



# Regulatory Updates

CIA Annual Meeting  
November 2022 Atlanta, Georgia

# Panelists

John Euwema

CCIA VP, Legislative/Regulatory Counsel



Beth Kastigar

Assurant Lead Counsel, Regulatory Affairs



# 2022 Midterm Elections Results

- House of Representatives
- Senate
- Governorships

# Federal Agencies

## Federal Trade Commission

- Motor Vehicle Dealers Trade Regulation Proposed Rule will be UDAAP violation if dealers:
  - make any misrepresentation in the purchasing, financing or leasing of a vehicle;
  - fail to make clear and conspicuous disclosures about the offering price, optional add-on products and services, the total number of payments and the total amount the consumer will pay;
  - charge consumers for add-on products that provide no benefit, optional add-on products without presenting specific disclosures or any item without obtaining a consumer's express, informed consent for the charge.
- Proposed rule on junk fees
- Enforcement actions against dealers
  - Napleton
  - Tate

# Federal Agencies

## Consumer Financial Protection Bureau

- RFI for rule on junk fees
- Will support state attorney generals with consumer protection
- Community Financial Services Association v. CFPB finds funding unconstitutional

## Department of Defense

- Possible rule-making to resurrect Interpretive Rule Q&A #2 re inclusion of credit insurance and GAP in finance charges

# Davidson MLA Federal Litigation

- Plaintiff brings a federal class action complaint alleging United Auto Credit Corporation (UACC) violated the Military Lending Act (MLA) by:
  - (i) failing to properly disclose certain costs and fees associated with his motor vehicle retail installment sales contract (GAP, prepaid interest, doc prep fee), as well as
  - (ii) due to the arbitration provision contained in the contract. Case originally filed in California, refiled in Virginia.
  - District Court threw out complaint
  - Appellate Court reviewing
- MLA includes credit insurance, GAP and other ancillary products in calculation of 36% APR for loans other than secured auto and home loans.
  - 2017 Q&A No. 2 indicated MLA would cover motor vehicle loans, too.
  - 2020 interpretive guidance rescinded the 2017 Q&A and restored a 2016 version of Q&A No. 2, which only addressed cash-out loans involving personal property.

# Mariner Finance Federal Litigation

- Six state attorneys general file complaint alleging UDAAP for permanent injunction and other relief alleging Mariner, which denies such allegations, that:
  - Mariner and its employees make substantial profits by charging consumers for hidden and unwanted add-on products, \$51.9 million in insurance income in 2022.
  - Mariner misrepresented that it was receiving substantial commissions for the sale of credit life, disability, and unemployment by stating to customers that it “may” receive benefits of the sales
  - Mariner engaged in “credit insurance packing” and charged consumers for add-on products
  - Four out of five Mariner borrowers pay for at least one add-on
  - Mariner is disclosing inaccurate annual percentage rates (APRs), in violation of TILA and Regulation Z because in many cases the add-ons constituted a “finance charge” as Mariner required the consumer to pay for them “as a condition of or an incident to the extension of credit

# Federal Legislation

- **Veterans and Consumers Fair Credit Act SB2508 and HR5974**

Sen. Reed (D, RI) and Rep. Jesus (“Chuy”) Garcia bills would extend the **36% All-In APR** cap in the Military Lending Act to all consumer credit transactions, excluding mortgages, car finance loans, and credit union loans



# NAIC

- **Market Analysis Procedures Working Group**
  - Add credit life to MCAS
  - Add credit accident and health to MCAS
  - Accepted rejection of such actions in 2018

## **States w/ All-in APR**

- Illinois Predatory Loan Act (2021)
  - Excludes state and federal banks and credit unions
- New Mexico Small Loans (2022)
  - Small loans up to \$10,000

## **States Preventing Credit Insurance and GAP**

- California SB 1311 (2022)
  - Prevents perfection of secured motor vehicle loans which finance credit insurance or GAP

# Other Legislation

- **Credit Insurance**

- New Hampshire SB 354 financial institutions offering credit ins and DLRP
- South Carolina deviated rates and fingerprinting project
- Virginia VFSA petition to SCC re ancillary product and end of regulator required hearings on prima facie rate changes

- **GAP**

- Colorado AG Guidance on Rule 8 changes
- California legislation changes to GAP for motor vehicle conditional sales contract statute

- **Service Contracts**

- Arizona Rulemaking
- Washington failed legislation for “default” CLIPS and provider use of multiple CLIPS

# F & I Sentinel Update

- Added new lenders First Investors Financial Services (GAP, VSC, T & W, Key, Windshield, PDR, ancillary bundle, PPM and VPP) and Stellantis Financial Services (financing arm for Alfa Romeo, Chrysler, Dodge, Fiat, Jeep and Ram -note MBRs different than Chrysler – All products + credit A & H). Both eff 4/15/23. Replica filings available between these two lenders.
- Added EWU review for Hyundai Motor Finance eff 11/1/22.
- VW Credit added Vehicle Protection Products, PPM and Credit A & H eff 8/1/22.
- Mass Banking Division prohibited cancellation fee on GAP waivers prompting a law change submission for Hyundai Motor Finance, Kia Motors (10/1/22) , VW, Toyota and Mazda, Honda and NMAC (9/22/22).
- Vehicle protection products being subject to Mag Moss requirements “as the floor for disclosure”.
- VW Credit, Inc. and Audi Financial Services announced they will extend the implementation of the funding rule for Vehicle Protection Products, Credit Life Accident and Health Insurance, and Prepaid Maintenance Agreements to January 1, 2023, “to allow product companies additional time to obtain approval for funding.



**What questions do  
you have?**

