

November 12, 2014

MEMORANDUM TO: Board of Directors

FROM: Mark Pearce 
Director, Division of Depositor and Consumer Protection

SUBJECT: Final Rule Integrating OTS & FDIC Flood Insurance Regulations

Summary of Recommendation

Staff recommends that the FDIC's Board of Directors approve and authorize the attached Final Rule, entitled *Loans in Areas Having Special Flood Hazards* (FR) for publication in the *Federal Register*. The FR would integrate the flood insurance regulations for State nonmember banks and State savings associations in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the DFA). The integration of the former OTS rule was originally proposed as part of a larger interagency joint notice of proposed rulemaking (NPR) issued in October 2013 pursuant to the Biggert-Waters Flood Insurance Reform Act of 2012 (the BW Act). No comments were received on the proposed integration aspects of that NPR. To expedite the completion of this technical, uncontroversial rule integration, staff recommends the promulgation of a separate rule from the joint interagency rulemaking that addresses the integration issue alone. The FR would amend Part 339 and rescind and remove Part 391, Subpart D, Title 12 of the Code of Federal Regulations. Only the integration of the FDIC and OTS flood insurance regulations is addressed by the FR.

Background

DFA: The DFA provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Among other changes, the powers, duties, and functions formerly performed by the OTS as to State savings associations were assigned to the FDIC. Pursuant to this authority, the FDIC reissued and re-designated certain transferring regulations of the former OTS. These transferred regulations were published as new FDIC regulations in the *Federal Register* on August 5, 2011.

BW Act: The BW Act amended the Flood Disaster Protection Act of 1973 and revised requirements under the National Flood Insurance Program, the national flood protection and relief program administered by the Federal Emergency Management Agency. Some of these revisions were effective immediately upon enactment. Other revisions require a joint interagency rulemaking to be implemented.

HFIAA: On March 31, 2014, the Homeowner Flood Insurance Affordability Act (HFIAA) was enacted. Among other measures, HFIAA substantially revised escrow requirements for flood insurance premiums.

Pursuant to the BW Act, the FDIC along with other agencies published an NPR in the *Federal Register* on October 30, 2013 (78 *Fed. Reg.* 65108). In addition to addressing certain broader,

substantive requirements of the BW Act, the NPR proposed to revise the FDIC's flood insurance regulations to incorporate State savings associations brought under FDIC supervision by the DFA. Specifically, the NPR proposed to: (1) add language to 12 C.F.R. Part 339, the FDIC's flood regulation for State non-member banks, to make it applicable to both State non-member banks and State savings associations; and (2) remove the FDIC's flood regulation for State savings associations, 12 C.F.R. Part 391 Subpart D (which had been transferred from the OTS). The proposal had a sixty-day comment period, which closed on December 29, 2013. No comments were received on the FDIC's proposed integration of its flood insurance rules.

As a result of HFIAA being enacted, the FDIC and other agencies issued another notice of proposed rulemaking on October 30, 2014, to implement the HFIAA changes to escrow requirements. In light of the need to delay the rulemaking process, the resolution of this technical, administrative matter is being handled by separate FDIC final rule.

Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured depository institutions. The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review, which is expected to be completed by 2016. It is the opinion of staff that part 339, as it would be amended by the Final Rule, would not impose any outdated or unnecessary regulatory requirements on any insured depository institutions while the removal of Part 391, Subpart D, will eliminate an unnecessary regulation.

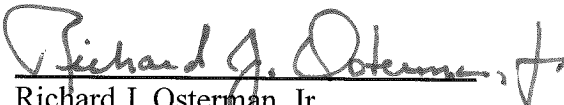
Recommendation:

Based on the foregoing, staff recommends the Board approve the attached Resolution to adopt and authorize the publication in the *Federal Register* of the attached FR with an effective date of 30 days after publication.

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CONCUR:



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Attachments