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New June 19 Federal Holiday's (Juneteenth's) Impact on Rescission

If a Regulation Z-covered loan is secured by a consumer's principal dwelling and the loan is not a "residential mortgage transaction" (that is, the loan is not a purchase-money loan or an initial construction loan), the loan will be subject to Regulation Z's rescission rules. Those rules provide the consumer with a three-business-day period to rescind the loan. Here, business days are all calendar days (whether or not the creditor is open for business) except Sundays and the 10 legal public holidays specified in 5 USC 6103(a).

On June 17, 2021, the president signed S. 475, which added an 11th public holiday to Section 6103(a). The new public holiday is "Juneteenth National Independence Day, June 19." As a result, this Saturday, June 19, will not be considered a business days for purposes of calculating the rescission period.

Because Congress and the president added this new holiday with just two days' notice, at least some rescission notices will reflect an inaccurate expiration date for the three-business-day rescission period. For example, a rescission notice a creditor provided on Wednesday, June 16 likely did not reflect this new holiday and indicated that the rescission period would end on Saturday, June 19 at midnight (unless the creditor voluntarily provided a longer rescission period, but we will assume they did not). With June 19 now being a public holiday, the rescission period's end is now Monday, June 21.

So what are creditors to do if they have issued a rescission notice between Wednesday, June 16 and before the president signed S. 475 on June 17 which reflects a rescission period's end that, after the fact, becomes inaccurate? As of this Update's publication, the agencies have yet to issue any guidance on this. Because this was completely outside of the creditor's control, one would think that the agencies would be sympathetic and not cite institutions for rescission violations here. At the same time, civil liability may remain and because the rescission notice was technically inaccurate, the three-year rescission period could be triggered. Our law firm will be on the lookout for any regulatory guidance and we encourage clients to contact us for specific guidance. In the meantime, creditors should be sure that all subsequent rescission notices exclude June 19 from the three-business-day rescission period.

For more information on the rescission rules, refer to BCG Standard Procedures Manual #18, Part Three, Section XIII.C.3. (closed-end credit) and Part Four, Section XII.E.2. (open-end credit), or contact Stephanie Shea at SShea@ABLAWYERS.COM.

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