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To: Clients and Friends

From: David F. Dulock

Subject: Regulation Z Threshold Amount Exemption Raised -
Revised Section 226.3(b) of Regulation Z

Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Truth in Lending Act (TILA) by increasing the threshold amount for exempt consumer credit transactions from \$25,000 to \$50,000. In addition, the Dodd-Frank Act provides that, on or after December 31, 2011, this threshold amount must be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers. Accordingly, in the April 4, 2011, issue of the *Federal Register* (76 FR 18354) the Board of Governors of the Federal Reserve System (FRB) published a final rule (the Final Rule) making corresponding amendments to Section 226.3(b) of Regulation Z and its accompanying official staff commentary.

You are advised that the above revisions in Section 226.3(b) of Regulation Z have no effect on consumer credit transactions secured by real property. That is, a consumer credit transaction secured by (i) real property, or (ii) personal property that is the consumer's principal dwelling, or (iii) a private education loan under Section 226.46(b)(5) is subject to Regulation Z whether or not the amount of credit extended or to be extended exceeds the applicable threshold amount in Section 226.3(b).

Prior to July 21, 2011, the exemption from Regulation Z in existing Section 226.3(b) reads as follows:

(b) *Credit over \$25,000 not secured by real property or a dwelling.* An extension of credit in which the amount financed exceeds \$25,000 or in which there is an express written commitment to extend credit in excess of \$25,000, unless the extension of credit is:

- (1) Secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer; or
- (2) A private education loan as defined in §226.46(b)(5).

On July 21, 2011, the exemption from Regulation Z in revised Section 226.3(b) of Regulation Z will read as follows:

(b) *Credit over applicable threshold amount—(1) Exemption—(i) Requirements.* An extension of credit in which the amount of credit extended exceeds the applicable threshold amount or in which there is an express written commitment to extend credit in excess of the applicable threshold amount, unless the extension of credit is:

- (A) Secured by any real property, or by personal property used or expected to be used as the principal dwelling of the consumer; or
- (B) A private education loan as defined in § 226.46(b)(5).

(ii) *Annual adjustments.* The threshold amount in paragraph (b)(1)(i) of this section is adjusted annually to reflect increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as applicable. See the official staff commentary to this paragraph (b) for the threshold

amount applicable to a specific extension of credit or express written commitment to extend credit.

(2) Transition rule for open-end accounts exempt prior to July 21, 2011.

An open-end account that is exempt on July 20, 2011 based on an express written commitment to extend credit in excess of \$25,000 remains exempt until December 31, 2011 unless:

- (i) The creditor takes a security interest in any real property, or in personal property used or expected to be used as the principal dwelling of the consumer; or
- (ii) The creditor reduces the express written commitment to extend credit to \$25,000 or less.

Thus, based on the Final Rule's revision to Section 226.3(b), the new threshold amount will be as follows:

- (i) From July 21, 2011 to December 31, 2011, the threshold amount will be \$50,000; and,
- (ii) Effective January 1, 2012, the \$50,000 threshold amount will be adjusted annually based on increases, as applicable, in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

For more information, you may access the complete text of and the FRB's explanatory preamble to the Final Rule at: <http://www.gpo.gov/fdsys/pkg/FR-2011-04-04/pdf/2011-7376.pdf>.

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