



## CFPB Watch for Auto Dealers

October 1st, 2017 | and [Michael A. Benoit](#)

### [Michael A. Benoit](#)

With folks returning from their summer vacations, things on the regulatory side begin to heat up a bit. This month, the Department of Justice, the Federal Trade Commission, and the Consumer Financial Protection Bureau were active.

**“Small Entities,” Listen Up!** On September 18, the CFPB published a Small Entity Compliance Guide to support implementation of the recently issued Arbitration Agreements Rule. The guide is available on the CFPB’s dedicated arbitration implementation webpage.

**FAQ Help from the FTC.** On September 26, in response to a request from the National Automobile Dealers Association, the FTC answered frequently asked questions about compliance with the revised Used Car Rule and the revised Buyers Guide. The FTC revised the Used Car Rule in November 2016. The guidance notes that additional information about compliance with the Used Car Rule can be found in the FTC’s Dealer’s Guide to the Used Car Rule (<https://www.ftc.gov/tips-advice/business-center/guidance/dealers-guide-used-car-rule>) and by visiting the FTC’s webpage for auto dealers. Catharine Andricos discusses some of the FAQ’s highlights in her lead article.

**Ten-hut!** On September 25, the FTC launched a webpage highlighting its new Military Task Force, aimed at identifying the needs of military consumers and developing initiatives to empower servicemembers, veterans, and their families, including through law enforcement actions. The task force, a cross-section of agency representatives, is part of the FTC’s effort to provide resources for the military community. According to the FTC’s data, in 2016, there were more than 100,000 consumer complaints from servicemembers, their dependents, military retirees, and veterans. About two-thirds of the complaints were from retirees and veterans. Top complaints by category were impostor scams, identity theft, and debt collection. For more information, visit: [ftc.gov/militarytaskforce](http://ftc.gov/militarytaskforce).

**CFPB Highlights – A Must-Read for Compliance Pros.** The CFPB recently released its Summer 2017 Supervisory Highlights report, which focuses on the CFPB’s supervisory work generally completed between January and June 2017. The release shares the CFPB’s observations concerning auto finance servicing; credit card management; debt collection; remittances; service providers; short-term, small-dollar lending; and other areas. As part of the release, the CFPB announced that recent supervisory actions had resulted in \$14 million in relief to more than 104,000 consumers during the six-month period.

Regarding the CFPB's supervisory examinations within the short-term, small-dollar lending industry, the report states that examiners identified compliance management system weaknesses and violations of federal law, including UDAAP findings in the areas of debt collection practices, marketing representations, representations regarding the use of references, and payment practices. As in prior Supervisory Highlights, the CFPB often attributes certain practices of supervised entities to "one or more entities," thus not making it clear how prevalent such actions or practices may be within the marketplace.

Among the specific practices cited by the CFPB were

- workplace collection calls;
- repeated collection calls;
- misrepresentations;
- false "no credit check" claims;
- false advertising of available products and services;
- unsubstantiated claims against competitors;
- false claims about access and ability to apply online;
- misrepresentations about the use of references; and
- unauthorized debits and overpayments.

The CFPB will no doubt be addressing these same areas in auto finance.

**DOJ Announces SCRA Enforcement Actions.** On September 18, the DOJ announced that it obtained a \$907,000 settlement with CitiFinancial Credit Company, as successor in interest to CitiFinancial Auto Corporation, resolving allegations that it violated the Servicemembers Civil Relief Act by repossessing vehicles it allegedly knew were owned by protected servicemembers without first obtaining required court orders. The settlement covers vehicle repossessions between 2007 and 2010.

On September 27, the Justice Department announced that Westlake Services LLC and its subsidiary, Wilshire Consumer Capital LLC, agreed to pay \$760,788 to resolve allegations that the companies violated the SCRA by repossessing 70 vehicles owned by servicemembers without first obtaining the required court orders. Westlake, d/b/a Westlake Financial Services, is an auto finance company specializing in buying and servicing subprime and near-subprime retail installment sales contracts. The subsidiary originates and services vehicle title loans. During its investigation, the DOJ found that Westlake and Wilshire failed to adopt policies and procedures necessary to ensure that their motor vehicle repossessions complied with the SCRA. The agreement requires Westlake and Wilshire to pay \$10,000 to each of the 70 affected servicemembers, plus any lost equity in the vehicle with interest. Westlake and Wilshire also must repair the credit of all affected servicemembers, pay a \$60,788 civil penalty to the United States, and determine, in the future, if any vehicle it plans to repossess is owned by an SCRA-protected servicemember. If so, Westlake and Wilshire will not repossess the vehicle without first obtaining a court order or valid waiver of SCRA rights. The agreement also provides that all eligible servicemembers will receive the benefit of the SCRA's 6% interest rate cap on their auto financing.

So, there's this month's somewhat busy report. See you next month!

Hudson Cook, LLP provides articles, webinars and other content on its website from time to time

---

provided both by attorneys with Hudson Cook, LLP, and by other outside authors, for information purposes only. Hudson Cook, LLP does not warrant the accuracy or completeness of the content, and has no duty to correct or update information contained on its website. The views and opinions contained in the content provided on the Hudson Cook, LLP website do not constitute the views and opinion of the firm. Such content does not constitute legal advice from such authors or from Hudson Cook, LLP. For legal advice on a matter, one should seek the advice of counsel.