

# Inf✔Sight Newsletter

May 27, 2022 | Volume 16 | Issue 21

## Highlights

### Make Sure Your Voice is Heard!

Our annual survey takes just a few minutes and gives **YOU** the chance to voice your opinion! Tell us what you love about our products, what doesn't work so well, and what future enhancements you would most like to see. The survey is closing soon, so don't miss this opportunity to be "in the room" and help us prioritize the features and functionality for our next generation of products! [Click here for the survey!](http://www.leagueinfosight.com/survey2022)

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The Room  
Where it  
Happens

Don't get  
left out!

Your feedback and  
opinions help us  
create the next  
generation of  
products!

Inf✔Sight  
CUPolicyPr✔  
RecoveryPr✔

## Compliance and Advocacy News & Highlights

### Fifth Circuit Holds Oral Argument in Challenge to CFPB's Payday Lending Rule Payment Provisions

Recently, the U.S. Court of Appeals for the Fifth Circuit held oral argument in the appeal filed by industry trade groups challenging the payment provisions of the CFPB's 2017 Payday Lending Rule.

Previously, the U.S. District Court for the Western District of Texas issued an order upholding the validity of the payment provisions of the CFPB's Payday Loan Rule. The trade groups appealed from that district court's final judgment granting the CFPB's summary judgment motion. Under the district court's order, compliance with the payment provisions had been scheduled to become mandatory on June 13, 2022. However, after the appeal was filed, the Fifth Circuit entered an order staying the compliance date of the payment provisions until 286 days after the trade groups' appeal is resolved. So, the compliance date of the payment provisions has been stayed pending resolution of the industry trade groups' appeal.

The payment provisions prohibit payday and certain other lenders from making a new attempt to withdraw funds from an account where two consecutive attempts have failed unless consumers consent to further withdrawals. The payment provisions also require lenders to provide consumers with written notice before making their first attempt to withdraw payment from their accounts and before subsequent attempts that involve different dates, amounts, or payment channels.

Note that the underwriting provisions of the original payday rule have been repealed and the legal challenge to that repeal has been dismissed. But that dismissal may still be appealed and the new CFPB leadership may seek to impose underwriting provisions through a new rulemaking. Also, the CFPB may still decide to pursue certain conduct through its general UDAAP authority.

The payment-related provisions are found in Subpart C of the Payday Lending Rule (12 C.F.R. 1041.7 – 1041.9).

*Source: Consumer Finance Monitor*

### NCUA Letter to Credit Unions Re: Federally Insured Credit Union Use of Distributed Ledger Technologies

The [NCUA has issued Letter to Credit Unions \(22-CU-07\)](#) supporting initiatives by federally insured credit unions to better serve their members. The rapid emergence of financial technology is creating opportunities for credit unions to increase speed of service, improve security, and expand products and services. In this spirit, the Board is exploring how the agency can provide clarity around expectations regarding financial technology adoption to not impede safe, fair, and responsible federally insured credit union engagement.

This letter clarifies certain expectations for credit unions contemplating the use of new or emerging distributed ledger technologies (DLT). The NCUA does not prohibit credit unions from developing, procuring, or using DLT. DLT used as an underlying technology by credit unions is not prohibited if it is

deployed for permissible activities and in compliance with all applicable laws and regulations, including applicable state laws or state supervisory authority requirements. As with the internet at its inception, the NCUA recognizes that new technologies may transform how credit unions perform traditional financial operations and services.

*Source: NCUA*

## NCUA Statement on Committee Passage of Vendor Authority and Underserved Areas Bills

National Credit Union Administration Chairman Todd M. Harper issued the following statement after the approval of H.R. 7022, the [Strengthening Cybersecurity for the Financial Sector Act of 2022](#), and H.R. 7003, the [Expanding Financial Access for Underserved Communities Act](#), by the U.S. House Committee on Financial Services recently.

“The Committee’s passage of H.R. 7022 is an important step forward in closing a regulatory blind spot. The NCUA’s Inspector General, the Financial Stability Oversight Council, and the U.S. Government Accountability Office have all called for the NCUA to have the same authority over third parties as federal banking agencies. This authority is critical for mitigating the very real national security, cybersecurity, anti-money laundering, consumer protection, safety-and-soundness, and other risks to the credit union system and the broader financial services sector.

“H.R. 7003 is also an important piece of legislation that would allow all federal credit unions to add underserved areas to their fields of membership. These changes are essential to increasing access to safe, fair, and affordable financial services in rural communities, communities of color, and other underserved places. They would also advance financial inclusion within our nation’s financial system.”

*Source: NCUA*

## Did the DOJ Issue ADA Website Accessibility Regulations?

**Question:** Did the Department of Justice ever issue ADA website accessibility regulations?

**Answer:** In a word, no. The DOJ never issued any final regulations setting out detailed standards for website accessibility. However, [DOJ did issue guidance](#) in March reiterating its position that Title III of the Americans with Disabilities Act applies to “all the goods, services, privileges, or activities offered by public accommodations [i.e., businesses open to the public], including those offered on the web.”

Some examples of website accessibility barriers include:

- **Poor color contrast.** People with limited vision or color blindness cannot read text if there is not enough contrast between the text and background (for example, light gray text on a light-colored background).

- **Use of color alone to give information.** People who are color-blind may not have access to information when it's conveyed using only color cues because they cannot distinguish certain colors from others.
- **Lack of text alternatives (“alt text”) on images.** People who are blind will not be able to understand the content and purpose of images, such as pictures, illustrations, and charts, when no text alternative is provided. Text alternatives convey the purpose of an image, including pictures, illustrations, charts, etc.
- **No captions on videos.** People with hearing disabilities may not be able to understand information communicated in a video if the video does not have captions.
- **Inaccessible online forms.** People with disabilities may not be able to fill out, understand, and accurately submit forms without certain features, such as: labels that screen readers can convey to their users (e.g., text that reads “credit card number” where the number should be entered); clear instructions; and error indicators (e.g., alerts telling the user a form field is missing or incorrect).
- **Mouse-only navigation (lack of keyboard navigation).** People with disabilities who cannot use a mouse or trackpad will not be able to access web content if they cannot navigate a website using a keyboard.

Businesses continue to have flexibility in how they comply with the ADA's non-discrimination and effective communication requirements. DOJ points to the [World Wide Web Consortium's Web Content Accessibility Guidelines](#) (WCAG) and the [Section 508 Standards](#) (federal government websites) for guidance on how to ensure the accessibility of website features. But bottom line, according to the DOJ: businesses “must ensure that the programs, services, and goods that they provide to the public—including those provided online—are accessible to people with disabilities.”

*Source: CUNA Compliance Blog*

## CFPB: States Can Enforce Federal Consumer Protection Laws

The [Consumer Financial Protection Bureau announced](#) it has issued an [interpretive rule](#) that describes states' authorities to pursue lawbreaking companies and individuals that violate the provisions of federal consumer financial protection law. Because of the crucial role states play in protecting consumers, the Consumer Financial Protection Act (part of the Dodd-Frank Act of 2010) grants their consumer protection enforcers the authority to protect their citizens and otherwise pursue lawbreakers.

*Source: CFPB*

### *Articles of Interest:*

- [NASCUS Educational Events](#)
- [WOCCU Gender Investing Framework Toolkit \(GIFT\) Helps Women Entrepreneurs in Senegal](#)
- [Ukrainian Credit Union Displacement Fund Nears \\$1.4 Million](#)
- [NASCUS May 20, 2022 Issue](#)
- [CFPB Launches New Effort to Promote Competition and Innovation in Consumer Finance](#)

*CUNA's Advocacy Resources:*

- [Happenings in Washington \(Removing Barriers Blog\)](#)

*WOCCU (World Council of Credit Unions Advocacy) Advocacy Resources:*

- [Telegraph](#) – Current advocacy news world-wide.
- [Advocate Blog](#) – Check out recent updates!

## **Compliance Calendar**

- May 30th, 2022: **Memorial Day - Federal Holiday**
- June 20th, 2022: **Juneteenth National Independence Day - Federal Holiday (observed)**
- July 4th, 2022: **Independence Day - Federal Holiday**
- September 5th, 2022: **Labor Day - Federal Holiday**
- September 16th, 2022: **NACHA – Micro-Entry Rule – Phase I**