

December 3, 2013

National Credit Union Administration
Attn: Gerard Poliquin
1775 Duke Street
Alexandria, VA 22314

RE: Response to Proposed Joint Flood Insurance Rule: RIN 3133-AE18

Dear Mr. Poliquin:

After reviewing the Proposed Joint Flood Insurance Rule issued on October 11, 2013, we continue to have concerns regarding the escrow requirements that will take effect on July 6, 2014.

Acceptance of private flood insurance

We support the Agencies' proposal to require private insurers to meet the statutory definition of "private flood insurance" to satisfy the mandatory purchase requirement. This would require private insurers to be familiar with the state laws in which they are doing business, and would require them to be licensed in that state. This would alleviate the burden of determining the suitability of private flood policies for lending institutions, and would make private flood insurance a more attractive option for borrowers. It would also help to ensure that the private flood insurance market is properly regulated. As an alternative, we believe that the agencies' subsequent proposal to allow state insurance regulators to determine whether or not private flood policies meet the appropriate criteria would also offer a safe harbor to lenders and allow more access to credit and growth in the private flood insurance market.

Time frame for escrow requirements

The Agencies requested comment on the timing proposed for complying with the escrow requirement for outstanding loans. The current proposed date is July 6, 2014.

We believe that more time is needed for this particular provision. As we currently understand the proposed rule, we will have to review all of the second mortgages on our books which are currently in a flood zone which require flood insurance coverage to determine whether we are in first lien position. If we are not in first lien position, we must then identify whether the primary lien holder is exempt from the escrow requirement. We must also constantly monitor these loans to determine if an escrowing first mortgage is paid off. This will be a very time consuming task. Once we identify the affected loans that will require escrow for flood premiums, we must then notify those borrowers within 90 days of their flood insurance renewal. This could be as early as April 2014 for flood policies that renew on or after July 6, 2014. This will not be enough time to bring most lenders' entire loan portfolio into compliance while also providing timely notices to existing borrowers before the proposed July 6th effective date.



In addition, our loan servicing system as well as those of many other servicers is not set up to handle RESPA compliant escrow processing for our second mortgage portfolio. We are currently working with our servicing system provider to upgrade our platform to incorporate RESPA compliant escrow processing for these non-conventional mortgage loans. However, we expect this process to take at least 2 years since this type of functionality will require a major upgrade to the structure and components of the loan servicing system. We are unable to comply by July 6, 2014. We must have additional time to complete this major system upgrade.

Escrow of flood insurance for second lien loans

The liability for institutions required to escrow flood insurance for home equity lines of credit and second liens is enormous. Additional requirements must be placed on lien holders, insurance companies and homeowners to ensure that all institutions are aware of the escrow status. The requirements we recommend are as follows:

- Escrow status should be indicated on the insurance declarations page
- Changes in escrow status by lienholders should be reported to insurance companies.
- Insurance companies should be required to notify all lien holders and homeowners when changes in escrow status are received

For example, if a lienholder in the first position is paid off and closes their escrow account, the insurance company should be notified. The insurer should then be required to notify any other lienholders of the updated escrow status. This would allow subordinate lienholders to be aware of changes in the property's escrow status and allow them time to establish an escrow account of their own, if needed.

We currently monitor flood insurance policy renewals on all first and second mortgages secured by properties located in flood zones requiring flood insurance. For our conventional first mortgages, these loans are maintained on a separate loan servicing system that provides RESPA compliant escrow processing and flood insurance is escrowed and paid from the escrow account. (Please note that our conventional mortgage loan servicing system is not set up to process these second mortgage loans.) For all second mortgages, we monitor the flood insurance policies for renewal and require force placed flood insurance if there are any lapses in coverage. As noted earlier, this loan servicing system (our consumer loan servicing system) is not set up to handle escrow for second mortgage loans but our process does ensure that flood insurance protection remains in place. We work with those borrowers with force placed flood insurance to obtain flood insurance policies so that the force placed coverage can be removed. These current controls and procedures provide the necessary protection for the consumer and the federal government. The requirement to escrow flood insurance in these cases is onerous and will result in the reduction of available credit to consumers.

Other concerns

We would like to request guidance on lines of credit with zero balances. If a consumer has a home equity line of credit with no balance, but the line of credit remains open, are lenders still



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required to maintain an escrow account while the line of credit is open? Or is escrowed flood insurance only required while the consumer owes a balance?

We also request clarification on whether lending institutions are required to monitor the current flood zone status of a property throughout the life of an open-ended loan, or only at the time of origination using the standard FEMA form as prescribed in §760.6(a).

In addition, we ask for further clarification on the timing of the commencement of notice requirements under 22.5(b)(1) and the commencement of escrow collection procedures under 22.5(a)(2)(i). Based on our understanding of these two subsections, the collection of escrow payments may be required to begin as early as July 8, 2014 – first loan payment after first renewal date after July 6, 2014. This would also require that a notice be generated 90 days prior to the escrow of premiums – April 9, 2014. It is quite unusual to require certain provisions of a regulation to be in force prior to the effective date of compliance for the remainder of the regulation. This was recently noted as a concern under the notice requirements on adjustable rate mortgages which will require notice 210 – 240 days before the first rate change. Left unchanged, this would have resulted in the implementation of notice requirements prior to the effective date of the remaining provisions of the final rule amending Regulation Z related to mortgage servicing requirements. This was subsequently addressed and corrected. We hope that the same consideration will be extended to the review and clarification of the timing requirements under the Proposed Joint Flood Insurance Rule.

The expense and time required for institutions that do not currently escrow on home equity lines of credit and second mortgage programs is massive. Due to lender concerns over potential liability from granting subordinate-lien loans in flood zones, we believe that the rule as currently proposed will result in a tightening of credit for consumers currently living in these areas.

We hope that our comments will be taken into consideration. We will gladly provide any additional information that will assist your efforts to evaluate the impact of this proposed rule and the consideration of appropriate changes to the rule.

Thank you for your time,



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