



COMPLIANCE BRIEF

June 25, 2021



Today's Topics:

- 4th of July holiday
 - Impact on deposit and loan operations
- Juneteenth holiday
- Back the Blue legislation
- ATR-QM Hotline Q&A
- New CFPB FAQ
 - Reg. E
 - Mortgage Servicing





July 4 Holiday

- July 4 is on Sunday; July 5 (Monday) is observed holiday
 - Impact on Deposit Operations
 - Monday, July 5 is **NOT** a business day
 - Federal Reserve Bank is closed
 - Impact on Loan Operations
 - Monday, July 5 **IS** a business day for rescission, TRID disclosure purposes & private education loans
 - Even if bank is not open
 - Only July 4 is “federal legal holiday” under “precise” business day definition
 - See [June 21 Compliance Clip](#) for details

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Juneteenth Holiday

- [Bill signed](#) into law June 17
- Amends USC 6103(a) to add “Juneteenth National Independence Day, June 19” legal public holiday
 - Impacts deposit operations (Reg. CC)
 - Impacts loan operations
 - TRID disclosure timing & waiting periods
 - Rescission
 - Private Education Loan disclosures & timing
 - Under “precise business day” definition, only June 19 is legal public holiday, not the day it is observed (like July 4)



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Back the Blue Bill

- [Senate File 342](#) signed into law June 17
 - Protects assault survivors, currently active or retired state or local judicial officers, federal judges, prosecuting attorneys, peace officers and their spouses and children
 - Can participate in Safe At Home address protection program
 - See June 2021 DISCLOSURE [Highlight article](#)
 - Can request county assessor and county recorder redact their names from electronic documents that are displayed for public access via internet
 - County assessors and recorders to develop processes
 - Effective July 1, 2021

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ATR-QM IBA Hotline Q&A

Can the bank underwrite to different ATR-QM standards for different loan products?

YES!

- Best practice is to define in loan policy and procedures what standard is used for which product
 - E.g., Secondary market – price-based General QM
 - In-house 1st lien – small creditor QM
 - Subordinate lien - ATR

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ATR-QM IBA Hotline Q&A

Must the bank have written policies and procedures for all of the ATR-QM standards it underwrites to?

It depends!

- Reg. Z only requires **written** policies and procedures for price-based General QM
- Written policies and procedures facilitate consistency
- Reduce compliance errors related to ATR-QM rule
- Reduce fair lending risk

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ATR-QM IBA Hotline Q&A

How long should records related to ATR-QM compliance be retained?

- **See 1026.25(c)(3)**
...a creditor shall retain evidence of compliance with § 1026.43 of this regulation for three years after consummation of a transaction
- BUT, remember this is not only the retention period applicable to mortgage loans!

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ATR-QM IBA Hotline Q&A

What records related to ATR-QM status should be retained?

- Comment 1 to OSC 43(e)(2)(v)(A)
 - A creditor must also *retain documentation* to show *how it took into account* income or assets, debt obligations, alimony, child support, and monthly DTI or residual income in its ability to repay determination, *including how it applied its policies and procedures*, ...to meet the requirements for a Qualified Mortgage...”

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ATR-QM IBA Hotline Q&A

What records related to ATR-QM status should be retained?

- Comment 1 to OSC 25(c)(3)
 - ...the creditor shall retain evidence sufficient to demonstrate compliance with the documentation requirements of the rule.
 - Not required to retain actual paper copies, but must be able to reproduce the record accurately
 - E.g., if IRS Form W-2 is used to verify income, the creditor must be able to reproduce the IRS Form W-2 itself, and not merely the income information that was contained in the form.

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CFPB Mortgage Servicing FAQ

- 23 [New FAQ](#) related to Escrow Accounts
 - General Escrow matters
 - Definitions
 - Notice requirements
 - Statement content requirements
 - Charges
 - Escrow Account Analysis
 - Deficiencies, Shortages, and Surpluses
 - Public Guidance Documents



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CFPB Mortgage Servicing FAQ

- Can a servicer accept a voluntary lump sum payment to resolve a deficiency in an escrow account?
 - Yes, but...
- Can a servicer communicate to borrower s/he can make a lump sum payment to resolve escrow deficiency?
 - Yes, but...
 - CANNOT be ON the annual escrow statement
 - Could be in the same envelope as annual statement
 - Must be clear this an entirely voluntary option; that servicer is not requiring lump sum payment

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CFPB Reg. E FAQ

- 8 [NEW FAQ](#) on Unauthorized EFTs & Error Resolution
 - Unauthorized & fraud
 - Consumer's negligence
 - Ability to contractually waive rights
 - Requiring consumer to file a police report
 - Requiring consumer to contact merchant
 - Determining consumer's liability



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Got Compliance Questions?

- On IBA website:
 - [Disclosure](#)
 - [Compliance FAQ](#)
 - [Bankers Compliance Resources](#)
 - [On-demand webinars](#)
- Compliance Hotline
 - compliance@iowabankers.com
 - 844-REGS411 (or 844-734-7411)



THANKS
FOR
LISTENING

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