

August 13, 2021 | Volume 15 | Issue 31

## Highlights



Creating your Business Continuity Plan can feel  
like a monstrous task.

Let **RecoveryPro**  help.

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Don't let business continuity planning scare you! RecoveryPro provides an organized approach to developing your business continuity plan. From identifying potential risks to creating emergency procedures to documenting procedures for restoring key technologies and services for your credit unions, RecoveryPro will guide you through it all. We are excited to announce that RecoveryPro is currently undergoing a complete rebuild! The new system will be similar to the recent CU PolicyPro upgrade, bringing you more tools than ever to develop, test and implement your plan!

Learn more at <https://www.leagueinfosight.com/recoverypro>.

## Compliance and Advocacy News & Highlights

### NCUA Letter on Capitalization of Unpaid Interest

In its recent [letter to credit unions, #21-CU-07](#) and [corresponding FAQ](#), NCUA offers guidance related to the capitalization of unpaid interest in connection with loan workouts or modifications.

At its June meeting, the NCUA Board finalized a rule amending [Appendix B of Part 741 of NCUA's regulations](#) that removed a loan workout policy requirement prohibiting the capitalization of interest. Capitalization of interest is the addition of accrued but unpaid interest to the principal balance of a loan. The amendments made by this rule had an effective date of July 30, 2021.

The ability to capitalize on unpaid interest applies to loan modifications made on or after July 30, 2021, however the financing of credit union fees and commissions remains prohibited.

In addition to detailing what should be in a credit union's loan workout policy and providing suggested examples of required supporting documentation for the modification that should be included in the loan file, the corresponding FAQ document provides acceptable methods for capitalizing interest, which include:

- Capitalization of deferred interest and adjusting monthly payments upward;
- Capitalization of deferred interest and extending the loan term; or
- Break out deferred interest into a separate note, provided collateral is adequate, or have an unsecured note as needed. The payments on the separate note may be concurrent or could be deferred until a future date, either specified or upon repayment of the primary note.

*Source: NCUA*

### FFIEC Issues Guidance on Authentication and Access to Financial Institution Services and Systems

The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, recently issued guidance that provides financial institutions with examples of effective authentication and access risk management principles and practices for customers, employees, and third parties accessing digital banking services and information systems.

The guidance:

- Highlights the current cybersecurity threat environment including increased remote access by customers and users, and attacks that leverage compromised credentials; and mentions the risks arising from push payment capabilities.
- Recognizes the importance of the financial institution's risk assessment to determine appropriate access and authentication practices to determine the wide range of users accessing financial institution systems and services.

- Supports a financial institution's adoption of layered security and underscores weaknesses in single-factor authentication.
- Discusses how multi-factor authentication or controls of equivalent strength can more effectively mitigate risks.
- Includes examples of authentication controls, and a list of government and industry resources and references to assist financial institutions with authentication and access management.

The new guidance replaces previous documents issued in 2005 and 2011.

*Source: FFIEC via NCUA*

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## CFPB Makes COVID-19 Higher Ed Grants Available

The CFPB (Bureau) has posted an [article on its Blog](#) regarding higher education grants for college students impacted by the COVID-19 pandemic.

The CARES Act was passed by Congress in March 2020 to help respond to the COVID-19 pandemic. As part of that law and other pieces of legislation passed by Congress, the [Higher Education Emergency Relief Fund](#), or HEERF, was established. The HEERF includes a program administered by the U.S. Department of Education that allows colleges, universities, and other institutions to use a portion of the funding to provide emergency grants directly to students to help those who are experiencing financial difficulties from the COVID-19 pandemic. These emergency grants can be used to cover expenses or costs from food, housing, course materials, technology needs, health care, or child-care expenses.

*Source: CFPB*

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## Was Juneteenth 2021 a Federal Holiday?

The Consumer Financial Protection Bureau (CFPB) today [released an interpretive rule](#) to assist the mortgage industry in determining whether to treat June 19, 2021, as a federal holiday or a business day for purposes of compliance with certain time-sensitive borrower protections.

“The federal recognition and celebration of Juneteenth was a welcome and important step toward healing the national legacy of slavery,” said CFPB Acting Director Dave Uejio. “We understand that the quick enactment of the federal Juneteenth legislation created interpretive questions and compliance challenges for the mortgage industry with respect to rescission of closed-end mortgages and certain time-sensitive mortgage disclosures. The mortgage industry can refer to today’s interpretive rule when determining how to treat June 19, 2021.”

Regulation Z of the CFPB’s mortgage rules establishes timing requirements, calculated in business days, for when borrowers must receive certain disclosures and when borrowers have the right to cancel some mortgages. Because the Juneteenth National Independence Day Act was signed into law two days before the newly created holiday on June 19, many participants in the mortgage industry reported being unsure of how to treat the day for purposes of regulatory compliance.

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.

Additionally, the interpretive rule explains that creditors are not prohibited from providing longer time periods than required, so if a time period began on, or prior to, June 17, 2021, creditors could still consider June 19, 2021, a federal holiday. Friday, June 18, the day of federal observance for the 2021 Juneteenth holiday, was considered a business day because when a federal holiday falls on a Saturday, the day of federal observance is considered a business day for these time-sensitive consumer protections.

Source: CFPB

## CFPB Updates Mortgage Servicing Guide

The CFPB has posted an updated version of its *Mortgage Servicing Small Entity Compliance Guide*. The [August 4, 2021, version of the Guide](#) incorporates references to the most recent Mortgage Servicing Rules. The updates provide an overview of the 2021 Mortgage Servicing COVID-19 Final Rule and 2020 Mortgage Servicing COVID-19 Interim Final Rule provisions, and identify the areas of the underlying Mortgage Servicing Rules that are impacted by these Rules.

The latest version of the guide also updates the discussion of the servicing file requirements under the existing Mortgage Servicing Rules to provide guidance about compliant use of multiple electronic systems.

Source: CFPB

## Articles of Interest:

- [FinCEN fines BitMAX \\$100 million for willful BSA violations](#)
- [Trades Ask Ginnie Mae to Defer to NCUA on Capital Requirements](#)
- [Aug. 6, 2021 NASCUS Report](#)
- [Safe Harbor for Employers Claiming Employee Retention Credit](#)
- [IRS Work Opportunity Tax Credit Relief](#)
- [\\$600 Million Gone: The Biggest Crypto Theft In History](#)

## CUNA's Advocacy Resources:

- [Happenings in Washington](#)

## *WOCCU Advocacy Resources:*

- [Telegraph](#) – *the most recent newsletter on current advocacy issues*
- [Advocate Blog](#) – *International advocacy trends and issues*

## **Compliance Calendar**

- *August 31st, 2021: CFPB - RESPA Borrower Protections - COVID-19 Emergency*
- *September 6th, 2021: Labor Day - Federal Holiday*
- *October 11th, 2021: Columbus Day - Federal Holiday (also recognized: Indigenous Peoples' Day)*
- *November 11th, 2021: Veterans Day - Federal Holiday*
- *November 25th, 2021: Thanksgiving Day - Federal Holiday*
- *November 30th, 2021: CFPB – Fair Debt Collections Practices (Regulation F)*

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