



Office of the President

December 10, 2013

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Loans in Areas Having Special Flood Hazards
RIN 3133-AE18

Dear Mr. Poliquin:

Navy Federal Credit Union (“Navy Federal”) appreciates the opportunity to provide the following comments on the proposed rulemaking issued by the National Credit Union Administration (NCUA) and four other agencies (“Agencies”) to amend their respective regulations regarding loans in areas having special flood hazards and to implement certain provisions of the Biggert-Waters Flood Insurance Reform and Modernization Act of 2012 (“Biggert-Waters Act”).

By way of background, Navy Federal is the nation’s largest natural person credit union with \$54 billion in assets, over 4.6 million members, 239 branches, and a workforce of over 11,000 employees worldwide. We are committed to serving the needs and improving the financial condition of our members.

Navy Federal generally supports the NCUA proposal to require credit unions to accept private flood insurance that meets the statutory definition in order to satisfy the mandatory purchase requirement under the Flood Disaster Protection Act (FDPA); to amend the force-placement provisions to clarify that a lender or its servicer has the authority to charge a borrower for the cost of flood insurance coverage commencing on the date on which the borrower’s coverage lapsed or became insufficient; and to deliver the revised and new notice forms and clauses to our members. We have concerns, however, about the proposed requirement to establish escrow accounts for the payment of flood insurance premiums and fees, and its impact on our members, but clearly understand the Congressional authorization under the Biggert-Water Act to mandate the Agencies to implement the aforementioned requirement.

As described below, based on our review of the proposed rule and our experience with the National Flood Insurance Program (NFIP), Navy Federal believes the proposal can be improved in order to protect our members’ collateral and to facilitate credit unions’ full support and participation in the NFIP as amended by the Biggert-Waters Act.

Escrow of Flood Insurance Premiums and Fees

The NCUA requests comments on whether credit unions should be provided the option of complying with the escrow requirement earlier than the dates set forth in the proposal. Navy Federal strongly suggests that the NCUA keep the dates as presented in the proposal, i.e., to begin escrow: 1) upon loan consummation for any new designated loan made on or after July 6, 2014; 2) with the first loan payment after the first renewal date of a member's flood insurance policy that occurs on or after July 6, 2014 for outstanding designated loans; and 3) with the first loan payment after the flood insurance policy is established for loans that were not designated for flood insurance at the time they were consummated, but will become designated loans after July 6, 2014. Financial institutions will need the time to upgrade their systems and processes to ensure delivery of the new and revised notices to their members informing them of the escrow requirement; to train their employees on the new requirement; and to set up procedures to answer their members' questions about the escrow requirement and to work with them on escrowing the flood insurance premiums and fees.

Acceptance of Private Flood Insurance

Navy Federal appreciates the NCUA and the other Agencies' acknowledgment of the regulated lending institutions' concern to have the technical expertise to evaluate whether a flood insurance policy meets the definition of "private flood insurance." To that end, the regulatory agencies are proposing a framework for engaging state insurance regulators to obtain written determinations for lenders and servicers. We applaud the Agencies for taking this positive step toward enabling the growth and acceptance of private flood insurance in the marketplace.

The NCUA requests comments regarding specific aspects of the Agencies' proposal to engage state insurance regulators in providing written determinations on private flood insurance policies and whether to accept private flood insurance when it does not meet the proposed legal definition. The following are our comments on these two critical areas of the private flood insurance proposal:

A. Written Determination by State Insurance Regulators

- 1) We are unaware of any specific mechanism that either exists or may be developed by state insurance regulators to make a written determination that the insurance policy meets the statutory definition of private flood insurance. We suggest contacting the National Association of Insurance Commissioners (and their Center for Insurance Policy and Research) for guidance in this area. The Association is the standard-setting body and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the Association, state regulators establish standards, guidelines and best practices, conduct peer review, and coordinate regulatory oversight. (<http://www.naic.org/index.htm>)

- 2) As mentioned above, there is a need for technical expertise in determining whether an insurance policy meets the criteria set forth in the legal definition of private flood insurance and the standards of the NFIP. We strongly support engaging state insurance regulators to provide such written determinations in order to facilitate our acceptance of flood insurance by private insurers.
- 3) Regarding the “safe harbor” provision of the private flood insurance proposal, we agree that it would alleviate our concerns in evaluating private insurance. We understand the proposed safe harbor provision would facilitate compliance with the “acceptance of private flood insurance” rule by relying on the expertise of state insurance regulators. Specifically, if a state insurance regulator makes a written determination that a flood insurance policy issued by a private issuer meets all of the criteria set forth in the definition of private flood insurance, then the NCUA will deem the policy to meet the statutory definition and credit unions would be in compliance with the rule.
- 4) Lastly, by engaging state insurance regulators in determining the criteria of private flood insurance and by providing safe harbor to lenders and servicers in accepting private flood insurance, the proposed rule would certainly enable the growth of the private flood insurance market.

B. Private Flood Insurance That Does Not Meet the Proposed Legal Definition

Navy Federal does not agree with the premise that insurance policies issued by private insurers that do not meet the proposed legal definition of private flood insurance should be permitted to satisfy the mandatory purchase requirement under the NFIP. Alternatively, we believe it is appropriate to include a provision in the final rule that specifically requires credit unions to accept only policies issued by private insurers that meet the legal definition. Our understanding is that the legal definition of private flood insurance follows the standard coverage criteria of FEMA’s Standard Flood Insurance Policy (SFIP) under the NFIP. Any discretionary policy on the part of credit unions accepting private flood insurance policies that do not meet the legal definition must, at a minimum, provide for the following:

- 1) State insurance regulators’ evaluation of the condition and ability of a private insurer to issue a flood insurance policy and issuance of a written determination about the private insurer to the credit union.
- 2) NCUA’s requirement that any flood insurance policy issued by a private insurer include, at the very least, as broad coverage as that provided by FEMA’s SFIP, including consideration of deductibles, exclusions and conditions offered by the insurer. A criterion could also be developed to ensure that a private flood insurance policy accepted by a credit union provides both the credit union and the member with appropriate and sufficient coverage for the property securing the loan. This criterion could be developed by the state insurance regulators through the auspices of the National Association of Insurance Commissioners.

- 3) NCUA's requirement of a mortgage interest clause similar to the clause contained in a SFIP. Such a mortgage interest clause would protect the interests of both the member and the credit union in the event of property loss.
- 4) NCUA's "safe harbor" compliance provision similar to that provided under the proposed rule.

Notice Requirements

Regarding the proposed notice requirement for designated loans that are outstanding on July 6, 2014, Navy Federal believes that 45-days advance notice to members would be sufficient time before the credit union would be required to begin escrow of flood insurance premiums and fees.

Navy Federal welcomes NCUA's efforts to address the concerns of members and credit unions with loans in areas having special flood hazards and will continue to work with NCUA to craft reasoned approaches to these important issues. Should you or a member of your staff have additional questions about our comments, please contact Carmelo Bramante, Senior Analyst & Compliance Officer, at (703) 206-3263.

Sincerely,



John Peden
Chief Operating Officer

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