

Consumer Financial Protection Bureau Issues Final Rule on Small Dollar Lending

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WASHINGTON, D.C. — The Consumer Financial Protection Bureau today issued a final rule concerning small dollar lending in order to maintain consumer access to credit and competition in the marketplace. The final rule rescinds the mandatory underwriting provisions of the 2017 rule after re-evaluating the legal and evidentiary bases for these provisions and finding them to be insufficient. The final rule does not rescind or alter the payments provisions of the 2017 rule.

Consumers utilizing small dollar loans continue to have robust consumer protections in place under the prohibition on unfair, deceptive, and abusive acts or practices in the Dodd-Frank Act, the payments provisions of the 2017 rule, and other provisions of federal and state law. Consumers also have increasingly innovative choices among competing small dollar products in the marketplace.

Rescinding the mandatory underwriting provisions of the 2017 rule ensures that consumers have access to credit and competition in states that have decided to allow their residents to use such products, subject to state-law limitations. Currently, 32 states allow small dollar lending. Many of these states set maximum interest rates for small dollar loans or impose other restrictions or limitations on their use. As noted above, the Bureau adopted today's rule because of the insufficient legal and evidentiary bases for the 2017 rule's mandatory underwriting provisions, but also notes that today's action will help to ensure the continued availability of small dollar lending products for consumers who demand them, including those who may have a particular need for such products as a result of the current pandemic.

The Bureau is committed to ensuring that consumers can make the best-informed choices among the small dollar products available to them. To assist in achieving this objective, the Bureau announced today that it will undertake new research focusing on identifying information that could be disclosed to consumers during the small dollar lending process to allow them to make the most informed choices.

“A vibrant and well-functioning financial marketplace is important for consumers to access the financial products they need and ensure they are protected. Our actions today ensure that consumers have access to credit from a competitive marketplace, have the best information to make informed financial decisions, and retain key protections without hindering that access,” said CFPB Director Kathleen L. Kraninger. “The Bureau protects consumers from unfair, deceptive, or abusive practices and takes action against companies that break the law. We will continue to monitor the small dollar lending industry and enforce the law against bad actors.”

With its actions today, the Bureau is moving forward with implementing the payments provisions of the 2017 final rule. These provisions prohibit 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 received a petition to commence a rulemaking to exclude debit and prepaid cards from the payments provisions of the small dollar lending rule, and the agency today denied that petition. The Bureau also today issued guidance clarifying the payments provisions' scope and assisting lenders in complying with those provisions. In addition, today the Bureau released a ratification of the payment provisions in light of the Supreme Court's recent decision in *Seila Law*. Although the payments provisions are currently stayed by court order, the Bureau will seek to have them go into effect with a reasonable period for entities to come into compliance.

To further robust competition in the small dollar lending space and increase access to credit, in May the Bureau issued a no action letter (NAL) template that insured depository institutions and credit unions could use to apply for a NAL covering small dollar credit products. The NAL template includes important consumer guardrails that must be included in any product covered by such a NAL. The Bureau issued a revised NAL Policy in September 2019, and has issued a NAL Template and two NALs under the revised Policy designed to facilitate the provision of housing counseling services.

The final rule can be viewed

here: https://files.consumerfinance.gov/f/documents/cfpb_payday_final-rule-2020-revocation.pdf

The ratification of the payment provisions can be viewed

here: https://files.consumerfinance.gov/f/documents/cfpb_ratification_payment-provisions_2020-07.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by regularly identifying and addressing outdated, unnecessary, or unduly burdensome regulations, by making rules more effective, by consistently enforcing federal consumer financial law, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.