



Regulatory Alert

Financial Services Regulatory Insight Center



February 2019

CFPB proposes amendments to Payday Lending Rule

Key points

- CFPB proposes to rescind the “Mandatory Underwriting Provisions” of its 2017 Payday Lending Rule.
- CFPB also proposes to delay the August 2019 implementation of the “Mandatory Underwriting Provisions” until November 2020 to “permit an orderly conclusion” to the proposal to rescind these provisions.

The “Mandatory Underwriting Provisions” of the CFPB’s rule governing Payday, Vehicle Title, and Certain High-Cost Installment Loans (2017 Payday Lending Rule) address “covered short-term and longer-term balloon-payment loans, including payday and vehicle title loans, and related recordkeeping and reporting requirements.”

The CFPB has [proposed to rescind](#) the “Mandatory Underwriting Provisions,” as well as the related Official Interpretations, in their entirety. These provisions include the:

- “Identification” provision, which makes it an unfair and abusive practice for a lender to make a loan without “reasonably determining” the borrower’s ability to repay.
- “Prevention” provision, which establishes specific underwriting requirements to prevent the unfair and abusive practice.
- “Conditional exemption” provision, which exempts certain covered short-term loans.
- “Furnishing” provisions, which require lenders to furnish certain information regarding such loans to the CFPB’s registered information systems.
- Recordkeeping and reporting requirements.

The CFPB states that it has initially found that the evidence underlying the identification of the unfair and abusive practice in the underwriting provisions “is not sufficiently robust and reliable to support that determination,” adding that the underwriting provisions would limit the ability of consumers to access the types of loans covered by the 2017 Payday Lending Rule.

Compliance with the 2017 Payday Lending Rule is currently scheduled for August 19, 2019. In a related notice, the CFPB has [proposed to delay](#) the compliance date for the Mandatory Underwriting Provisions until November 19, 2020 to “permit an orderly conclusion” to the proposal to rescind these provisions.

Payment provisions

The CFPB highlights that the current proposals do not address the “payment provisions” of its 2017 Payday Lending Rule, indicating that it will commence a separate rulemaking initiative if it determines further action is warranted. The “payment provisions” require written notice before a lender withdraws loan payments from a consumer’s account and prohibits a lender from



attempting further withdrawals from an account after two consecutive withdrawal attempts from that account have failed due to insufficient funds unless the lender has new and specific authorization. The CFPB acknowledges that it has

received a rulemaking petition to exempt debit card payments from these provisions.

For more information, please contact [Todd Semanco](#) or [Michael Lamberth](#).

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