Consumer Financial Protection Bureau Releases Notices of Proposed Rulemaking on Payday Lending

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Washington, D.C. — The Consumer Financial Protection Bureau today is proposing to rescind certain provisions of its 2017 final rule governing "Payday, Vehicle Title, and Certain High-Cost Installment Loans." Specifically, the Bureau is proposing to rescind the rule's requirements that lenders make certain underwriting determinations before issuing payday, single-payment vehicle title, and longer-term balloon payment loans. The Bureau is preliminarily finding that rescinding this requirement would increase consumer access to credit.

In October 2018, under the leadership of then-Acting Director Mulvaney, the Bureau announced that it would issue Notice of Proposed Rulemakings (NPRMs) to reconsider the rule's mandatory underwriting requirements and to address the rule's compliance date. The proposals the Bureau is releasing today fulfill that commitment.

The Bureau's proposal suggests 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.

In a separate notice issued today, the Bureau is also proposing to delay the August 19, 2019 compliance date for the mandatory underwriting provisions of the 2017 final rule to November 19, 2020. The NPRM proposing the delay is open to public comment for 30 days.

Today's NPRMs do not propose to reconsider the provisions of the 2017 final rule governing payments, including reconsidering the scope of their coverage. The payment provisions prohibit payday and certain other lenders from making a new attempt to withdraw funds from an account where two consecutive attempts have failed unless consumers consent to further withdrawals. The payment provisions also require such lenders to provide consumers with written notice before making their first attempt to withdraw payment from their accounts and before subsequent attempts that involve different dates, amounts, or payment channels. These provisions are intended to increase consumer protections from harm associated with lenders' payment practices.

"The Bureau will evaluate the comments, weigh the evidence, and then make its decision," said Kathy Kraninger, Director of the Consumer Financial Protection Bureau. "In the meantime, I look forward to working with fellow state and federal regulators to enforce the law against bad actors and encourage robust market competition to improve access, quality, and cost of credit for consumers."

The NPRMs can be viewed here: https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-reconsideration.pdf_ and https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-delay.pdf_.

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