

Payday Lending Rule Compliance Date Stayed Yet Again by Texas Court

McGlinchey Consumer Financial Services Alert

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On May 30, 2019, a federal district court in Texas issued an Order that appears to temporarily grant a reprieve for lenders subject to the CFPB's 2017 Payday Lending Rule (Rule). Uncertainty has surrounded the implementation of the Rule over the past several months, as the CFPB had issued [two notices of proposed rulemaking](#) (NPRMs) in February to amend the Rule. While the NPRMs proposed to rescind and delay the compliance date for the mandatory underwriting provisions, the CFPB did not propose to delay the August 19, 2019 compliance date for other sections of the Rule, including the payments provisions.

Although the CFPB has yet to delay the compliance date for the payments provisions, litigation filed by an industry trade group has resulted in a stay of the August compliance date. However, there were indications that the court would lift the stay prior to the August compliance date, which caused lenders and service providers subject to the Rule to implement new compliance programs based on payment prohibitions and other payment disclosure requirements.

Nevertheless, the industry received some good news last week as the court issued an [Order](#) that confirmed that the stay of the August 19, 2019 compliance date is continued in full force and effect. *Community Financial Services Association v. CFPB*, No. 1:18-cv-00295 (W.D. Tex. May 30, 2019). Lenders have no obligation to comply with the Rule until the court-ordered stay is lifted. We note that the court ordered both parties to file a Joint Status Report by August 2, 2019, so it is unlikely that the stay will be lifted prior to that date. In addition, the industry consensus is that the court will not lift the stay in August because lenders would not have sufficient time to comply with the Rule. However, this is purely speculative. We will continue to monitor court filings and industry chatter to stay abreast of any changes to the compliance date for the payment provisions.

Until then, [click here for a refresher](#) on the scope of the Rule, including a discussion of covered loans and excluded credit products, and an overview of payments provisions.

If you have questions, reach out to one of the authors of this alert or another member of the firm's Consumer Financial Services Compliance team.