

Resources

Dodd-Frank Implementation Continues: Federal Reserve Board Issues New Regulations Expanding the Coverage of TILA and the Consumer Leasing Act

March 25, 2011

We are providing this alert to remind you of some important changes to consumer credit disclosures laws, and to advise you of a regulation issued today that implements some of the changes brought about by recent financial reform legislation.

As you will recall, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended both the Truth in Lending Act and the Consumer Leasing Act to, among other things, expand coverage of those acts by increasing the dollar threshold for exempt transactions from \$25,000 to \$50,000. Today, the Federal Reserve Board issued final regulations, amending Regulation Z and Regulation M to implement this change. Accordingly, unless otherwise exempt, consumer loans and leases made in amounts of \$50,000 or less will be covered by the respective acts. The previous threshold had been \$25,000. In accordance with the Dodd-Frank Act, these changes go into effect on July 21, 2011, the Transfer Date on which other agencies' functions will transfer over to the Bureau of Consumer Financial Protection.

Let's talk some specifics: Section 213.2 of Regulation M and its accompanying Official Staff Commentary provisions have been amended to exempt a consumer lease from the Regulation M requirements if the consumer's total obligation under the lease exceeds \$50,000 when the lease is consummated. Similarly, section 226.3(b) of Regulation Z and its accompanying Official Staff Commentary provisions have been amended to exempt consumer credit transactions from Regulation Z if the initial extension of credit exceeds \$50,000 or if the creditor makes a firm commitment at account opening to extend credit in excess of \$50,000. In the case of a credit card or other open-end credit product, the exemption will only apply if the creditor makes an express written commitment to extend the total amount of credit that exceeds the threshold.

In addition to increasing the exemption thresholds, the regulatory changes also require that the thresholds be adjusted annually for inflation based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W"). Effective January 1 of each year, the threshold amount will be increased to reflect any annual percentage increase in the CPI-W that was in effect on the previous June 1. Note that the threshold will not change if there is no change in inflation in a given year and will never decrease due to periods of deflation. The threshold amount will be published in the respective Commentaries, and will no longer be found in Regulation Z or M. Increases in the threshold amount will be rounded to the nearest \$100 increment.

Note that this threshold change does not affect Regulation Z's coverage of: (1) all transactions secured by real property or by personal property used as the consumer's principal dwelling; and (2) private education loans, regardless of the amount of the loan. In addition, the Federal Reserve Board has implemented a transition rule to reduce the compliance burden in connection with loans already exempt under the current thresholds. Specifically, if an open-end credit account is exempt on July 20, 2011 based on a firm commitment to extend more than \$25,000 in credit, the creditor has until December 31, 2011 to either retain the exemption by increasing the firm commitment to more than \$50,000 or begin complying with Regulation Z.

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Practice Areas

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