



CFPB ISSUES PROPOSAL TO STRIKE ABILITY TO REPAY PROVISIONS FROM THE PAYDAY LENDING RULE

On February 6, 2019, the Consumer Financial Protection Bureau issued two notices of proposed rulemaking (NPRMs) seeking comments on proposed amendments to its 2017 rule governing Payday, Vehicle Title and Certain High-Cost Installment Loans ("Payday Lending Rule"). See our PRIOR ALERTS of October 12, 2017, October 24, 2017 and January 17, 2018.

The Rule in its current form requires lenders to assess a borrower's ability to repay credit. The first NPRM would rescind these requirements. In its press release announcing the NPRM, the CFPB state:

...there was insufficient evidence and legal support for the mandatory underwriting provisions in the 2017 final rule. Additionally, the Bureau is concerned that these provisions would reduce access to credit and competition in states that have determined that it is in their residents' interests to be able to use such products, subject to state-law limitations. The NPRM proposing to rescind the mandatory underwriting requirement is open to public comment for 90 days.

The second NPRM proposes to delay the current August 19, 2019, compliance date for the mandatory underwriting provisions of the payday lending rule to November 19, 2020. The NPRM proposing the delay is open to public comment for 30 days.

We will continue to monitor further developments and provide updates. □

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