



Dear FiSCA Members:

We are pleased to provide you with this update related to the Consumer Financial Protection Bureau's ("CFPB") final Rule regarding Payday, Vehicle Title, and Certain High-Cost Installment Loans (the "Small Dollar Rule"). Since this ill-conceived Rule was released by the CFPB under former Director Cordray in November of 2017, FiSCA has worked to ensure that its provisions would not be imposed on our industry. We have actively pursued efforts on Capitol Hill and we have substantively engaged with the CFPB to urge significant modification or elimination of the Rule.

Today, in one of new Director Kathy Kraninger's first major acts, the CFPB took significant steps to modify the Small Dollar Rule, announcing that it is proposing to rescind those portions of the Rule that impose mandatory underwriting requirements for ability-to-repay ("ATR") determinations on small-dollar loan products. As we have been arguing since the release of the Rule, these provisions would have eliminated access to credit for millions of Americans who rely upon small-dollar loans and would have had devastating impacts on our businesses. The Bureau also announced that it intends to extend the August 2019 compliance date with respect to the ATR provisions by fifteen (15) months to November 19, 2020.

In taking these steps, the Bureau announced that it is proposing to rescind the fundamental conclusion underlying the existing Rule that

declared that it is an unfair and abusive practice for a lender to make a covered short-term loan (or a longer-term balloon payment loan, including payday and vehicle title loans), without making an ability to repay determination. This finding was extremely prejudicial and laid the basis for the Bureau to engage in rulemaking under its UDAAP authority. FiSCA issued a Statement in response to the Bureau’s announcement. You can view our Statement [here](#).

In order to effectuate its determinations, the Bureau issued two Notices of Proposed Rulemaking (“NPRM”). The Bureau also released a table of contents for its proposals along with an informal redline showing the proposed changes. The NPRMs and the additional materials can be found here:

https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-reconsideration.pdf

https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-delay.pdf

https://www.counselorlibrary.com/library/alerts/alerts_02062019010214_337.pdf

https://www.counselorlibrary.com/library/alerts/alerts_02062019010215_560.pdf

The two NPRMs issued today have separate public notice and comment periods. The NPRM that would extend the compliance date has a comment period of thirty (30) days. The NPRM that eliminates the mandatory underwriting provisions has a ninety (90) day comment period. The comment periods will begin when the NPRMs are published in the Federal Register. After publication the official government comment portal, known as [Regulations.gov](#), will become active and comments can be submitted.

Today's announcement does not mean our work is done. In fact, the rulemaking process with respect to the NPRMs is just beginning. As we did with the original NPRM, FiSCA will be actively supporting the submission of comments on the proposed Rules. We will provide a separate notice to you regarding the ways in which comments can be submitted to [Regulations.gov](https://www.regulations.gov). We will also be preparing a comment on behalf of FiSCA and supporting efforts on behalf of members and other interested parties for the submission of their comments.

Please note that we are also still fully examining the NPRMs, and recognize that there are other provisions in the existing Rule that should be modified or eliminated and we will advocate for the modification or removal of those provisions.

If you have any questions with respect to any of the above, please do not hesitate to contact us.

Thank you,

Ed D'Alessio



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