



401(k) Plan Loans: No Longer Required to Comply with Regulation Z

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The Federal Reserve System approved final rules that amend the regulations implementing the Truth in Lending Act of 1968 ("TILA"), widely known as "Regulation Z." Effective July 1, 2010, the revised rules will exempt loans taken from most employer-sponsored retirement plans from Regulation Z. The Federal Trade Commission has indicated that the relief may not apply to an employer that is considered a financial institution. Further guidance is needed.

TILA and Regulation Z generally require creditors to disclose key terms of lending arrangements to consumers, as well as the costs related to that extension of credit. Prior to July 1, 2010, Regulation Z of the Truth-in-Lending Act applies to 401(k), 403(b) and 457(b) plans that make more than 25 loans per year where the amount financed is \$25,000 or less. As a result, plan administrators of such plans have been required to follow Regulation Z rules with regard to the determination of finance charges, the APR applicable to the loans, and the requirement to provide disclosures and periodic statements to the participant taking a loan.

New Section 226.3(g) of Regulation Z exempts most loans taken by employees from their employer-sponsored retirement plans from TILA and Regulation Z. Under the new provision, an extension of credit to a participant in (i) an employer-sponsored retirement plan that has been qualified under Section 401(a) of the Internal Revenue Code (the "Code"), (ii) a tax-sheltered annuity under Code Section 403(b), or (iii) an eligible governmental deferred compensation plan under Code Section 457(b) will be exempt from TILA and Regulation Z, so long as the loan is comprised of fully-vested funds from the participant's account, and the loan is made in compliance with all relevant provisions of the Code. The Federal Reserve Board noted in its summary to the final rules that this exemption will apply to employer-sponsored retirement plans regardless of whether the plan is subject to the ERISA.