Equal Credit Opportunity Act* (ECOA), and that it believes there to be the potential for pricing disparities based on race, national origin, and other prohibited factors. Allegations of discriminatory lending practices are deeply troubling, and therefore it is extremely important that we understand the methodologies and analyses used to reach this conclusion. With that in mind, we ask that the CFPB fully respond to all Congressional requests for the raw data and specific methodology used to determine instances of "disparate impact" and formulate the new guidance.

The auto dealer industry contributes greatly to our nation's economy and that of our state and local communities. In particular, auto dealer sales represent about $47 billion annually. Florida ranks as the third-largest state in the country in terms of number of vehicles, the sale of which account for 16 percent of retail sales tax. Furthermore, there are approximately 850 new car dealers in Florida, providing tens of thousands of direct jobs and supporting millions more in related sectors. Auto lending, including the indirect auto financing market, helps many hardworking individuals afford the vehicles they need to access job opportunities and support their families. As a result of the CFPB's new guidance, we understand that 17,000 price discounters stand to be eliminated from the auto finance marketplace.

Prior to the CFPB's fair lending guidance bulletin, auto dealers have been able to offer consumers a competitive interest rate through indirect vehicle financing with a third-party lender, such as a bank, credit union, or other financial institution. The ability of auto dealers to negotiate their retail margin in order to provide this service empowers consumers to make an informed decision regarding their financing options. Frequently, it results in them obtaining a lower cost of credit than they would otherwise be able to secure from other creditors. Although the compensation afforded to auto dealers is capped by contract, the totality of the CFPB's guidance, press release, and reported enforcement actions suggests efforts to remove or significantly limit an auto dealer's ability to negotiate competitive financing for their customers, and pressure lenders to replace the system of compensation with a flat fee per transaction or other mechanism.

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We have a responsibility to ensure that consumers are best served by a competitive and efficient credit market. While we commend the CFPB for its commitment to addressing unlawful lending practices, we are concerned that Congress has yet to be provided with the complete data and other information necessary to conduct proper oversight of this matter. For example, we note that it is unclear from your responses to date whether the Bureau is including the amount financed amongst the "appropriate analytical controls" used to determine whether a specific policy results in unlawful differences on a prohibited basis.

We fear that the CFPB's decision to issue guidance, without public comment or a formal rulemaking process, will significantly restrict consumer choice and services. As you know, a bipartisan majority of the House Financial Services Committee, as well as 22 of our colleagues in the Senate, have written to you expressing similar concerns. We share their request for specific explanations detailing the CFPB's assessment of disparate impact in the indirect auto financing market, especially the extent to which it studied and considered the potential effects of its guidance on the cost of credit to consumers, auto dealers, and competition in the auto loan market.

In order to meet the highest levels of transparency and maximize access to credit for consumers in a manner that is fair and equitable, we urge the CFPB to respond to the aforementioned Congressional inquiries as soon as possible. Without finality regarding this guidance, consumers will ultimately bear the cost as auto dealers will remain restricted in their ability to offer them the most competitive auto loan rates. We thank you for your cooperation and look forward to your response.

Sincerely,

Alcee L. Hastings
Member of Congress

Bill Posey
Member of Congress

Ileana Ros-Lehtinen
Member of Congress

Corrine Brown
Member of Congress

John L. Mica
Member of Congress

Jeff Miller
Member of Congress

Mario Diaz-Balart
Member of Congress

Debbie Wasserman Schultz
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Theodore E. Deutch
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Richard B. Nugent
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