

Comment Call (13-30)

Interagency Proposal – Loans in Areas Having Special Flood Hazards

Impact: Federal and State Chartered Credit Unions conducting mortgage lending

Relevant Department: Lending/Collections

Priority Level: **Medium** (Proposal would require credit unions to implement certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Act) with respect to private flood insurance, the escrow of flood insurance payments, and the force-placement of flood insurance.

The Agencies should not adopt a provision in the final rules permitting regulated lending institutions to accept a flood insurance policy by a private insurer that does not meet the Act's definition of "private flood insurance" to satisfy the FDPA's general mandatory purchase requirement. Adopting such a provision opens up unnecessary risk to a lending institution and its members to seek recoupment during the event a claim must be made. Increased unregulated private insurers are also likely to flood the market. These elements will create variances in coverage for unreliable insurers and increase the risk of loss to the institutions.

In conjunction with my previous comment, I believe the agencies should include a provision in the final rules specifically requiring regulated lending institutions to accept only policies issued by private insurers that meet the statutory definition. This provision will standardize the private flood insurance industry and benefit both the borrower and the institution. The borrower will have the peace of mind knowing their negotiation and sales techniques are removed from the private flood insurance shopping process and their comparison is of apples to apples so to speak. The institutions concern for coverage and reliability can be eliminated and risk removed from the requirement and expertise to evaluate such flood insurance policies. Although one may expect an initial loss in the availability of private flood insurers, those remaining are to have surely meet the insurance regulations.

A baseline standardization of a minimum acceptable coverage and financial stability overseen by State insurance regulators would be a mechanism to make a determination for "safe harbor." This would alleviate concerns for the evaluation of private flood insurance policies for regulated institutions. Managed growth would be projected in the private flood insurance market preventing substandard carriers who cannot meet the statutory definition from potentially exposing all parties to increased risk.

I'm not aware of any detrimental effects a lending institution's early compliance with the escrow requirements will have to borrowers. These escrow requirements should include instances when a borrower-purchased flood insurance policy is established as well as instances when a lender-placed flood insurance policy is established. I believe the proposed 90 day notification period is sufficient to provide notice for loans outstanding.

I am in agreement with the Agencies interpretation of the term “lapsed” and believe it is consistent with industry standards. In the notification letter to the borrower, one or two typical examples could be provided to pass along further clarification to the borrowers in a situational context as well as a monetary context.