

PUBLICATION

UPDATE: CFPB Publishes Rule Authorizing it to Supervise Auto Finance Companies

Authors: Blair B. Evans

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On June 10, 2015, the CFPB published a new regulation that has been dreaded by the auto finance industry for more than a year. Following up on the rule it proposed in June 2014, the CFPB published a final rule on June 10, which allows the Bureau to supervise larger nonbank auto finance companies for the first time in history.

The rule will take effect 60 days after publication in the Federal Register. In conjunction with the announcement of the rule, the Bureau also detailed the examination procedures to be used by its examiners in order to ensure that auto finance companies are following the law. Stating, "Auto loans and leases are among the most significant and complex financial transactions in a typical consumer's life," CFPB Director Richard Cordray said that the issuance of the new rule and resultant regulations "will help ensure that larger auto finance companies treat consumers fairly."

At present, the CFPB supervises auto financing at only the largest banks and credit unions. The June 10 rule, however, extends that control to "any nonbank auto finance company that makes, acquires or refinances 10,000 or more loans or leases" within a one-year period. These companies are considered "larger participants" under the rule, and the Bureau will watch over their activity to ensure that they are in compliance with federal consumer protection laws. The rule now gives the Bureau authority to supervise and regulate approximately 34 of the largest nonbank auto finance companies and their affiliates, which – in the aggregate – originate almost 90% of the nation's nonbank auto loans and leases.

In order to provide guidance to its examiners on how the Bureau will monitor the bank and nonbank auto finance companies, the CFPB has also updated its Supervisory and Examination Manual. Examiners will be evaluating potential risks to consumers and making determinations as to whether auto finance companies are complying with federal consumer financial laws. Among other things, examiners will now be assessing whether auto finance companies are:

- Fairly marketing and disclosing auto financing terms
- Providing accurate information to credit bureaus
- Treating consumers fairly when collecting debts
- Lending fairly, i.e., in compliance with the Equal Credit Opportunity Act

Stay tuned.