DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

November 18, 2022

DOLLAR ADJUSTMENTS TO REGULATIONS Z AND M

The Dodd-Frank Act amended The Truth in Lending Act (TILA) by requiring that the dollar threshold for exempt consumer credit transactions be adjusted annually by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the exemption threshold from the prior year is not adjusted. The Dodd-Frank Act requires similar adjustments in the Consumer Leasing Act's threshold for exempt consumer leases. TILA establishes special appraisal requirements for "higher-priced mortgage loans." The regulations implementing these requirements exempted transactions of $25,000 or less and required that this loan amount be adjusted annually based on any annual percentage increase in the CPI-W.

Based on the reported 8.9% increase in the CPI-W as of June 1, 2022, the exemption threshold for TILA and Regulation Z will increase from $61,000 to $66,400, effective January 1, 2023. The exemption threshold for higher-priced mortgage loans under TILA will increase from $28,500 to $31,000, effective January 1, 2023. The exemption threshold for the Consumer Leasing Act and Regulation M will increase from $61,000 to $66,400, effective January 1, 2023.

A number of adjustable dollar amounts in state statutes are tied to these federal thresholds. *See*, *e.g.*, Okla. Stat. Ann. tit. 14A, § 3-104(d). Consequently, the announced changes have wider implications than just the federal regulations and may affect statutory applicability in certain states.

Please let us know if you have questions. ❑

✧ *Mike Tomkies and Mercedes Ramsey*

HAVE YOU REVIEWED YOUR LICENSING RECENTLY?

In addition to new anti-evasion provisions targeted at disfavored "bank partnership" and fintech lending programs (*see* our ALERT of July 20, 2021), many states have started to make seemingly minor changes to long-standing licensing triggers and reinterpreting existing requirements to broaden the reach of their statutes and enhance regulatory authority. Many of these changes are promoted by increasingly stealthy consumer advocacy designed either to evade industry comment and limit the potential for industry advocacy or to misinform legislators as to the full effect of proposed changes. Changes sold to well-meaning legislators as enhancing states' ability to police disfavored "payday" or higher-rate "online" lenders, for example, can have unintended adverse consequences for lower rate, mainstream lending programs, such as those offering favorable deferred interest products to prime and near prime consumers. Creditors also are increasingly no longer immune from state regulation when collecting their own debts. *See* our ALERT of July 19, 2022.

While some regulators have expressed a willingness to exercise prosecutorial discretion when embracing some of these legislative changes where they have latitude, such statements are weak comfort to creditors seeking to comply with both the letter and the spirit of the law. Statements by regulators can be unreliable as enforcement positions can change swiftly with changes in administrations. *See* our ALERT of Jan. 17, 2022. Consequently, regular and more frequent review of state licensing requirements in the states in which lenders and bank partners operate is becoming increasingly important. We regularly track and review these statutes and can provide assistance with reviewing lending programs to ensure compliance.

The rules of the game are changing ever more rapidly. Are you prepared to respond? ❑

✧ *Mike Tomkies and Mercedes Ramsey*

HONING YOUR COMPLIANCE? WE CAN HELP! We routinely advise a wide variety of clients on federal and multistate compliance issues on a range of topics, including mortgage lending, payment cards, retail sales financing, student lending, business revolving credit and charge programs, health care and medical financing, privacy, marketing, origination, servicing and debt collection, e-commerce, money transmission, and debt cancellation and suspension. See our Multistate Digests too. ***Let us help you!***

Darrell L. Dreher
ddreher@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Nathan D. Copeland
ncopeland@dltlaw.com

Susan L. Ostrander
sostrander@dltlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DLTLAW.COM

To see previously sent ALERTS, visit our website at www.dltlaw.com

Michael C. Tomkies
mtomkies@dltlaw.com

Benjamin J. Hurford
bhurford@dltlaw.com

Mercedes C. Ramsey
mramsey@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

Robin R. De Leo
robin@deher-la.com