



April 2, 2019

## TEXAS COURT CONTINUES STAY ON EFFECTIVE DATE OF THE CFPB'S PAYDAY LOAN RULE

In March, a Texas federal court continued a court-ordered stay on the effective date of the Payday, Vehicle Title and Certain High-Cost Installment Loan rule ("Rule") issued by the Consumer Financial Protection Bureau ("CFPB") in October 2017. See *Com. Fin. Servs. Assoc. of Am., Ltd and Cons. Servs. Alliance of Texas v. Cons. Fin. Prot. Bureau*, No. 18-cv-0295-lv (W.D. Tex., Mar. 13, 2019). The order also stayed the pending litigation. The Rule as issued in 2017 provides that it becomes effective on August 19, 2019.

The court's continuation of the stay of the Rule's effective date comes as welcome news to lenders subject to the Rule. In February, the CFPB issued a notice of proposed rulemaking to rescind the Rule's mandatory underwriting provisions and to delay the effective date of the mandatory underwriting provisions to November 2020. The CFPB offered no proposed change to the Rule's payment provisions, including no proposed change to the effective date of the payment provisions.

For now, the court's stay continuance delays the effective date of both the underwriting provisions and payment provisions. Neither the CFPB nor the trade associations that initiated the Texas lawsuit objected to a stay of the Rule's effective date or litigation, but the parties disagreed on how long the stay should remain effective with respect to the Rule's payment provisions. The court did not outline its reasoning for extending the stay for both the underwriting provisions and payment provisions. The parties must file another joint status report on May 17th to inform the court about proceedings relating to the Rule and the case.

When the CFPB issued the Rule, the broad scope of the Rule and the mandatory underwriting provisions stopped the consumer lending industry in its tracks. The mandatory underwriting provisions created such operational burdens that many lenders were questioning whether to remain in business. As a result, the servicing complexities and collection burdens created by the Rule's payment provisions might not have garnered as much attention as they would have if not overshadowed by the underwriting provisions. We will keep you updated on developments with the Rule's provisions and effective date. □

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