



CFPB ORDERS SUPERVISION OF NONBANK SMALL-DOLLAR LENDER

Pursuant to authority under the Consumer Financial Protection Act ("CFPA"), the Consumer Financial Protection Bureau ("CFPB") published a supervisory designation order establishing supervisory examination over World Acceptance Corporation ("World Acceptance"), a small dollar installment lender. This order comes in the wake of World Acceptance contesting the CFPB's Notice of Reasonable Cause to supervise in April 2023 and marks the first time the CFPB has established supervisory authority over a nonbank lender following a determination that the risks surrounding the conduct of the consumer finance company are sufficient to justify CFPB supervision.

The CFPA authorizes the CFPB to supervise "covered persons" whose conduct poses risks to consumers with regard to the offering or provision of consumer financial products or services. The CFPA does not specify the character or magnitude of "risks to consumers" that is required to subject a covered person to supervision. Instead, Congress left such determination to the discretion of the CFPB, with the requirement that the CFPB (i) identify concrete risks to consumers, which it has *reasonable cause to determine* exist, (ii) notify the entity of those risks and (iii) give the entity a reasonable chance to respond. The CFPB interprets the "reasonable cause" standard of persuasion to be less demanding than the "preponderance-of-the-evidence" standard that generally applies in noncriminal matters, in part because the determination that the CFPB has "reasonable cause" to supervise a covered entity "merely means that the CFPB may periodically 'require reports' from, and 'conduct examinations' of, the covered person" and does not necessarily entail a finding that the covered person has violated any law.

In assessing whether the CFPB had "reasonable cause" to determine that risks to consumers exist, the CFPB relied heavily on consumer complaints which the CFPB states World Acceptance did not discuss or contest in the company's briefs to the CFPB contesting the supervision determination. The order repeatedly states that there is no reason to determine whether the conduct alleged in any complaint rises to a violation of the law because conduct need not violate the law in order for the company to be eligible for supervision. According to the CFPB, unverified consumer complaints are sufficient to satisfy the "reasonable cause" burden,

particularly where the covered person's supplemental briefs do not dispute the veracity of the relevant complaints and the covered person's response to those complaints, which were submitted to the CFPB, in many instances confirm or fail to dispute relevant facts.

The CFPB claims that it has reasonable cause to determine that the company's alleged conduct poses four risks to consumers, each of which alone is a sufficient basis to exercise supervision authority according to the CFPB:

- (1) The company does not adequately explain that the insurance coverage offered by the company is optional, which may cause consumers to be deceived or misled into purchasing coverage they do not want or need.
- (2) The company engages in excessive, harassing and coercive collection practices that, in some cases, may affect employment and cause emotional distress.
- (3) The company furnishes inaccurate information to consumer reporting agencies or fails to inaccurately respond to consumer disputes regarding the accuracy of the information it has furnished, which may negatively impact consumers' credit scores and thereby restrict their access to credit.
- (4) The company's business model relies on serially refinancing its loans, a practice that may harm consumers in a variety of ways.

The CFPB also states that the risks which create the basis for supervision in this context need not be unique to the company or distinct from the risks posed by other similarly situated installment lenders.

As the CFPB continues to expand its authority and exercise previously unexercised authority, it is important that all potentially covered persons take care to ensure compliance with applicable law and respond appropriately and promptly to any consumer complaints. Please let us know if you would like assistance reviewing compliance or complaint response policies.

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