PUBLICATION

Dodd-Frank's New Rules: Update for Financial Institutions

April 13, 2011

On April 1, 2011, the following rules became effective

- The FDIC's rules for calculating the manner in which banks' insurance deposit premiums are calculated have been revised, and the calculation is now based on assets less Tier 1 capital instead of deposits;
- The Federal Reserve's Regulation Z has been amended to raise the threshold for mandatory escrow accounts for jumbo residential mortgage loans; and
- The Federal Reserve's Regulation Y has been amended to provide that banks must comply with the Volcker Rule (e.g., prohibition against proprietary trading in securities and investments in hedge funds) within two years after the earlier of (i) July 31, 2012 and (ii) 12 months after the adoption of final rules implementing the Volcker Rule.

In addition, the Federal Reserve's amendments to Regulation Z that impose restrictions on compensation of residential mortgage loan originators was supposed to become effective on April 1, but the effectiveness was delayed until April 6th, when a court order dissolved a stay that had been imposed on March 31.

On March 25, the Federal Reserve adopted final rules amending Regulations Z and M to increase the threshold for exempt transactions from $25,000 to $50,000, as required by Dodd-Frank. The final rules become effective on July 21, 2011.

In addition to the above rules, the bank regulatory agencies have published a number of proposed rules during the last month to implement other provisions of Dodd-Frank, including:

- A proposal by the Federal Reserve to amend Regulation V to require creditors to disclose credit scores and related information to consumers in risk-based pricing and adverse action notices if a credit score was used in setting the credit terms or taking adverse action (comments due by April 14, 2011);
- An inter-agency proposal by each of the federal banking regulators, the Securities and Exchange Commission, the Federal Housing Finance Agency and the Department of Housing and Urban Development to require sponsors of asset-backed securities to retain at least 5% of the credit risk of the assets underlying the securities (comments due by June 10, 2011);
- An inter-agency proposal by each of the federal banking regulators, the Department of the Treasury, the Securities and Exchange Commission, and the Federal Housing Finance Agency to require reporting of incentive-based compensation arrangements and to prohibit incentive-based compensation arrangements that provide excessive compensation or that could expose a bank to inappropriate risks (comments due within 45 days after publication in the Federal Register); and
- A proposal by the Federal Reserve to repeal Regulation Q, the regulation that prohibits interest on demand deposits (comments due within 30 days after publication in the Federal Register); and
- A proposal by each of the federal banking regulators, the Farm Credit Administration, and the Federal Housing Finance Agency to establish margin and capital requirements for swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants (comments due by June 24, 2011).

If you have questions about this or any other bank regulatory related issues, please contact one of the attorneys listed below or your Baker Donelson attorney.