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Regulatory Relief Bill Signed into Law

May 24, 2018

President Trump today signed the Economic Growth, Regulatory Relief and Consumer Protection Act (the "Act"), a law that eases several of the provisions of the Dodd-Frank Act, the landmark financial regulation overhaul that was enacted in response to the 2008 financial crisis. Among other things, the Act softens some of the mortgage loan limitations and disclosure requirements in the Truth in Lending Act ("TILA") and Real Estate Settlement Procedures Act ("RESPA"), provides broader exemptions for certain financial institutions under the Home Mortgage Disclosure Act ("HMDA"), simplifies capital calculations for community banks, and raises the threshold at which banks are considered systemically important financial institutions ("SIFIs").

A summary of several key provisions of each title of the Act is set forth below.

TITLE I — IMPROVING CONSUMER ACCESS TO MORTGAGE CREDIT

- Automatically considers mortgages held in portfolio by financial institutions with less than $10 billion in total assets as qualified mortgages under TILA subject to compliance with certain requirements.
- Eliminates the TILA escrow requirements for banks with less than $10 billion in assets, and that have originated 1,000 or fewer loans secured by a first lien on a principal dwelling during the preceding calendar year.
- Removes the 3-day waiting period requirement for TILA/RESPA mortgage disclosures if the consumer receives a second offer of credit from the same lender with a lower rate.
- Exempts covered depository institutions and credit unions that originate fewer than (i) 500 closed-end mortgage loans or (ii) 500 open-end lines of credit in each of the two preceding calendar years from certain HMDA data collection and reporting requirements, including information about a borrower's age, credit score, and detailed racial and ethnic breakdowns. However, institutions that have received a "needs to improve" Community Reinvestment Act ("CRA") rating during each of the last 2 most recent exams or a "substantial non-compliance" rating on the most recent exam must still comply with the additional HMDA disclosures.
- Excludes a 1-to-4 family dwelling that is not the primary residence of a member of a credit union from the definition of a "member business loan" under the Federal Credit Union Act.

TITLE II — REGULATORY RELIEF AND PROTECTING CONSUMER ACCESS TO CREDIT

- Simplifies capital calculations for community banks with less than $10 billion in assets. Federal banking agencies are required to establish a community bank leverage ratio of tangible equity to average consolidated assets of not less than 8 percent and not more than 10 percent. Banks with less than $10 billion in total consolidated assets who maintain tangible equity in an amount that exceeds the community bank leverage ratio will be deemed to be well capitalized and in compliance with risk based capital and leverage requirements.

- Helps smaller banks raise stable funding by providing an exception for reciprocal deposits from FDIC restrictions on the acceptance of brokered deposits.
- Exempts financial institutions with less than $10 billion in total assets from the Volcker Rule, which bars financial institutions from engaging in proprietary trading or entering into certain relationships with hedge funds and private-equity funds.
- Raises eligibility for Short Form Call Reports from $1 billion to banks with $5 billion in assets.

TITLE III — PROTECTIONS FOR VETERANS, CONSUMERS, AND HOMEOWNERS

- Protects certain individuals, such as bank employees, from potential lability for the disclosure of suspected exploitation of a senior citizen to a regulatory or law enforcement agency.

TITLE IV — TAILORING REGULATIONS FOR CERTAIN BANK HOLDING COMPANIES

- Raises the threshold at which banks are considered SIFIs from $50 billion to $250 billion and eliminates company-run stress tests for institutions with less than $250 billion. Banks in the $100 billion to $250 billion range must conduct periodic supervisory stress tests.
- Clarifies that large foreign banks do not escape regulation as a SIFI just because their U.S. units have less than $250 billion of assets.

Please note that this is a brief overview of the Act, and we anticipate sending future advisories addressing several provisions in more detail. In the meantime, if you have any questions regarding the Act, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenanddykman.com, or Elizabeth A. Murphy at (516) 296-9154 or via email at emurphy@cullenanddykman.com.

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