

Press Coverage | November 25, 2024

CFPB Scrutiny of F&I Practices Shows Parallels With Cars Rule, Attorney Says

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Brooke Conkle and Chris Capurso, attorneys with Troutman Pepper and hosts of *Moving the Metal: The Auto Finance Podcast*, were quoted in the November 25, 2024 *Automotive News* article, “CFPB Scrutiny of F&I Practices Shows Parallels With Cars Rule, Attorney Says.”

“The thing that I think struck both Chris [Capurso] and myself when we looked at the Supervisory Highlights really were how many kind of parallels we saw to the CARS Rule,” Brooke Conkle, a Troutman Pepper partner specializing in auto finance, told *Automotive News* during an interview Nov.5 with Conkle and fellow auto finance attorney Chris Capurso, an associate at the law firm.

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“You look at some of the ... components that the bureau highlighted and it was how APRs are marketed, and eventually that kind of echoes with the offering price that the FTC is interested in,” Conkle said. “And also the marketing and the sale and the servicing of add-on products.”

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Capurso said Supervisory Highlights showed a theme of “the finance company being responsible for those it works with,” including repossession companies and dealerships.

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“It’s kind of a very pointed example ... of the CFPB holding the finance company to the coals and saying, ‘You need to make sure, if you’re buying the paper that the dealer is filling this out correctly,’ ” Capurso said. “Our general advice all the time is that these forms issues are kind of the ‘low-hanging fruit’ [for regulators] that even somebody who’s not sophisticated in the law can look side-by-side with a checklist.”

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Capurso said even though refunds on a vehicle transaction with F&I products might be handled by the product administrator, regulators are still penalizing the lender involved in the deal for an incorrect refund amount or are fund coming too slowly.

“We’re aware of [lender] clients ... taking the refund obligation on themselves to kind of short-circuit that and avoid being blamed for somebody else’s [behavior],” Capurso said.

He said the lenders are opting to pay the refund in a consumer-friendly manner, concluding, “If we have to face a loss because the administrator isn’t responding or isn’t giving us our refunds or whatever, those losses will probably pale in comparison to the CFPB hitting us with a penalty.”

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