

## **Federal Deposit Insurance Corporation**

Comment on Loans in Areas Having Special Flood Hazards  
12 CFR Parts 339, 391 RIN 3064-AE03

### **Comments on Loans in Areas Having Special Flood Hazards.**

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#### **Purpose**

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) (collectively, the Agencies) are proposing to amend their regulations regarding loans where residential improved real estate or mobile homes serve as collateral in areas having special flood hazards, to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. Specifically, the proposal would establish requirements with respect to the escrow of flood insurance payments, the acceptance of private flood insurance coverage, and the force-placement of flood insurance. The proposal also would clarify the Agencies' flood insurance regulations with respect to other amendments made by the Act and make technical corrections. Furthermore, the OCC and the FDIC are proposing to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively. This comment will focus on the implementations of the FDIC, looking at the benefits these changes will provide, and also recommending additional changes that would provide benefits to the parties involved.

#### **Discussion**

### *FDIC-Supervised Institution*

The proposed revision by the FDIC to replace “bank” with FDIC-supervised institution is a change that will extend the rules for flood insurance to State nonmember banks and State savings associations. This change will eliminate any potential for institutions that are regulated by the FDIC to skirt the Federal flood regulations by shifting loans with collateral in SFHAs to non-banks. This change is also in line with the purpose of the FDIC in maintaining stability and public confidence in the financial system of America. The State nonmember banks and State savings associations are subject to the same risks as “banks,” thus why they are regulated by same agency in the FDIC. Since these institutions will now be covered by the Federal flood insurance regulations, there can be further confidence in the financial health of these institutions that are located in SFHAs. The change to include all FDIC-supervised institutions makes sense as they are already regulated by the FDIC and it will be beneficial to the public, knowing that the institutions do not have the potential of having worthless collateral in the event a flood would happen.

### *Escrow of Flood Insurance Premiums and Fees*

The proposed amendments require that any premium or fees for flood insurance that is required by the regulations must be placed into escrow by FDIC-supervised institution unless the institution determines certain exceptions apply. This will be a great mechanism to allow for a reserve of funds to be available should a flood occur. The funds in the escrow account are only distributed after notice that the premiums are due has been received from the Administrator of FEMA or other provider of flood insurance. The funds being placed in an escrow account ensures that the premiums collected will be available if needed and lessens the likelihood that the funds will be used for an improper purpose by placing them in escrow. By limiting who can

provide notice to release the funds in the escrow account, that helps to ensure will accumulate and will be available when needed. The process for placing premiums for flood insurance in escrow is straight-forward and it is essential in allowing the change made in the Biggert-Waters Flood Insurance Reform Act to take effect.

#### *Acceptance of Private Flood Insurance*

The acceptance of “private flood insurance” as defined by the proposed regulation is the best and most influential change that will occur because of the proposed regulations. Currently the only option for obtaining the necessary flood insurance is through the National Flood Insurance Program (NFIP). The NFIP employs a one-size-fits-all approach to providing flood insurance. This rigid system does not allow for the consideration of individual characteristics of the collateral that must be insured. By allowing private flood insurance to satisfy the requirements of the Flood Disaster Prevention Act (FDPA), consumers will benefit from the ability to obtain more specialized coverage plans. The market that the proposal creates will benefit all consumers in the flood insurance market by allowing the market to become more efficient in its risk assessment and setting of premiums. Increasing the amount of private insurers providing flood insurance on collateral in turn reduces the risk of taxpayers by lessening the role of the government run NFIP.

I am hopeful that competition between private insurers will help to offset the unintended consequence of the Biggert-Waters Flood Insurance Reform Act of 2012. The severe rate increases that were outlined in Congresswoman Maxine Waters September 27, 2013 letter to Congress are an unintended result of the Biggert-Waters Flood Insurance Reform Act of 2012 which she co-sponsored. As a result, flood insurance has become unaffordable for certain

individuals and businesses and I believe a private flood insurance market, while it would not alleviate all problems, could help to curtail the effects of the rate increases.

The proposal specifically requests comments on whether the Agencies should include a provision that accepts a flood insurance policy that does not meet the definition of “private flood insurance” and what criteria should be required for such a provision. I believe that the Agencies should use their authority to also accept flood insurance policies that do not meet the definition as it is currently written. As I set out above, I believe the rigid nature of the NFIP is something that hinders the ability of those needing insurance to obtain the lowest premium. The current definition of “private flood insurance” contains there different requirements that are tied to being at least as broad, similar, or as restrictive as the NFIP. By accepting policies other than those that meet the definition of “private flood insurance,” the Agencies can provide more flexibility to those seeking insurance. Criteria that I believe should be used in considering whether a policy satisfies the FDPA’s general purchase requirement would include policy coverage percentage that insures that either all or a portion of collateral’s value is insured by the policy, and also the institution that is providing coverage is financially healthy, likely determined by the state in which it operates.

### **Conclusion**

In conclusion, I am very much in support of the proposed regulation. The change for “banks” to all FDIC-regulated institutions provides the public with greater security when dealing with lending institutions that are in SFHAs. The implementation of regulations dealing with placing premiums in escrow and accepting private insurance are necessary in order for the Biggert-Waters act to serve its intended purpose. The joint proposal ensures that regulations will be the same across all the agencies that govern lending institutions providing an easier to

understand system to go along with the added protection of flood insurance. There remain more ways in which the Agencies act to limit the effects that a flood will have on lending institutions and consumers, but the proposal is a great step and receives my full endorsement.

/s/ Joel S. Hane