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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1041

Payday, Vehicle Title, and Certain High-Cost Installment Loans; Ratification of Payment Provisions

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Ratification.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau), through its Director, is ratifying certain provisions of its November 17, 2017 rule regarding payday, vehicle title, and certain high-cost installment loans.

DATES: This ratification is issued on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and relates back to the Rule published on November 17, 2017.

FOR FURTHER INFORMATION CONTACT: Christopher Shelton, Counsel, Legal Division, at 202-435-7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau was established by the Consumer Financial Protection Act of 2010 (CFPA).[1] Section 1011(c)(3) of the CFPA provided that the President may remove the Director of the Bureau only for inefficiency, neglect of duty, or malfeasance in office.[2]

[1] Pub. L. 111-203, title X, 124 Stat. 1376, 1955-2113 (2010).

[2] 12 U.S.C. 5491(c)(3).

The Bureau's rule regarding Payday, Vehicle Title, and Certain High-Cost Loan Installments (2017 Final Rule or Rule)[3] contained two primary components: (1) mandatory underwriting provisions requiring lenders to assess borrowers' ability to repay before making covered loans[4]; and (2) payments provisions governing lenders' withdrawing payments for covered loans from consumers' bank accounts.[5]

On June 29, 2020, the Supreme Court held in *Seila Law LLC v. CFPB* that the CFPA's removal provision violates the separation of powers.[6] The Court further held that "the CFPB Director's removal protection is severable from the other statutory provisions bearing on the CFPB's authority. The agency may therefore continue to operate, but its Director, in light of our decision, must be removable by the President at will."[7] "The only constitutional defect we have identified in the CFPB's structure is the Director's insulation from removal."[8]

The Bureau is separately issuing a rule that rescinds the mandatory underwriting provisions of the 2017 Final Rule. That rule does not affect the separate payments provisions, and this ratification is independent of that rule.

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[3] 82 FR 54472 (Nov. 17, 2017).

[4] 12 CFR 1041.4–1041.6, 1041.10, 1041.11, 1041.12(b)(1)–(3).

[5] 12 CFR 1041.2, 1041.3, 1041.7–1041.9, 1041.12(a), (b) introductory text, (b)(4)–(5), 1041.13.

[6] 591 U.S. ---- (2020) (slip op.).

[7] *Id.* at 3.

[8] *Id.* at 32.

II. Ratification

The Bureau, through its Director, hereby affirms and ratifies the payment provisions[9] of the 2017 Final Rule.

The Bureau's Director is familiar with the payment provisions and has also conducted a further evaluation of them for purposes of this ratification. Based on the Director's evaluation of the payment provisions, it is the Director's considered judgment that they should be ratified.[10]

Dated: July 7, 2020.

/s/ Kathleen L. Kraninger

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[9] 12 CFR 1041.2, 1041.3, 1041.7–1041.9, 1041.12(a), (b) introductory text, (b)(4)–(5), 1041.13.

[10] In ratifying the payment provisions, the Bureau ratifies the procedural steps that were necessary to issue the payment provisions, including the decision to propose the payment provisions for public comment. *See* 81 FR 47863 (proposed July 22, 2016).