



NATIONAL AUTOMOBILE DEALERS ASSOCIATION  
8400 Westpark Drive • McLean, Virginia 22102  
703/821-7040 • 703/821-7041

Legal & Regulatory Group

July 28, 2011

**Via E-Mail**

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, D.C. 20551

Re: Proposal to Temporarily Except Motor Vehicle Dealers from Section 704B of  
the Equal Credit Opportunity Act  
Docket No. R-1426

Dear Secretary Johnson:

The National Automobile Dealers Association (“NADA”) submits the following comments in support of the Proposed Rule issued by the Board of Governors of the Federal Reserve System (“Board”) to except motor vehicle dealers subject to its jurisdiction from the requirements of Section 704B of the Equal Credit Opportunity Act (“ECOA”) until the effective date of final rules to implement section 704B.

NADA represents approximately 16,000 franchised dealers in all 50 states and the District of Columbia who (i) sell new and used automobiles and trucks; (ii) extend vehicle financing and leases to consumers that routinely are assigned to third-party finance sources; and (iii) engage in service, repair, and parts sales. Our members, a significant number of whom are small businesses as defined by the Small Business Administration, collectively employ approximately one million people nationwide.

Section 704B, which was added to ECOA by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”),<sup>1</sup> imposes a series of new and far reaching data collection, reporting, and retention requirements on financial institutions that receive credit applications from women-owned, minority-owned, or small businesses. As noted by the Board in its Notice of Proposed Rulemaking, 76 Fed. Reg. 36,885–87 (Jun. 23, 2011), motor vehicle dealers defined in section 1029(a) of the Dodd-Frank Act (i) may be financial institutions under section 704B and thus required to comply with the requirements of that section

---

<sup>1</sup> Public Law 111-203, 124 Stat. 1376 (2010).

and its implementing regulations, and (ii) remain subject to the Board's ECOA rulemaking authority under Regulation B notwithstanding the Board's general transfer of that authority to the Consumer Financial Protection Bureau ("CFPB") on July 21, 2011.

As the Board correctly notes, in order to effectuate the purpose of section 704B and promote compliance with its mandates, it is essential that financial institutions be provided with detailed rules that provide uniform definitions and standards, an explanation of the allowable methods for reporting and collecting the section 704B data, and appropriate compliance guidance. Because the Board has not had an opportunity to develop, and establish an implementation date for, such rules prior to the effective date of section 704B (July 21, 2011), it proposes exercising its authority to exempt from the requirements of this section motor vehicle dealers who are subject to the Board's jurisdiction. The Board's proposed action is consistent with the CFPB's similar recognition that implementing regulations are necessary for financial institutions subject to its jurisdiction to carry out the section 704B requirements.<sup>2</sup>

For these reasons, NADA supports the Board's proposed amendment to Regulation B set forth in Proposed section 202.17(a). Simply stated, financial institutions subject to section 704B require significantly more guidance than is provided in the language of that provision before they can be expected to fulfill its requirements. In addition, because the comment period in this matter concludes after the effective date of section 704B, NADA urges the Board to issue a final rule adopting its proposed amendment immediately.

Thank you for the opportunity to comment on the Board's proposal. Please contact me if NADA can provide you with additional information.

Paul D. Metrey  
Chief Regulatory Counsel  
Financial Services, Privacy, and Tax

---

<sup>2</sup> See Letter from CFPB General Counsel to Chief Executive Officers of Financial Institutions under section 1071 of the Dodd-Frank Act (Apr. 11, 2011), currently available at <http://www.consumerfinance.gov/wp-content/uploads/2011/04/GC-letter-re-1071.pdf>.