

FACT Act Scores Study, Matter No. P044804

COMMENTS OF THE NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION DIRECTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580

On December 4, 2003, President Bush signed into law the Fair and Accurate Credit Transactions Act (FACT Act) in an attempt to reduce the risk of consumer fraud and related crimes, including identity theft, and to assist any victims. In general, the FACT Act amends the Fair Credit Reporting Act (FCRA) to enhance the accuracy of consumer reports and to allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. To promote increasingly efficient national credit markets, the FACT Act also establishes uniform national standards in key areas of regulation regarding consumer report information and requires a number of studies be conducted on credit reporting and related issues.

Section 215 of the FACT Act requires the Federal Trade Commission (FTC) and the Federal Reserve Board (FRB), in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, to conduct a study on the effects of credit scores and credit-based insurance scores on the availability and affordability of financial products, including auto loans. Section 215 further requires the FTC and FRB to study 1) “the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal Credit Opportunity Act and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses;” and 2) “the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in negative or differential treatment of the protected classes, under the Equal Credit Opportunity Act, and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less negative impact.” On June 15, 2004, the FTC released its Notice and Request for Public Comment on how the FTC and FRB should conduct “the prescribed methodology and research design of the study” and requested that comments be submitted by August 16, 2004.

The National Independent Automobile Dealers Association (NIADA) has represented independent motor vehicle dealers for over 50 years. The National Association and its State Affiliate Associations represent more than 19,000 independent motor vehicle dealers located across the United States. In 2003, a record 43.6 million used motor vehicles were retailed generating more than \$366 billion in revenues. Because vehicles are lasting longer (the average vehicle on the road today is over 8.5 years old), projections of future used vehicle sales volumes suggest that the used vehicle market will maintain its 40-million-plus volume in the years to come.¹ In a recent survey of NIADA Members, 38.2% of the responding motor vehicle dealers indicated that they offer in-house or “buy here-pay here” financing (The Dealership itself finances the consumer’s motor vehicle purchase).² Industry estimates place the total sales

¹ The 2004 Used Car Market Report, Manheim Auctions, 1400 Lake Hearn Drive, NE, Atlanta, GA 30319-1464.

² 2004 NIADA Independent Used Car Industry Report, National Independent Automobile Dealers Association, 2521 Brown Blvd., Arlington, TX 76006, and Leedom, and Associates, LLC, 40 Sarasota Center Blvd., Suite E, Sarasota, FL 34277.

