



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

September 22, 2025

VIA ELECTRONIC SUBMISSION AT REGULATIONS.GOV

Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, D.C. 20552

**Re: Advance Notice of Proposed Rulemaking and Request for Comment
Concerning Larger Participant Rule for the Automobile Financing
Market (Docket No. CFPB-2025-0029)**

Dear Acting Director Vought:

We, the undersigned attorneys general for eighteen states and the District of Columbia (the “States”), write in response to the Consumer Financial Protection Bureau’s (“CFPB”) advance notice of proposed rulemaking and request for comment titled “Defining Larger Participants of the Automobile Financing Market,” concerning whether to amend the CFPB’s test for determining which direct and indirect automobile finance companies are “larger participants” in the market and subject to CFPB supervision (“ANPR”).¹ The CFPB is considering reducing the number of automobile finance companies under its supervision authority by raising the larger participant threshold by between 30 and 100 times its current size—from 10,000 annual loans to more than 300,000 to 1,050,000. For the reasons discussed in detail below, the CFPB should not do so. And, to the extent that the CFPB does so, it should adopt the lowest of its proposed revised thresholds.

Aside from homes, American consumers enter into the largest and most consequential financial decisions of their lives when obtaining loans, which often run from five to seven years, to purchase an automobile. The CFPB has observed that the “automobile financing market makes up a significant share of the market for consumer financial products and services,” with more

¹ See *Defining Larger Participants of the Automobile Financing Market, Advance Notice of Proposed Rulemaking*, 90 Fed. Reg. 38415 (proposed Aug. 8, 2025) (to be codified at 12 C.F.R. 1090) (“ANPR”).

than \$1 trillion in outstanding consumer debt.² Despite the vast significance of this financing market for everyday consumers, the CFPB also found that “consumers faced challenges in understanding loan features” and routinely had “troubling experiences” during the process of obtaining a loan.³ And in its most recent report, the CFPB acknowledged receiving more than 18,000 complaints regarding automobile financing.⁴ In the face of the significant and rising levels of consumer injury from illegal automobile financing practices, the CFPB would flout its statutory obligation to maintain a risk-based supervision program if it significantly reduces the number of automobile finance companies under its supervision, as contemplated in the ANPR.

I. Summary of the ANPR

The CFPB issued the ANPR seeking information as to whether to propose a rule amending the test to define “larger participants” in the automobile finance market to reduce the number of entities under CFPB supervision. Currently, a finance company is a larger participant subject to CFPB supervision if it has “at least 10,000 aggregate annual originations” of automobile loans.⁵ As justification for the potential change that will raise the annual origination threshold to somewhere from more than 300,000 to more than 1,050,000, the CFPB states that it “is concerned that the benefits of the current threshold may not justify the compliance burdens” for some supervised entities, and that “the current threshold may be diverting limited Bureau resources to determine whom among the universe of providers may be subject to the Bureau’s supervisory authority and whether these providers should be examined in a particular year.”⁶ The CFPB solicits input regarding the appropriateness and calculation of the current threshold and how changing the threshold would impact the CFPB’s capabilities, affect consumers, and alter the compliance costs and behavior of automobile finance companies, providing three alternative annual origination thresholds—all of which are higher than the existing threshold.⁷

II. The States’ Objections to the ANPR Proposal

A. Reducing Automobile Finance Supervision is Inconsistent with the CFPB’s Statutory Obligation to Maintain a Risk-Based Supervision Program

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 11-203, 124 Stat. 1376 (2010) (“Dodd-Frank”) provides that the CFPB “shall” maintain a supervision program that is “based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets.”⁸ To aid the CFPB in fulfilling its obligation to supervise the riskiest entities the Dodd-Frank Act provides the CFPB supervision authority over

² See CFPB, *Consumer Voices on Automobile Financing*, June 2016, at 3, available at https://files.consumerfinance.gov/f/documents/201606_cfpb_consumer-voices-on-automobile-financing.pdf.

³ See *id.* at 4.

⁴ See CFPB, *Consumer Response Annual Report January 1 – December 31, 2024*, May 1, 2025, at 11, available at <https://www.consumerfinance.gov/data-research/research-reports/2024-consumer-response-annual-report>.

⁵ 12 C.F.R. 1090.108(b).

⁶ ANPR, *supra* n.1, at 38416.

⁷ *Id.* at 38417.

⁸ 12 U.S.C. § 5514(b)(1) (emphasis added).

participants in certain enumerated markets, as well as entities in other markets that the CFPB defines as “larger participants.”⁹

Substantially reducing the number of supervised automobile finance companies would be an abdication of the CFPB’s statutory obligation to maintain a risk-based supervision program. Consumers will be harmed if the CFPB does so.

First, as noted above, the enormous expense that purchasing an automobile imposes on the average American consumer emphasizes the need for effective supervision of the industry. But the changes contemplated in the ANPR would undercut the CFPB’s ability to supervise the industry and will result in significant injury to consumers. The highest new larger participant threshold contemplated by the CFPB—more than one million in annual originations—would result, by the CFPB’s own estimate, in only 5 finance companies being subject to ongoing supervision.¹⁰ This would constitute less than half of the automobile finance market by revenue¹¹—which, again, is a market in which consumers collectively owed more than one trillion dollars to finance companies.¹² If the CFPB enacts the changes contemplated in the ANPR, the vast majority of finance companies would operate with no supervision at all. The CFPB’s ability to respond to incidents of consumer harm and market failures would be crippled.

Second, reducing the CFPB’s supervision of the automobile finance industry at a time when the Federal Trade Commission has been undertaking a multi-year effort to promulgate and implement the proposed “CARS” rule ignores the risks associated with automobile finance markets, including the prevalence of bait-and-switch tactics, junk fees, and scams.¹³ Recent CFPB actions likewise have found evidence of wrongful repossessions¹⁴ and deceptive cancellation practices¹⁵ in the automobile finance market. Reducing CFPB supervision over the automobile finance market is inconsistent with a risk-based approach to supervision.

Third, the CFPB’s supervision and enforcement record reflects heightened risk in the consumer automobile finance market that necessitates robust supervision across the market. Just last year the CFPB identified in a special supervisory highlights edition “a trend of significant violations” of law “related to the handling of add-on products” in the automobile finance

⁹ 12 U.S.C. § 5514(a)(1)(B), 12 U.S.C. § 5514(a)(2).

¹⁰ ANPR, *supra* n.1, at 38417.

¹¹ *Id.*

¹² *Consumer Voices on Automobile Financing*, *supra* n. 2, at 3.

¹³ See Federal Trade Commission, *FTC Announces CARS Rule to Fight Scams in Vehicle Shopping*, Dec. 12, 2023, available at <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-announces-cars-rule-fight-scams-vehicle-shopping>. The CARS rule was struck down by an appellate court on procedural grounds in a split opinion in which no judge questioned the factual findings of the FTC.

¹⁴ See CFPB, *CFPB Takes Action Against Wrongful Auto Repossessions and Loan Servicing Breakdowns*, Oct. 7, 2024, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-wrongful-auto-repossessions-and-loan-servicing-breakdowns/>.

¹⁵ See CFPB, *CFPB Orders Toyota Motor Credit to Pay \$60 Million for Illegal Lending and Credit Reporting Misconduct*, Nov. 20, 2023, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-toyota-motor-credit-to-pay-60-million-for-illegal-lending-and-credit-reporting-misconduct/>.

industry, as well as “consumers being lured in through deceptive advertising” and “failing to receive accurate and complete disclosures at origination.”¹⁶

Fourth, a robust supervision program is required to maintain an even playing field by ensuring that all marketplace participants play by the same rules. The proposal contemplated in the ANPR would distort the market by subjecting only a small number of finance companies to supervision while allowing bad actors in the rest of the industry to gain a competitive advantage by underinvesting in consumer compliance programs and engaging in unlawful practices. This will distort the market by incentivizing unlawful behavior that causes consumer harm.

B. Costs to Industry from the Current Threshold are not Unduly Burdensome

The CFPB’s asserted concern that the current 10,000 annual originations threshold for larger participant is unduly burdensome to industry is without merit.

First, industry legal compliance obligations, and the associated costs to automobile finance companies, arise from the substantive consumer protection statutes passed by Congress and the regulations promulgated to implement those statutes; not whether the entity is supervised by the CFPB. A finance company is obligated to comply with its obligations under the Truth in Lending Act, Regulation Z, the Dodd-Frank Act, and other applicable laws, regardless of its larger participant status. As a result, compliance costs unrelated to responding to specific examination activities are not affected by a covered person’s status as a larger participant.

Second, examination costs are not unduly burdensome for supervised participants in the automobile finance market under the current larger participant threshold. The CFPB has estimated the cost of compliance with an average supervisory examination at approximately \$27,000.¹⁷ The possibility of incurring an examination compliance cost of approximately \$27,000 over a period of several years is not unduly burdensome for companies that originate more than 10,000 loans, often in excess of \$10,000 each. This is particularly true when balanced against the significant levels of consumer injury and legal noncompliance in the market.

Third, finance companies do not incur significant costs associated with “monitoring status as a large participant.”¹⁸ The 10,000 annual origination threshold test sets a clear standard, and entities have records sufficient to show whether they meet that threshold.

C. The Other Justifications in the ANPR are Without Merit

The other potential justifications for raising the larger participant threshold set out in the ANPR are without merit. *First*, the asserted concern that a higher number of supervised entities unduly diverts CFPB resources to determine which entities to examine is baseless. It is not credible that determining which of a grand total of 63 entities¹⁹ should be examined each year is burdensome to the CFPB. In any event, making risk-based examination scheduling decisions, and understanding which entities are under the CFPB’s supervisory jurisdiction, is a basic part of the CFPB’s statutory mandate. *Second*, the CFPB’s assertion that there supposedly have been

¹⁶ CFPB, *Supervisory Highlights : Special Edition Auto Finance*, 89 Fed. Reg. 83842, at 83843, Oct. 18, 2024.

¹⁷ See *Legal Standard Applicable to Supervisory Designation Proceedings, Proposed Rule*, 90 Fed. Reg. 41520 (proposed Aug. 26, 2025) (to be codified at 12 C.F.R. 1091).

¹⁸ ANPR, *supra* n.1, at 38418.

¹⁹ *Id.* at 38417.

“changes in the automobile financing market”—none of which are defined, described, or explained in the ANPR—does just justify reducing the number of finance companies under CFPB supervision. There is no risk-based justification for reducing the number of companies subject to supervision from sixty-three and leaving consumers more vulnerable to harm.

D. The 300,000 Threshold Is the Only Acceptable Alternative

For all of the above reasons, the CFPB should not adopt the ANPR or alter the annual origination threshold for supervision of automobile finance companies. But to the extent that the CFPB does move forward with the ANPR, it should adopt the 300,000 annual origination threshold. The most limited alternative, a threshold of 1,050,000, in addition to being entirely arbitrary (why, for example, is the cutoff not 1 million?), would radically reduce the CFPB’s coverage of the automobile finance market in two ways: *first*, the CFPB would be supervising less than *half* of all companies operating in this space, which cannot be squared with its congressional mandate; *second*, the CFPB would be supervising *none* of the entities operating in the subprime space,²⁰ which literally is the riskiest lending space and—at least in the mortgage reason—a central reason for the CFPB’s existence. But even the more extensive threshold of 550,000 suffers from these same infirmities, and would reduce the CFPB’s supervision coverage to less than two-thirds of the automobile finance market and merely two subprime lenders.

* * * * *

For the foregoing reasons, the CFPB should not modify the larger participant threshold for automobile finance companies as contemplated in the ANPR. And, to the extent that the CFPB does so, it should adopt the 300,000 aggregate annual originations threshold.

Respectfully submitted,



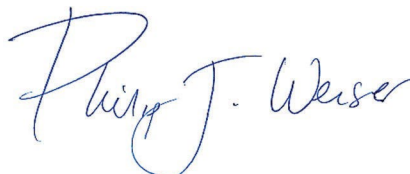
LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK



KRISTIN K. MAYES
ATTORNEY GENERAL
STATE OF ARIZONA



ROB BONTA
CALIFORNIA ATTORNEY GENERAL



PHILIP J. WEISER
ATTORNEY GENERAL
STATE OF COLORADO

²⁰ *Id.*

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WILLIAM TONG
ATTORNEY GENERAL OF CONNECTICUT

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KATHLEEN JENNINGS
ATTORNEY GENERAL OF THE STATE
OF DELAWARE

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BRIAN L. SCHWALB
ATTORNEY GENERAL FOR THE DISTRICT OF
COLUMBIA

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ANNE E. LOPEZ
ATTORNEY GENERAL
STATE OF HAWAII

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KWAME RAOUL
ILLINOIS ATTORNEY GENERAL

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AARON M. FREY
ATTORNEY GENERAL OF MAINE

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ANTHONY G. BROWN
ATTORNEY GENERAL
STATE OF MARYLAND

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ANDREA JOY CAMPBELL
ATTORNEY GENERAL OF
MASSACHUSETTS

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DANA NESSEL
MICHIGAN ATTORNEY GENERAL

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MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW
JERSEY

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RAÚL TORREZ
ATTORNEY GENERAL OF NEW MEXICO

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JEFF JACKSON
NORTH CAROLINA ATTORNEY
GENERAL

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DAN RAYFIELD
OREGON ATTORNEY GENERAL

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PETER F. NERONHA
ATTORNEY GENERAL
STATE OF RHODE ISLAND

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NICK BROWN
ATTORNEY GENERAL
STATE OF WASHINGTON