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[C O N S U M E R L E N D I N G U P D A T E]

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REG Z DOLLAR THRESHOLD EXEMPTION INCREASED

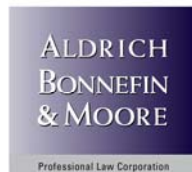
As mandated by the Dodd-Frank Reform Act, on June 20, 2011 the FRB published amendments to Regulation Z to raise the dollar threshold for excluding certain consumer credit transactions from coverage under the Truth in Lending Act and Regulation Z, effective January 1, 2012. 76 FR 35722.

Recall that the Reform Act increased the dollar threshold for exempt consumer-purpose credit transactions from \$25,000 to \$50,000. As required under the Reform Act, in April of this year the FRB adopted final amendments to Regulation Z to implement the Reform Act provisions by increasing the threshold amount in Regulation Z to \$50,000. 76 FR 18354. The revisions become effective July 21, 2011. The Reform Act also requires that the \$50,000 threshold be adjusted annually, effective January 1 of each year, based on annual percentage increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI). In its April Final Rule the FRB clarified the application of the threshold exemption as follows:

- Prior to July 21, 2011, the threshold amount remains at \$25,000.

- Beginning July 21, 2011, the threshold amount is \$50,000, and thus new loans and lines of credit established on or after that date are subject to the higher threshold.
- Beginning January 1, 2012 and each January 1 thereafter, the threshold amount may be increased based upon changes in the CPI.

While it appeared that the FRB would give lenders a small window of time to comply before making any further adjustments to the threshold, appearances are not what they seem. On June 20, 2011 the FRB published final amendments to Regulation Z adjusting the exemption threshold amount to \$51,800. This adjustment is effective January 1, 2012. Thus, consumer-purpose transactions that are extended in 2012 (that is, from January 1, 2012 through December 31, 2012), which are above the \$51,800 threshold, will not be subject to Regulation Z coverage. Note that this includes both closed-end loans as well as open-end credit plans where the written commitment to lend is more than \$51,800. However, private education loans and loans secured by a dwelling or any form of real property are subject to TILA and Regulation Z regardless of the amount of the loan.



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In conjunction with the final Regulation Z changes, the FRB also has adjusted the dollar threshold for exempt consumer leases under the Consumer Leasing Act and Regulation M to \$51,800. This change also is effective January 1, 2012.

FRB INCREASES HOEPA POINTS & FEES THRESHOLD

On June 20, 2011, the FRB published its annual adjustment to the fee-based trigger for high-cost home equity loans (often referred to as HOEPA loans (or Section 32 loans)). 76 FR 35723. High-cost mortgage loans require additional disclosures under Section 226.32 of Regulation Z if the rates or fees for the home loan exceed a certain threshold amount. Effective January 1, 2012, the dollar figure for the fee-based trigger has been increased to \$611 (from \$592 for 2011).

As a result of the increase in the fee-based trigger threshold, Section 32 disclosures will be required for loans when the total points and fees payable by the consumer exceed \$611 or eight percent of the total loan amount, whichever is larger. Note that this adjustment does not impact the “higher-priced mortgage loan” (HPML) rules (which are subject to a different rate-based trigger as set forth in Reg Z Section 226.35). In the alternative Section 32 disclosures may be required based upon a separate APR test.

CFPB UNVEILS SAMPLES OF COMBINED TIL & GFE

A provision of the Dodd-Frank Reform Act requires the Bureau of Consumer Financial Protection (Bureau) to come up with a single integrated model disclosure that combines the disclosures required by the federal Truth in Lending Act (TILA) with the good faith estimate (GFE). The Bureau initially released two alternative prototype forms on May 18, 2011. These forms are designed to

provide consumers with easy to understand information about their mortgage loan-related costs and terms. Each form, while differing in style and format, would provide information about the interest rate, monthly payment, monthly taxes and insurance and cautionary information about rate increases, balloon payments and prepayment penalties. The forms also would provide a more succinct itemization of closing costs, somewhat reminiscent of the pre-2010 GFE days.

After a process of consumer testing, soliciting feedback not only from consumers, but also lenders and brokers and conducting one-on-one interviews, the Bureau has issued two new revised versions of the forms. In general, the revised versions, which are available at the Bureau’s “Know Before You Owe” website, focus on the disclosure of the closing costs. The forms provide alternative approaches to showing closing costs with the intent of understanding how much detail is helpful to consumers. In addition to continuing to conduct interviews across the nation, the Bureau has requested comments on this second round until July 5.

The revised forms are available at the Bureau’s website at www.consumerfinance.gov/know-before-you-owe-were-back.