

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

JACK HOWARD  
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CONGRESSIONAL AND PUBLIC AFFAIRS

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TO MEMBERS OF THE UNITED STATES SENATE:

The U.S. Chamber of Commerce urges you to support S.J.Res.57, a Congressional Review Act resolution to undo the Bureau of Consumer Financial Protection's action on indirect auto lending. **The Chamber will consider including votes on, or in relation to, S.J. Res. 57 in our *How They Voted* scorecard.**

In 2013, the Bureau issued a "Bulletin" that imposed new requirements under the Equal Credit Opportunity Act (ECOA) to address purported discrimination. The Bulletin established that indirect lenders – firms that are never face-to-face with borrowers and only purchase contracts after-the-fact from auto dealers – could be liable for discrimination.

The Chamber abhors discrimination in all its forms, including in the financial service and auto lending sectors.

However, the Bureau provided little concrete evidence of problems that the Bulletin was intended to address. In fact, internal documents demonstrate that even Bureau staff found the data and methodology intended to support the rule "unconvincing."<sup>1</sup>

We thank Senator Moran and Senator Toomey for their leadership to resolve this overreach by the Bureau and for engaging the Government Accountability Office (GAO), which determined on December 5, 2017, that the Bulletin is in fact a "rule" for purposes of the Congressional Review Act.<sup>2</sup>

Moreover, we applaud the work of the House Financial Services Committee, which released three reports on the topic.<sup>3</sup>

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<sup>1</sup> Choice of Estimation Method for Indirect Auto Lending Disparities, April \_\_\_\_ 2013 (stating that "unfortunately, there is not enough information to know for sure which method will provide a disparity estimate but that is closer to the truth" and commenting in tracked changes "should we mention that we asked them for data supporting DI [disparate impact] theory and we didn't find it convincing?").

[https://financialservices.house.gov/uploadedfiles/april\\_2013\\_draft\\_memo-choice\\_of\\_estimation\\_methods\\_for\\_indirect\\_auto\\_lending\\_markup\\_disparities\\_draft\\_1.pdf](https://financialservices.house.gov/uploadedfiles/april_2013_draft_memo-choice_of_estimation_methods_for_indirect_auto_lending_markup_disparities_draft_1.pdf)

<sup>2</sup> Government Accountability Office, "Bureau of Consumer Financial Protection: Applicability of the Congressional Review Act to Bulletin on Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act," B-329129 (Dec 5, 2017) <https://www.gao.gov/products/B-329129>

<sup>3</sup> House Financial Services Committee, Staff Reports <https://financialservices.house.gov/hearingslegislation/staff-reports.htm>

The Chamber believes the Bureau – like all other federal agencies – should follow the Administrative Procedure Act when issuing guidance and promulgating regulations. Agency actions should be based on clear legislative authority, solid data, and proper public input. That is why the Chamber strongly supports the Portman-Heitkamp “Regulatory Accountability Act,” which would modernize the rulemaking and guidance processes for the first time since 1946.

The Chamber urges you to reject the Bureau’s Bulletin and to support S.J. Res. 57.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Howard". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Jack Howard