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June 6, 2019

# Executive Summary of Delay Final Rule's Amendments to the 2017 Payday Lending Rule

On June 6, 2019, the Consumer Financial Protection Bureau (Bureau) issued a final rule (Delay Final Rule) delaying the compliance date for the Mandatory Underwriting Provisions of the Bureau's 2017 rule governing Payday, Vehicle Title, and Certain High-Cost Installment Loans (2017 Payday Lending Rule). The Delay Final Rule also makes certain technical corrections to the 2017 Payday Lending Rule.

This executive summary provides an overview of the Delay Final Rule, but is not a substitute for reviewing the Delay Final Rule itself.

## Background

On October 5, 2017, the Bureau issued the 2017 Payday Lending Rule to establish regulations for payday loans, vehicle title loans, and certain high-cost installment loans.<sup>1</sup> The 2017 Payday Lending Rule addressed two discrete topics. First, it contained a set of provisions with respect to the underwriting of certain covered loans and related reporting and recordkeeping requirements. These provisions are referred to herein as the “Mandatory Underwriting Provisions.” Second, it contained a set of provisions establishing certain requirements and limitations with respect to attempts to withdraw payments from consumers’ checking or other accounts and related recordkeeping requirements. These provisions are referred to herein as the “Payment Provisions.”

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<sup>1</sup> The 2017 Payday Lending Rule was published in the *Federal Register* on November 17, 2017. 82 Fed. Reg. 54472-54921 (Nov. 17, 2017).

The 2017 Payday Lending Rule became effective on January 16, 2018. However, most provisions of the 2017 Payday Lending Rule had a compliance date of August 19, 2019.

On February 6, 2019, the Bureau proposed delaying the August 19, 2019 compliance date for the Mandatory Underwriting Provisions to November 19, 2020. The Bureau proposed in a separate notice to rescind the Mandatory Underwriting Provisions. The Bureau has finalized the proposal to delay the compliance date in the Delay Final Rule, and continues to consider comments related to the proposal to rescind the Mandatory Underwriting Provisions.

## **Change to compliance date for most of the Mandatory Underwriting Provisions and technical corrections to the 2017 Payday Lending Rule**

The Delay Final Rule delays the compliance date for most of the Mandatory Underwriting Provisions. Specifically, it delays the compliance date from August 19, 2019 to November 19, 2020 for the following sections of the 2017 Payday Lending Rule: § 1041.4 identifying an unfair and abusive practice; § 1041.5 governing the ability-to-repay determination; § 1041.6 providing a conditional exemption from §§ 1041.4 and 1041.5 for certain covered short-term loans; § 1041.10 governing information furnishing requirements; and § 1041.12(b)(1) through (3) detailing record retention requirements that are specific to the Mandatory Underwriting Provisions. The Delay Final Rule does not delay the compliance date for the Payment Provisions or for § 1041.11 regarding registered information systems. Section 1041.11, which is part of the Mandatory Underwriting Provisions that the Bureau separately proposed to rescind, was effective on January 16, 2018. However, it does not impose any requirements on lenders. Rather, it discusses the eligibility criteria for and the processes related to becoming or ceasing to be a registered information system under the 2017 Payday Lending Rule.

The Delay Final Rule adds a new section, § 1041.15, to expressly state the effective and compliance dates for various aspects of the Rule.

The Delay Final Rule also makes certain other technical corrections to the 2017 Payday Lending Rule.

The chart below provides a high-level summary of the Delay Final Rule's amendments to the 2017 Payday Lending Rule.

## Sections of the 2017 Payday Lending Rule

## The Delay Final Rule:

### *General*

§§ 1041.1 to 1041.3 and Official Interpretations

- Removes the definition of “covered person” and reserves §1041.2(a)(9).
- Corrects § 1041.3(e)(2) by changing “this section” to “this paragraph (e)(2)” in the borrowing history condition requirement for the alternative loan conditional exemption.

### *Underwriting*

§§ 1041.4 to 1041.6 and Official Interpretations

- Delays the August 19, 2019 compliance for §§ 1041.4 to 1041.6 to November 19, 2020.

### *Payments*

§§ 1041.7 to 1041.9 and Official Interpretations

- Corrects § 1041.9(c)(3)(viii) by changing the URL referenced in the regulatory text to match the text used in Model Form A-5.

- Delays the August 19, 2019 compliance date to November 19, 2020 for § 1041.10 and § 1041.12(b)(1) through (3).

### *Information Furnishing, Recordkeeping, Anti-Evasion, Severability, and Dates* §§ 1041.10 to 1041.15 and Official Interpretations

- Adds § 1041.15 explaining the rule’s effective and compliance dates.
- Revises Comment 10(b)-1 so that the dates in an example conform to the delayed compliance date for most Mandatory Underwriting Provisions.
- Revises § 1041.11(c) and (d) and related commentary so that the dates listed conform to the delayed compliance date for most Mandatory Underwriting Provisions.

### *Model Forms and Clauses* Appendix A to Part 1041

- Does not amend the language or format of the Model Forms and Clauses, but adds headings in Appendix A. Model Forms A-1 and A-2 relate to requirements for which the compliance date is delayed to November 19, 2020.

## Additional resources and implementation support

The Bureau has released an unofficial redline to assist industry and other stakeholders. It and other implementation resources are available at <https://www.consumerfinance.gov/policy-compliance/guidance/payday-lending-rule/>. The Bureau will also update the previously-issued small entity compliance guide addressing the Payment Provisions. The guide, which will be updated to incorporate the Delay Final Rule, will be posted on the Bureau's website when it is available.