September 22, 2025

Via Electronic Mail

The Honorable Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G St., NW
Washington, D.C. 20552

Re: Advance Notice of Proposed Rulemaking, Defining Larger Participants of the Automobile Financing Market (Docket No. CFPB-2025-0029; RIN 3170–AB50)

Dear Acting Director Vought:

The Consumer Bankers Association ("CBA"),[1] on behalf of its members, appreciates the opportunity to provide feedback regarding the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") Advance Notice of Proposed Rulemaking ("ANPR") titled, "Defining Larger Participants of the Automobile Financing Market."[2] CBA supports the CFPB's efforts to protect consumers in the automobile financing market. Pursuant to the Dodd-Frank Act, CFPB is tasked with developing and maintaining a consistent regulatory and supervisory system for depository and nondepository lending institutions. A level playing field is better for consumers and better for competition as it holds all actors in this market to the same level of accountability for similar products and services.

I. Overview of the Dodd-Frank Act

Congress made clear that the very objective of the CFPB is to enforce consumer protection law consistently against nonbanks and banks. Further, Congress made clear that the Bureau's objective is to implement and enforce Federal consumer financial law consistently to ensure that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.[3] To carry out this purpose, the Bureau must develop and maintain a consistent regulatory and supervisory system for depository and non-depository financial institutions. This responsibility is not only a statutory mandate under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), but also essential to promoting competition, reducing systemic risk, and maintaining consumer trust in the financial marketplace.
In this ANPR, the CFPB seeks information on whether to propose a rule to amend the current definition of larger participants in the automobile financing market. The current definition was established by the CFPB in 2015.[4] Given the nearly equal role played by depository institutions

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[1] The CBA is a member-driven trade association, and the only national financial trade group focused exclusively on retail banking—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members operate in all 50 states. They include the nation's largest bank holding companies as well as regional and super-community banks. Eighty-three percent of CBA's members are financial institutions holding more than $10 billion in assets.
[2] 90 Fed. Reg. 38,415 (Aug. 8, 2025).
[3] 12 U.S.C. 5511(a).

[4] Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service, 79 Fed. Reg. 60,762 (Oct. 8, 2015). ("2015 Automobile Financing Larger Participant Final Rule")

and nonbank participants in the automobile financing market, subjecting only banks and credit unions to federal supervision is inconsistent with the Bureau's mandate to promote fair competition and enhance consumer protection. For these reasons, CBA urges the Bureau to continue to supervise a substantial majority of nonbank providers of automobile loans.

II. In Order to fulfill Its Statutory Objectives, the CFPB Must Consistently Supervise Both Nonbanks and Banks.

Each of America's over 4,000 banks is regularly examined for consumer compliance by state and federal regulators, including by the CFPB, which has supervisory authority over banks with assets above $10 billion.[5] In addition to its supervisory authority over banks, the CFPB has various authorities regarding nonbank supervision.[6] The Dodd-Frank Act provides the Bureau supervisory authority over non-depository participants in the consumer financial products and services markets (or "nonbank participants") to, among other things, ensure that "Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition . . . ."[7] This mandate reflects a recognition that consumers should enjoy the same protections regardless of whether they obtain financial products from a bank or a nonbank. The law makes clear that oversight is about conduct, not charter status, and that the stability of the market depends on consistent enforcement across all providers. It also reflects the reality of the time of the Dodd-Frank Act's enactment that nonbank entities were not supervised with the same rigor as depository institutions. Congress recognized that without affirmative supervision and examination by the CFPB, nonbank entities could engage in unlawful behavior and harm consumers. This is still the reality of today.

The Dodd-Frank Act specifically requires the CFPB to supervise certain nonbank participants. First, it identifies some of the largest consumer financial markets for nonbank supervision, including lenders in the mortgage, payday, and private education loan markets.[8] Reflecting the reality that simply identifying specific markets to supervise is not enough, and that risks may shift and evolve, the Dodd-Frank Act also grants the Bureau the authority to supervise "larger participant[s] of a market for other consumer financial products or services, as defined by rule[s]" the Bureau issues.[9] Once defined, larger participants are subject to the Bureau's supervisory authority based on the risk they pose to consumers. While this authority includes some discretion as to how the Bureau may define a market, Congress also directed the CFPB to issue its "initial" larger participant rulemaking within one year of the CFPB's creation, highlighting the importance of the issue.[10]

III. CFPB Supervision of Nonbanks Leads to Competition and Market Integrity.

[5] Dodd-Frank Act § 1025(a)(1).

[6] Dodd-Frank Act § 1024.

[7] Dodd-Frank Act § 1021(b)(4).

[8] Id. at § 1024(a)(1)(A), (D) & (E).

[9] Id. at § 1024(a)(1)(B) and (a)(2).

[10] Id. at § 1024(a)(2).

Fair competition, which the agency has been explicitly tasked with fostering by Congress, is inextricably linked in the statute to ensuring comparable enforcement of Federal consumer financial laws across different types of providers. To foster a marketplace that promotes robust competition and enables beneficial innovation consistent with the CFPB's objectives, it is essential for entities engaged in similar financial activities to meet the same regulatory requirements and be subject to comparable supervision, irrespective of their organizational classification or charter status.[11] This is particularly true today, as many nonbanks offer the same or similar products as their depository counterparts, which have been widely adopted.

IV. CFPB Should Adopt Supervisory Thresholds for Nonbank Participants in the Automobile Financing Market that reflect the risk posed by market players.

Automobiles are an indispensable resource for all Americans. They play a critical role in the lives of most working individuals. Nearly 70 percent of the workforce commutes to work by car, and that number continues to grow as more people return to in-person work following the COVID-19 pandemic.[12] Further, given the average new automobile costs $47,962, $25,180 for used, more consumers are financing their auto purchases.[13] Moreover, auto financing and leasing is the second largest category of outstanding household debt after mortgages. According to the most recent Federal Reserve Bank of New York quarterly report on household debt and credit, outstanding auto loans are valued at nearly $1.66 trillion, and nonbank participants originate nearly half of the total amount.[14]

As discussed above, only depositories are subject to federal supervision by the prudential regulatory agencies and, for banks and credit unions with over $10 billion in assets, the CFPB. Thus, even the largest nonbank participants in the automobile financing market, including specialty finance companies, captive auto finance companies, and Buy Here Pay Here finance companies, are generally only subject to the supervision of the federal government. CBA believes consumers are better served by a consistent regulatory and supervisory regime for all lenders in the automobile financing market. Consumers expect and deserve a similar level of protection from all auto lenders, whether they receive their auto financing or lease from a bank, a credit union, or a nonbank participant. Therefore, we fully support the Bureau's effort to supervise larger nonbank participants in the automobile financing market.

V. Size of Auto loan market

The U.S. automobile finance market is one of the largest consumer credit sectors, with outstanding auto loan and lease balances exceeding $1.4 trillion in 2025. Each year, millions of consumers rely on financing to purchase or lease vehicles. While banks, credit unions, and manufacturer-affiliated captive finance companies continue to dominate the space, nonbank finance companies play a significant and growing role, particularly in serving subprime and used-car borrowers. Recent data illustrates that while the market remains competitive for depository institutions, nonbank entities originate nearly half of auto loans, including new and

[11] 12 U.S.C. § 5511(b)(4).
[12] U.S. Census, Commuting in the United States: 2022, available here.
[13] Experian, May 11, 2025, The Average Car Price Is Nearing All-Time High, available here.
[14] Fed. Res. Bank of N.Y., Quarterly Report on Household Debt and Credit (Aug. 2025), https://www.newyorkfed.org/microeconomics/hhdc.html

used vehicles.[15] Additionally, historical Federal Reserve data show that non-captive finance companies and buy-here-pay-here dealers together account for more than 15% of total auto loan originations, representing well over a million loans each quarter.[16] Captive lenders make up 30% of originations.[17] This mix underscores both the scale of the market and the importance of nonbank lenders in extending credit access, while also highlighting the heightened risks and regulatory considerations associated with their activity.

Nonbank supervision of automobile finance companies must occur at the federal level because state regulation can be fragmented and inconsistent. These characteristics may diminish overall effectiveness. Auto finance is a national market—loans are originated and serviced across state lines, often through large nonbank companies that operate under uniform business models nationwide. Yet state regulatory frameworks vary widely in scope, standards, and enforcement priorities, creating gaps that sophisticated lenders can exploit. In practice, state regulators have brought few meaningful enforcement actions in the auto finance space, leaving systemic risks and consumer harms under-addressed. Without federal oversight, consumers face uneven protections depending on geography, and nonbank lenders operate without the same accountability imposed on banks.

When CFPB drafted the 2015 Automobile Financing Larger Participant Rule, that rule discussed the importance of capturing different segments of the nonbank automobile lending market. Specifically, the CFPB discussed why it chose the threshold of 10,000, noting, that at a threshold of even 50,000 ". . . the Bureau would not be able to supervise as varied a mix of nonbank larger participants because some firms impacting a large portion of consumers in important market segments, such as captive, subprime, and BHPH lending, would be omitted."[18] As discussed above, the market segmentation from 2015 still exists.

VI. Complaint data shows that nonbanks make up over half of the top 50 institutions by number of auto loan complaints.

The CFPB's Consumer Complaint Database provides information on financial product and service complaints by consumers and how companies respond to those complaints. The database provides data for complaints sent to companies for response. Complaints are eligible for publication and are only published after the company responds (confirming a commercial relationship), or after 15 days, whichever comes first. While the database is not a fully representative sample of the marketplace of consumer issues, and complaint trends and volume should be compared to a company's overall market size, this data does provide valuable insights into problems people are experiencing in the marketplace in near-real time.

CBA reviewed complaints regarding auto loans and leases from January 2017 through August 2025.[19] The review found that, of the top 50 companies by complaint count over that period, 26 were non-depository financial institutions (i.e., not banks or credit unions). Further analysis revealed that seven of these non-depository lenders saw their number of complaints increase by more than 100 percent in a one-year period, indicating a spike in consumer issues with the

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[15] Experian, Q2 2025 State of the Automotive Finance Market, available here. ("Experian Q2 2025 Automotive Finance Data." Nonbank entities make up 46.24% of loan market share.
[16] https://www.federalreserve.gov/publications/2023-november-consumer-community-context.htm
[17] Experian Q2 2025 Automotive Finance Data at p. 13. While some captive auto lenders are Industrial Loan Companies and supervised by a prudential regulator and a state regulator, a majority are not.
[18] 2015 Automobile Financing Larger Participant Rule at 37,515.
[19] Consumer Financial Protection Bureau. Consumer Complaint Database., www.consumerfinance.gov/data-research/consumer-complaints/ , *Accessed September 2nd, 2025.*

entity and their practices, products, and/or services. Most importantly, the complaint review revealed that nearly all of these seven companies would no longer be subject to supervision under the newly proposed larger participant thresholds.

VII. Conclusion

Our members support vibrant competition and innovation. However, competition in consumer finance must be based on price, quality, and service—not on regulatory disparities. When nonbanks are allowed to operate with lighter or fragmented oversight, it distorts markets, undermines fair competition, and risks harm to consumers. Left unchecked, it encourages regulatory arbitrage, undermines responsible providers' ability to compete in the marketplace, and creates a race to the bottom in consumer protection. We appreciate the opportunity to share our perspective on the CFPB's nonbank supervision of auto finance companies, and we welcome the opportunity to discuss these recommendations further at your convenience.

Please do not hesitate to reach out to the undersigned by email if you have any questions regarding this letter or would like to discuss further.

Sincerely,

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Consumer Bankers Association