

## [Banking and Finance Law Daily Wrap Up, TOP STORY—Court issues stay of CFPB Payday Rule compliance date, \(Nov. 9, 2018\)](#)

Banking and Finance Law Daily Wrap Up

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In the ongoing lawsuit against the Consumer Financial Protection Bureau filed by Community Financial Services Association, seeking to invalidate the Bureau's Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans, the federal court for the Western District of Texas has reconsidered a portion of an earlier order refusing to stay the Aug. 19, 2019, compliance date of the Bureau's Payday Rule. The court's [order](#) stated that, given that the Bureau plans to issue Notices of Proposed Rulemaking revisiting the rule's ability-to-repay provisions, a stay of the Rule's current compliance date of Aug. 19, 2019, is "appropriate" in order "to prevent irreparable injury."

**CFPB reconsidering payday lending rule.** The CFPB payday lending rule established restrictions on short-term loans, including a test to ensure that consumers can afford payments, a limit on the number of loans that may be made in close succession, and a limit on the ability of lenders to continue debiting consumer accounts for payments after two consecutive failures (see [Banking and Finance Law Daily](#), Oct. 5, 2017). The Bureau issued a [public statement](#) on Oct. 26, 2018, stating that it planned to propose revisiting only the ability-to-repay provisions and not the payments provisions, in significant part because the ability-to-repay provisions have much greater consequences for both consumers and industry than the payment provisions.

**Compliance date at issue.** The CFPB had requested that a federal judge suspend the lawsuit while the Bureau conducts a rulemaking process reconsidering the rule. On June 12, 2018, the court granted in part and denied in part the joint motion to stay the litigation and agency action. The order stayed the litigation pending further order of the court; denied the parties' request to stay the compliance date for the payday rule until 455 days after judgment is rendered in this action; and directed the parties to file joint status reports every 60 days informing the court about proceedings related to the payday rule and the litigation. The court [denied](#) the parties' [motions for consideration](#) of this order on Aug. 7, 2018.

Both parties filed the required joint status report on Aug. 17, 2018. The status report informed the court that the Bureau was planning to prepare a notice of proposed rulemaking to reconsider the Payday Rule and that it expected to issue a notice of proposed rulemaking by early 2019. On Aug. 28, 2018, the court issued an order maintaining the stay of litigation and ordered the parties to file another joint status report on or before Oct. 31, 2018. In their [Oct. 26, 2018, status report](#), the Bureau notified the court that it intended to issue notices of proposed rulemaking in January 2019 to reconsider the Rule and address the Rule's compliance date. Due to the Bureau's publicly announced plans to reconsider portions of the Rule, the court has reconsidered the portion of its earlier order and granted the Bureau's request to stay the Rule's compliance date.

The court, however, declined the request to stay the compliance date until 455 days from the date of final judgment in this action. The court stated that the other portions of the June 12, 2018, order regarding the stay of litigation in this action should be continued in full force and effect. The court also adjusted the conditions and timing for the parties to file periodic joint status reports.

Companies: Allied Progress; Community Financial Services Association of America

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