

Track 2 – Overview

Two strategic initiatives to be discussed:

1. Devote resources (EA, ENF, SUP, FL, LD, RMR) to developing an integrated, affirmative communications strategy regarding both Track 1 and Track 2.
 - Develop a short set of authorized talking points about what the Bureau is doing regarding auto lending to prevent the public dialogue from getting away from us.
 - Decide whether to publicize broadly the Bureau's current proxy method.
2. Start contacting lenders (in addition to [REDACTED]) in furtherance of Track 2, including lenders currently under exam or enforcement investigation.
 - Decide whether to present these global resolution discussions with the lenders as (a) part of the current exam and enforcement investigation processes or (b) a separate Bureau effort to reach a global resolution of these issues.

RMR update on its analysis of NADA claims:

- NADA's claim that consumers pay lower rates for indirect loans than for direct loans relies on unbalanced statistics, and analysis of one lender's portfolio shows that indirect loans had higher rates for similar customers.

Track 2 – Communications Strategy

Issue:

Industry, lenders, the press, and Congress are making statements or raising questions regarding our auto lending activity. Without an affirmative communications strategy, these statements and questions may interfere with both Track 1 and Track 2 (by reducing lenders' incentives to participate in Track 2).

For example:

- Does the Bureau have any evidence of current discrimination in markup?
- Using proxies is junk science.
- The Bureau is requiring racial profiling or pushing racial quotas.
- Consumers receive lower rates through indirect lending.

Track 2 – Communications Strategy

Goal:

- Design talking points and strategy that will encourage lenders to participate in Track 2, allow us to direct the public conversation, deflect statements that could impede Track 1 or Track 2.
- Decide whether the risks from broadly disclosing our current proxy method *at this time* outweigh the benefits.
- Evaluate to what extent we can make general statements based on underlying confidential supervisory information.
 - E.g., “The Bureau is assessing the markup practices of numerous lenders. Based on preliminary indications, the Bureau continues to have concerns that discretionary markup and compensation policies carry a substantial risk of discrimination.”
 - E.g., “Based on preliminary analysis, the Bureau has found evidence suggesting that indirect borrowers pay higher interest rates than they would have received with direct loans.”
- Devote resources from EA, ENF, SUP, FL, LD, and RMR to developing talking points that meet our communications needs and comport with our policies regarding the protection of confidential supervisory information.

Track 2 – Initial Contact with Lenders

Issue:

Although we met with [REDACTED] and have been contacted by [REDACTED] and [REDACTED], we do not have an understanding of how most lenders actually view markups (as opposed to public posturing) and how willing they might be to changing compensation structures.

Goal:

Make a concerted effort to contact as many of the top [REDACTED] lenders (all lenders with at least [REDACTED] market share) over the next two months.

- We met with [REDACTED] and have been approached by [REDACTED] and [REDACTED].

These initial discussions will be in “listening mode” and will be designed to:

- Open a dialogue with the lenders;
- Increase the focus on these issues that Track 1 has created; and
- Elicit information about the lenders’ business decisions related to markup, including their assessments of the pros and cons of the methods outlined in our bulletin for addressing possible discrimination and their understanding of the market.

Track 2 – Initial Contact with Lenders

What is the best approach for presenting the Track 2 discussions to the lenders?

1. We have stated to [REDACTED] that we are interested in a global solution. Are we similarly explicit with other lenders that we are exploring a possible global solution?
2. For lenders that currently are subject to an exam or enforcement investigation, do we tie this discussion to the exam or investigation or present it as part of a separate effort to explore a global solution?
3. For lenders that received a joint information request from DOJ and the Bureau, we will contact the lenders with DOJ.
 - We had initial discussions with DOJ regarding the possibility of an expedited resolution to the seven information requests.
 - DOJ is enthusiastic and requested to be present at any discussions with the lenders.