WHITE PAPER

SAFE-GUARD Products International, LLC

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The Dodd-Frank Act:

Strategies to Retain and Grow Profitability if Rate and Retail Prices are Impacted

By Safe-Guard Products International, LLC

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The Dodd-Frank Wall Street Reform and Consumer Protection Act, which established the Consumer Financial Protection Bureau, became Public Law 111–203 on July 21, 2010.

The Dodd-Frank Act has broad implications that could affect the financial services industry. Banks, credit unions, investment firms and trade groups are now trying to influence how the act is implemented.

The Secretary of the Treasury is responsible for setting up the CFPB. President Obama and Treasury Secretary Timothy Geithner named Elizabeth Warren as Assistant to the President and Special Advisor to the Secretary of the Treasury on the CFPB last September. Many of the pieces of the Dodd-Frank Act relating to the CFPB are scheduled to go into effect on July 21, 2011.

Online Resources

- **Dodd-Frank Bill Summary & Status: www.thomas.gov (Search H.R. 4173-111th Congress)**
- **Dodd-Frank Bloggers (attorneys at Leonard, Street and Deinard): www.dodd-frank.com**
- **The Consumer Financial Protection Bureau: www.consumerfinance.gov**

According to the CFPB website, "the central mission of the Consumer Financial Protection Bureau is to make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards or using any number of other consumer financial products."

Many groups have been strongly lobbying Congress to make changes to the law and even the structure of the CFPB. There is concern that a single director would have complete power to deem certain financial products abusive and to write sweeping new rules. Right now, Elizabeth Warren is Special Advisor, and no director is yet in place at the CFPB. It has been proposed to either delay the transfer of functions to the CFPB or replace the CFPB director position with a five-member commission.

There has also been concern raised over the CFPB's role in mortgage settlement talks because no permanent director is in place, and the CFPB lacks formal regulatory authority until July. In Washington, D.C., some perceive the CFPB as aggressively pushing for strict penalties against servicers in the settlement negotiations.

One of the biggest lobbying efforts involves the swipe fee debate. An amendment to the law, sponsored by Sen. Richard Durbin, gave the government the ability to cap the fees on debit card transactions paid to banks. The fees add up to a significant cost for businesses that accept payments by debit card. However, the cap is also expected to cost banks billions of dollars.

The concern in the automotive industry is exactly how much power the CFPB and other Dodd-Frank Act provisions will have in the financial services industry. Although auto dealers are currently exempt from the law, it is not clear how Finance & Insurance Departments, which strongly rely on indirect lending, will be impacted.

Exclusion for Auto Dealers

Last spring, Kansas Gov. (then Sen.) Sam Brownback set forth an amendment to exempt auto dealers from the financial regulation bill. The purpose was to retain the ability of consumers to access credit at affordable rates in automobile dealerships.

This evolved into Section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This section essentially states that "the Bureau may not exercise any rulemaking, supervisory, enforcement or any other authority, including any authority to order assessments, over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both."

Anticipating a Change in Indirect Lending

Although it is entirely possible that nothing will change regarding indirect lending in the retail automobile finance business, it is important for members of the automotive industry to be proactive regarding the Dodd-Frank Act. This in turn will result in a competitive edge and more credibility for both agents and dealerships. As OEMs have recently added new products to their F&I portfolios, it will be more important than ever for them to fully understand the "rules of engagement" under Dodd-Frank to reduce their risks.

In addition to the concerns about the CFPB, the Dodd-Frank Act gives the Federal Trade Commission and states more power in regulating the retail automobile finance business. This could have a substantial impact on the way auto dealers conduct transactions.

Dealerships are recognized for making credit widely available to their customers, which individual banks cannot always do. However, various industry organizations are concerned with two main areas that may or may not be affected: rate and retail prices.

Contract Disclosures

- **Specific**
- **Customer Friendly**
- **Compliant with State and Federal Rules**
- **Easily Understood**

Rate mark-up is already dwindling, and F&I Departments may eventually be required to disclose the mark-up points on every transaction. On one hand, dealerships need to be very proactive in their contract disclosures.

On the other hand, if rate does become flat due to regulations, F&I products will be even more heavily relied upon as a profit center in dealerships. In addition, retail price restrictions could also affect the way products are sold.

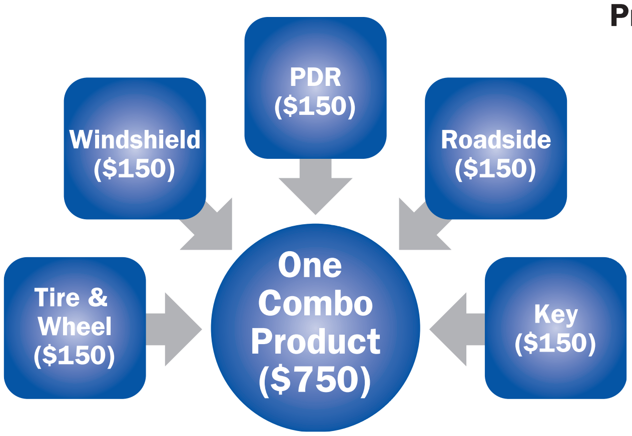
Some in the industry are concerned that many states could face the same rules as the Florida 634 Rule, which requires that every customer is given the same price on each product. The intent is for every customer to be on a level playing field.

If retail price variation on F&I products becomes limited or non-existent, dealers will need to sell more F&I products to maintain or achieve $1,000 PVR. It is usually easier to sell one bundled product with multiple benefits than two or three stand-alone products. More and more products are becoming available as part of a larger bundled product. It makes sense to sell a single high-value product to the customer than to present them with many products in an effort to increase profits.

Roadmap for Bundling

While published retail prices could potentially restrain your profit per product, look to bundled combination products to create more value for the consumer and to raise your profit per product.

Product A: $300 Retail Rate



Product B: Combination Product ($750 Product)

Looking Forward

Although there is going to be a lot of movement around the Dodd-Frank Act, and nothing is set in stone yet, the best position is to be prepared. By partnering with an F&I provider that has always made an effort to be transparent to consumers, dealerships will be positioned to face any changes in a positive light. In addition, by choosing a provider that is experienced in operating a Florida 634 company as well as offering combination products on a broad scale, dealerships can gain a competitive advantage to maintain or achieve $1,000 PVR, even in a highly-regulated environment.