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Public Comments on Loans in Areas Having Special Flood Hazards:=====

Title: Loans in Areas Having Special Flood Hazards

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Federal Deposit Insurance Agency

Subject: Loans in Areas Having Special Flood Hazards

First of all, I want to express appreciation for addressing the questions and issues raised with the passage of the Homeowner Flood Insurance Affordability Act [HFIAA] and its subsequent implementation by the banking industry.

Section 13 of the Homeowners Flood Insurance Affordability Act amended the Flood Disaster Protection Act of 1973 by adding the exclusion for detached structures: "Notwithstanding any other provision of this section, flood insurance shall not be required, in the case of any residential property, for any

structure that is a part of such property but is detached from the primary residential structure of such property and does not serve as a residence."

The Proposed Rules published in the Federal Register October 30, 2014 further indicates in the Section-by-Section Analysis

"Specifically, the statute provides that flood insurance is not required, in the case of any residential property, for any structure that is a part of such property but is detached from the primary residential structure and does not serve as a residence. The Agencies proposed rule would incorporate this exemption as provided in the statute into the Agencies regulations.

The exemption would address an area of concern for borrowers and lenders by excluding relatively low-value structures, for example, detached sheds and garages, from mandatory flood insurance coverage if they secure a designated loan. The Agencies understand, however, that some detached structures might be of relatively high value, such as a detached greenhouse. While the statute does not require flood insurance for such structures, as a matter of safety and soundness, lenders may nevertheless require flood insurance on these detached structures. Requiring flood insurance even when the statute does not mandate it may also be in the borrowers interest."

The Agencies solicited comment on whether this section should be clarified.

We very much appreciate guidance to address detached structures exclusions and specifically, the question of what constitutes residential property. In particular, how do we handle farmsteads with barns and other farm buildings given the broad definition of residential improved real estate under Flood Disaster Protection Act of 1973: For purposes of this subsection, the term "residential improved real estate" means improved real estate for which the improvement is a residential building. Given the Act and the Regulation definition, if a loan is secured by a farm that includes a residential structure, does that therefore indicate only the residential structure would require flood insurance? Thus exempting the requirement for flood insurance for any out-buildings such as barns, silos, etc.? Or, will the exemption be allowed as long as the detached structure is not used as a residence, a business or for farming purposes? Clarification is desired.

The question arises whether the exemption applies to other-than single family residential property? Does it include two-to-four family or multi-family structures? This may have implications for determining/defining relatively low value.

The Agencies could clarify the exemption is only available if the detached structure does not secure a loan that is an extension of credit for a primarily business, commercial or agricultural purpose. That is one way to simplify, but the question is what was the intent of Congress in passing this exemption? This bank has several borrowers in the single-family rental business. If the exemption is defined by loan purpose, the exemption would not be available for these particular properties. What about the small business owner who secures his/her loan with his/her primary residence? By defining by loan purpose he/she too would not be afforded this exemption. Was that the intent of Congress when passing HFIAA?

Secondly, very much appreciate the added the descriptives relatively low-value and relatively high value. How will these terms be defined? Will lenders be expected to define a de minimus value by policy? Or, will the final rules provide guidance as to expectations? Banks should be afforded the ability to define these for themselves based on reasonable criteria for determining what constitutes relatively low value in their areas of service.

Finally, clarification is needed regarding what constitutes whether a structure serves as a residence. How will banks determine if the building is multi-purpose; for example, an apartment above a garage?

Thank you for the proposal and the opportunity to comment concerning Loans in Areas Having Special Flood Hazards. If there are questions or need of further clarifications, please do not hesitate to contact me.