The Leadership Conference
on Civil and Human Rights

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The Leadership Conference

Oppose H.R. 1737, the "Reforming CFPB Indirect Auto Financing Guidance Act"

Dear Representative:

On behalf of The Leadership Conference on Civil and Human Rights and the undersigned organizations, we write to urge you to oppose H.R. 1737, the "Reforming CFPB Indirect Auto Financing Guidance Act." The sole purpose of this bill is meant to undermine the ability of the Consumer Financial Protection Bureau (CFPB) to enforce laws against discrimination in auto lending. In our view, a vote for H.R. 1737 is a vote to condone discrimination in the auto lending market.

For at least the past two decades, financial services regulators have known about discrimination in the auto finance marketplace. The CFPB is the first and only regulator to directly address this discrimination and its underlying cause, dealer interest rate markups. Car dealers receive a substantial bonus from lenders for increasing the interest rate above that for which the borrower otherwise qualifies. Car dealers sell their loans to lenders, and contact lenders during the course of the transaction to see who will be willing to buy these contracts. Lenders send the dealer the interest rates they will accept based on the borrower's risk profile, also called the "buy rate." However, the dealer can then add as much as 2-2.5 percent to the buy rate, and keep some or all of the difference as compensation. To give a sense of scale, the Center for Responsible Lending (CRL) estimates that consumers who took out car loans in 2009 will pay $25.8 billion in additional interest over the lives of their loans due to these markups.

In the mid-1990s, a series of lawsuits were filed against the largest auto finance companies in the country alleging discrimination. The data from those lawsuits showed that borrowers of color were twice as likely to have their loans marked up, and paid markups twice as large as similarly situated white borrowers with similar credit ratings.

Because of that history, and with current data showing continued discrimination, the CFPB has issued guidance telling lenders that they could eliminate the risk of fair lending violations by paying compensation to dealers in ways that do not involve manipulations of the interest rate. If, however, lenders chose to continue allowing dealers to increase the interest rate for compensation, then the lender would need to take steps to ensure that discrimination does not occur.

In short, the CFPB's guidance acknowledges something we have known for a long time: pricing discretion leads to discrimination. The CFPB's enforcement work with the Department of Justice has netted over $176 million in restitution and penalties against several lenders, with several other cases pending.

Naturally, lenders and their car dealer clients would prefer that the CFPB did not take these steps. They also know that many Members of Congress would not sign on to a bill calling on the CFPB to stop enforcing anti-discrimination laws, so they have championed a bill that masks its true intentions behind process and theories of regulatory jurisdiction.

Members of Congress should not be mistaken, however: the real effect of H.R. 1737 is to undermine the ability of the CFPB to root out discrimination, something that has no place in our lending markets. Congress should be applauding the CFPB's efforts, not trying to stop them.

We are also troubled that this bill represents the latest in a long series of efforts by some in Congress to undermine the CFPB itself. While it is certainly the role of Congress to set broad policy goals, as it did with the passage of the Equal Credit Opportunity Act and the Dodd-Frank law, the whole point of establishing the CFPB was to allow the details of those policies to be worked out in a process that is less vulnerable to the political manipulation and inaction that we witnessed in the years before the 2008 financial crisis, and to give consumers a stronger voice than they have in Congress or other financial regulatory agencies. Attempts by Congress to micromanage complicated policy details only serve to undermine the very core of Dodd-Frank's consumer reforms, and they strengthen the hand of those who opposed the creation of the CFPB all along.

The CFPB has repeatedly shown it is fully capable of listening to industry concerns and calibrating its policies in response. It does so on the basis of hard evidence, however, and not on the basis of a politicized process in which the interests of vulnerable consumers are routinely overrun. If there are any problems with the details of the CFPB's guidance on auto lending, the Bureau should be given an opportunity to refine them through the careful and fact-based process it has utilized in other areas of consumer finance.

For the above reasons, we urge you to oppose H.R. 1737. If you have any questions, please contact Rob Randhava, Senior Counsel, at (202) 466-3311.

Sincerely,

The Leadership Conference on Civil and Human Rights

A. Philip Randolph Institute
American-Arab Anti-Discrimination Committee
American Federation of Government Employees, AFL-CIO
Asian Americans Advancing Justice |AAJC
Bend the Arc Jewish Action
Center for Responsible Lending
Center for Women Policy Studies
Coalition of Black Trade Unionists
Delta Sigma Theta Sorority, Inc.
Equal Justice Society
Greenlining Institute
Insight Center for Community Economic Development
International Association of Official Human Rights Agencies (IAOHRA)
Lawyers' Committee on Civil Rights Under Law
League of United Latin American Citizens
NAACP
NAACP Legal Defense & Educational Fund
National Association of Human Rights Workers
National Association of Social Workers
National Council of La Raza
National Fair Housing Alliance
National Urban League
The William C. Velasquez Institute