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To: Clients and Friends

From: David F. Dulock

Subject: Higher-Priced Mortgage Loan Escrow Account Asset-Size Exemption Thresholds Updated for 2022

In the December 23, 2021 issue of the *Federal Register* ([86 FR 72820](#)), the Bureau of Consumer Financial Protection (“CFPB”) published a final rule increasing the respective asset-size thresholds for certain creditors and for certain insured depository institutions and credit unions to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan (§1026.35(b)(2)(iii) and (vi) of Regulation Z).

For a creditor that is not an insured depository institution or an insured credit union and that satisfies the four conditions in comment 35(b)(2)(iii)-1.i. through 1.iv., comment 35(b)(2)(iii)-1.iii.E. is amended to state: “For calendar year 2022, the asset threshold is \$2,336,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2021 has total assets of less than \$2,336,000,000 on December 31, 2021, satisfies this criterion for purposes of any loan consummated in 2022 and for purposes of any loan consummated in 2023 for which the application was received before April 1, 2023.”

For a creditor that is an insured depository institution or an insured credit union, comment 35(b)(2)(vi)(A)-1 is amended to state: “For calendar year 2022, the asset threshold is \$10,473,000,000. A creditor that is an insured depository institution or an insured credit union that during calendar year 2021 had assets of \$10,473,000,000 or less on December 31, 2021, satisfies this criterion for purposes of any loan consummated in 2022 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2023 for which the application was received before April 1, 2023.”

This final rule is effective on January 1, 2022.

Regarding the above asset thresholds, please note the following:

1. Assets of affiliates are not considered in calculating the threshold amount for an insured depository institution or an insured credit union.
2. The asset threshold amount for an insured depository institution or an insured credit union is included in the threshold exemption, whereas the asset threshold amount for the other creditor type is not included in the threshold exemption.
3. The qualification requirements for an escrow account exemption under §1026.35(b)(2)(iii) and (vi) must be satisfied by the time the higher-priced mortgage loan is consummated.

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