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To: Clients and Friends

From: David F. Dulock

Subject: Interim Rule Amends Federal Regulations to Temporarily Defer Appraisal and Evaluation Requirements for Certain Real Estate Transactions

In the April 17, 2020, *Federal Register* (85 FR 21312, [click here](#)), the Office of the Comptroller of the Currency, Treasury (OCC), Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC) adopted an interim final rule deferring the above agencies' (collectively, the agencies) regulatory requirements for regulated institutions to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate.

The interim final rule (herein Rule) is effective April 17, 2020 through December 31, 2020. The Rule provides that covered real estate transactions closing on December 31, 2020 are also eligible for the Rule's appraisal or evaluation deferral.

In addition, the Rule makes the following requirements:

1. "Regulated institutions [that defer receipt of an appraisal or evaluation] should make best efforts to obtain a credible valuation of real property collateral before the loan closing[.]"

2. "Regulated institutions that defer receipt of an appraisal or evaluation are still expected to conduct their lending activity consistent with the underwriting principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards that focus on the ability of a borrower to repay a loan and other relevant laws and regulations."

3. "The deferrals are not a waiver of USPAP requirements ... and the deferred appraisal must be conducted in compliance with USPAP."

4. "Evaluations do not need to comply with USPAP, but must be sufficiently robust to support a valuation conclusion."

5. "By the end of the deferral period, regulated institutions must obtain appraisals or evaluations that are consistent with safe and sound banking practices, as required by the agencies' appraisal regulations."

6. "The agencies also expect institutions to develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. An institution's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID-19-affected borrowers."

The texts of the Rule's temporary deferral amendments to the OCC, FRB and FDIC appraisal regulations are identical except for references to parts, sections and paragraphs

(2 pages)

of title 12 of the Code of Federal Regulations, as follows:

- OCC Part 34: Section 34.43 is amended by adding paragraph (f).
- FRB Part 225: Section 225.63 is amended by adding paragraph (f).
- FDIC Part 323: Section 323.3 is amended by adding paragraph (g).

In closing, we advise that you not rely solely on this memorandum's brief summary of the Rule and that you read the Rule, including the footnote legal citations that provide the legal basis and requirements for complying with the Rule.

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