

# Dealer Markup and Discrimination: Options

	Supervisory MOUs	Individual Consent Orders	A Rule Banning Markup (ECOA or UDAAP)	A Rule Requiring Disclosure (MLA)	Consent Order with Remedial & Prospective Relief	Consent Order with Prospective Relief Only
Consumer Remediation	Damages	Damages, CMPs	None	None	Damages, CMPs	None
Prospective Consumer Relief	Downpayment assistance, car-buying education; strong CMS; voluntary elimination of markup	Downpayment assistance, car-buying education; strong CMS; voluntary elimination of markup	Elimination of compensation practices based on loan terms; perhaps enhanced competition	Disclosures that address the current information imbalance by revealing the buy rate and marked up final rate, and perhaps enhance competition	Elimination of compensation practices based on loan terms; perhaps enhanced competition; downpayment assistance; car-buying education	Elimination of compensation practices based on loan terms; perhaps enhanced competition; downpayment assistance; car-buying education
Risks	Challenges in giving specific CMS guidance; first-movers on markup risk loss of market share; nonpublic action may not result in global impact	Challenges in giving specific CMS guidance; first-movers on markup risk loss of market share	Unclear legal authority; need for robust factual predicate; lack of authority over dealers; likelihood of judicial and congressional challenges to a rule	Limited value of disclosures to consumers, especially vulnerable consumers; lack of authority over dealers, need for FRB collaboration	Unclear legal authority; need for robust factual predicate in light of remediation; focus on past conduct will dampen non-target interest in participating	Unclear legal authority; need for factual predicate; tangible consumer benefit is diminished by absence of damages
Resources	SEFL commitment to 8 in-depth exams may be insufficient for global impact	SEFL commitment to 8 investigations and 6 enforcement matters (facts	Tradeoffs mean delaying current rulemaking commitments; best-	Tradeoffs mean delaying current rulemaking commitments; best-	Process can become quite lengthy, protracted and political;	Process can become quite lengthy, protracted and political;

# Dealer Markup and Discrimination: Options

	Supervisory MOUs	Individual Consent Orders	A Rule Banning Markup (ECOA or UDAAP)	A Rule Requiring Disclosure (MLA)	Consent Order with Remedial & Prospective Relief	Consent Order with Prospective Relief Only
Consumer Remediation	Damages	Damages, CMPs	None	None	Damages, CMPs	None
Prospective Consumer Relief	Downpayment assistance, car-buying education; strong CMS; voluntary elimination of markup	Downpayment assistance, car-buying education; strong CMS; voluntary elimination of markup	Elimination of compensation practices based on loan terms; perhaps enhanced competition	Disclosures that address the current imbalance by revealing the buy rate and marked up final rate, and perhaps enhance competition	Elimination of compensation practices based on loan terms; perhaps enhanced competition; downpayment assistance; car-buying education	Elimination of compensation practices based on loan terms; perhaps enhanced competition; downpayment assistance; car-buying education
Risks	Challenges in giving specific CMS guidance; first-movers on markup risk loss of market share; nonpublic action may not result in global impact	Challenges in giving specific CMS guidance; first-movers on markup risk loss of market share	Unclear legal authority; need for robust factual predicate; lack of authority over dealers; likelihood of judicial and congressional challenges to a rule	Limited value of disclosures to consumers, especially vulnerable consumers; lack of authority over dealers, need for FRB collaboration	Unclear legal authority; need for robust factual predicate in light of remediation; focus on past conduct will dampen non-target interest in participating	Unclear legal authority; need for factual predicate; tangible consumer benefit is diminished by absence of damages
Resources	SEFL commitment to 8 in-depth exams may be insufficient for global impact	SEFL commitment to 8 investigations and 6 enforcement matters (facts	Tradeoffs mean delaying current rulemaking commitments; best-	Tradeoffs mean delaying current rulemaking commitments; best-	Process can become quite lengthy, protracted and political;	Process can become quite lengthy, protracted and political;