



August 5, 2021

COURT REQUESTS ADDITIONAL BRIEFING AFTER CFPB FILES MOTION TO LIFT STAY OF PAYDAY LOAN RULE PAYMENT PROVISIONS

After the CFPB filed a motion in pending litigation to lift the stay of the compliance date for the payment provisions of the CFPB Payday Lending Rule, the federal district court issued an order requesting additional briefing from both parties concerning what would be the appropriate compliance date if the court were to rule in favor of the CFPB on the summary judgment motions. Pursuant to the order, the briefs are due Friday August 6 and response briefs are due Monday August 16. This order may indicate that the stay will be lifted in the near future, but may have a delayed compliance date.

The compliance date of the payment provisions is currently stayed pursuant to a court order issued in the case, *Community Financial Services Association v. CFPB*, No. 1:18-cv-00295 (W.D. Tex. Nov. 6, 2018). The payment provisions of the Rule apply to "covered loans." The payment provisions apply broadly and will create operational challenges for lenders once the stay is lifted. See our prior Alert from July 10, 2020 for a detailed description of the payment provisions and their applicability.

The CFPB filed its motion to lift the stay in response to the plaintiff's notifying the court of potentially relevant cases pending before the Fifth Circuit. The CFPB stated in its motion that the cases do not warrant delay of considering the parties' motions for summary judgment, but even if they did, the CFPB argues that the court should lift the stay of the compliance date for the payment provisions in the meantime.

With the most recent motion and order, lenders should evaluate the applicability of the payment provisions and the steps required to comply with the payment provisions to be prepared in the event that the stay is lifted. We will continue to follow the litigation and briefing and keep you advised of further developments. Let us know if you have questions or need assistance in evaluating the applicability of the payment provisions and the requirements. □

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