



Financial Services & Products ADVISORY ■

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Second Juneteenth Holiday Raises Tricky Compliance Issues

by [*Stephen Ornstein*](#)

The second observance of the Juneteenth National Independence Day holiday is Monday, June 20, 2022. President Biden signed legislation making Juneteenth a federal national holiday last year. Because the fixed-date holiday falls on a Sunday, the second observance of Juneteenth raises tricky compliance issues for the timing of certain disclosures provided in connection with residential mortgage transactions.

Background

Under the Truth in Lending Act (TILA) Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure Rule (TRID), generally, the creditor is responsible for ensuring that it delivers or places in the mail the loan estimate (LE) no later than the third business day after receiving the consumer's application. Further, creditors must ensure that the consumer receives the closing disclosure (CD) at least three business days before consummation of the transaction. In addition, for certain refinancings, Regulation Z permits the consumer to rescind (cancel) the transaction within three business days after consummation.

For purposes of providing the LE, a business day is a day on which the creditor's offices are open to the public for carrying out substantially all of its business functions. However, the term "business day" is defined differently for other purposes, such as counting days to ensure the consumer receives the CD on time and the consumer's exercise of the right to rescind the transaction. For these purposes, "business day" means all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a): New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

Last year, Juneteenth fell on a Saturday, which created confusion due to President Biden signing the holiday into law only two days earlier on June 17, 2021. Notably, Comment 2(a)(6)-2 of the Official Staff Commentary to Regulation Z indicates that when one of the federal holidays (July 4, for example) falls on a Saturday, federal offices and other entities might observe the holiday on the preceding Friday (July 3). In these cases, the observed holiday (in the example, July 3) is a business day. Following that logic, in 2021, the observed Juneteenth holiday (Friday, June 18) was a "business day" and the actual stated holiday (Saturday, June 19) was the "holiday" for purposes of the CD and right of rescission waiting periods.

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Nevertheless, to address some of the confusion created by the hasty promulgation of the new holiday, the Consumer Financial Protection Bureau (CFPB) issued an [interpretive rulemaking](#) on August 5, 2021, indicating, for purposes of the 2021 Juneteenth holiday, that “for rescission of closed-end mortgages and TILA-RESPA Integrated Disclosures, whether June 19, 2021, counts as a business day or federal holiday depends on when the relevant time period began. If the relevant time period began on or before June 17, 2021, then June 19 was a business day; after June 17, 2021, then June 19 was a federal holiday.”

The Official Staff Commentary does not address a scenario when the actual federal holiday falls on a Sunday but is observed on a Monday. According to the Bankers Online website, the CFPB has indicated that, when a fixed-date holiday falls on Sunday but is observed on Monday, the observed holiday (for example, Independence Day observed on Monday, July 5, 2021, or Juneteenth observed on June 20, 2022) is a business day in cases when the more precise rule applies.

Takeaways

For residential mortgage transactions that are anticipated to close in the coming week, it is essential that creditors treat the actual Juneteenth holiday (June 19) as a federal holiday for purposes of the timing requirements of providing the CD (with the observed holiday of Monday, June 20 being treated as a “business day”) and allowing sufficient time to elapse for the borrower’s right to rescind the transaction. Further, if a creditor’s offices are open to the public for carrying out substantially all of its business functions on the observed Juneteenth holiday (June 20), June 20 should be included as a business day for purposes of providing the LE.

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