



RE: FOIA Request #CFPB-2016-012-F

October 29, 2015

Mr. Paul Metrey
National Automobile Dealers Association
8400 WestPark Drive
McLean, Virginia 22102

Dear Mr. Metrey:

This letter is in final response to your Freedom of Information Act (FOIA) request dated October 8, 2015 to the Consumer Financial Protection Bureau (CFPB). Your request sought the following documents:

- 1) Six CFPB documents identified in the September 17, 2015 American Banker article by Rachel Witkowski entitled "CFPB Overestimates Potential Discrimination, Documents Show".
- 2) Seven CFPB documents identified in the September 24, 2015 American Banker article by Rachel Witkowski entitled "CFPB Overestimates Potential Discrimination, Documents Show".

Regarding your request for "The document(s) that contain the words "robust refinance market" as referred to in the following sentence: "During that time, CFPB officials also considered doing a push to educate consumers to at least check their interest rate or promote a 'robust refinance market' or more innovative direct loan deliveries". After careful review of this portion of your FOIA request, we determined that it did not specifically identify the records in which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §1070.14 of the CFPB regulations (12 C.F.R. Part 1070) require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the CFPB office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

A search of the CFPB Office of Fair Lending for the remaining items responsive to your request determined that these documents are withheld in full pursuant to Title 5 U.S.C. § 552 (b)(4), (b)(5), and (b)(8).

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The courts have held that this subsection protects (a) confidential commercial information, the disclosure of which is likely to cause substantial harm to the competitive position of the person who submitted the information and (b) information that was voluntarily submitted to the government if it is the kind of information that the provider would not customarily make available to the public. I reviewed the responsive documents and relevant case law, and I determined that portions of the documents are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that [portions of] the responsive documents qualify for protection under the Deliberative Process Privilege, Attorney Work-Product Privilege, and Attorney-Client Privilege.

- **Deliberative Process Privilege**

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

- **Attorney Work-Product Privilege**

The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation.

- **Attorney-Client Privilege**

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

FOIA Exemption 8 protects matters that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. Additionally, it ensur[es] the security of financial institutions, which could be undermined by disclosure of information containing frank evaluations of such institutions, and a secondary purpose of safeguarding the relationship between the banks and their supervising agencies.

You may appeal any of the responses or decisions set forth above. If you choose to file an appeal, you must do so within 45 calendar days from the date of this letter. Your appeal must be in writing, signed by you or your representative, and should contain the rationale for the appeal. You may send your appeal via the mail (address below), email (FOIA@cfpb.gov) or fax (1-855-FAX-FOIA (329-3642)).

Your appeal should be addressed to:

Consumer Financial Protection Bureau
Chief FOIA Officer
Freedom of Information Appeal
1700 G Street, NW
Washington, D.C. 20552

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, we have waived all fees related to the processing of your request.

For questions concerning our response, please feel free to contact CFPB's FOIA Service Center by email at FOIA@cfpb.gov or by telephone at 1-855-444-FOIA (3642).

Sincerely,



Mark Vugrinovich
FOIA Manager
Operations Division