

December 29, 2014

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

Re: Comments on Loans in Areas Having Special Flood Hazards

Dear Mr. Poliquin:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments on the proposed notice of joint rulemaking on Loans in Areas Having Special Flood Hazards. By way of background, CUNA is the nation's largest trade association representing state and federal credit unions which serve over 100 million memberships.

The proposed notice of joint rulemaking issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, and the National Credit Union Administration (NCUA) (collectively, the Agencies) implements requirements in the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA), which amends some of the changes made by the Biggert-Waters Flood Insurance Reform Act of 2012 to the Flood Disaster Protection Act (FDPA). Among these changes are amendments relating to the escrow requirement. HFIAA also includes a new exclusion from the mandatory flood insurance purchase requirement for certain detached structures. This proposal does not implement changes contained in the October 2013 proposed rule.

While we generally agree with most of the requirements in the proposal and appreciate the Agencies addressing some issues raised in our 2013 comment letter, we request that the Agencies be mindful of placing additional regulatory requirements on credit unions. Some credit unions remain concerned that they do not have the capability to escrow flood insurance premiums on loans processed by their core processing systems. For these credit unions, upgrades to facilitate escrowing flood insurance premiums will be costly and time consuming, with these costs eventually borne by members.

We request that the Agencies add provisions to the final rule that will permit compliance dates to be extended or provide a limited good cause waiver from the requirements to facilitate credit unions' efforts to upgrade computer systems and implement other procedures necessary to comply with the final rule.

Escrow Requirement

The proposed rule requires credit unions, or servicers acting on their behalf, to escrow all premiums and fees for flood insurance required for most loans secured by residential improved real estate or a mobile home unless a statutory exception applies. CUNA supports the exceptions found in § 760.5(a)(2) of this requirement. They specifically create an exception for home equity lines of credit, which was a concern detailed in CUNA's comment to the 2013 proposed rule.

Credit unions often do not possess sufficient information to allow them to determine the insurance status of loans. To facilitate escrow requirements, lien holders, insurance companies, and homeowners should be required to indicate escrow status. This would help credit unions track the escrow status of these loans. We recommend several additional requirements to help financial institutions meet escrow requirements:

- The insurance declarations page should detail escrow status;
- Changes in escrow status by lienholders should be reported to insurance companies; and
- Insurance companies should be required to notify all lienholders and homeowners when informed of changes in escrow status.

These requirements would help lienholders track flood insurance status, which will make compliance with the provisions in this proposal less complicated for lenders.

Exceptions from Escrow Requirements

The proposal has an exception from the escrow requirements for lenders with assets less than \$1 billion as did the 2013 proposed rule. This proposal, however, does not address a concern we raised in our 2013 comment letter. In our 2013 comment letter, we urged and continue to urge the Agencies to review the escrow requirements contained in Regulation Z, under section 1026.35 to ensure that there is as much consistency as possible between the escrow requirement under this section and those that NCUA is contemplating. We fear that multiple escrow schemes will be created where credit unions will be required to deal with different escrow requirement for flood insurance, taxes and other related items.

Detached Structure Exemption

The detached structure exemption excludes relatively low-value structures detached structures such as sheds and garages, from mandatory flood insurance coverage.

We support this exemption because it adds flexibility for borrowers and lenders not to insure a low value structure. We also support the flexibility given to lenders to require insurance on high value detached structure that would otherwise fit into this exemption.

NCUA should issue guidance on the detached structure exemption to ensure that credit union and consumer expectations as to the application of this exemption are met. Our members have expressed concern that the application of this exemption could be problematic because the definition contains ambiguities, which could lead to confusion. Specifically, the exemption is for detached structures that are not considered a “residence.” Determining when a detached structure is a residence could be problematic for a detached structure that contains facilities and conveniences usually associated with a residence. A definition or guidance detailing what is considered a residence would be helpful.

Timing

Credit unions need more time to comply with the provisions in the proposed regulation. As proposed, the rule would cover loans that are outstanding or entered into on or after January 1, 2016. Credit unions will be required to start escrowing premiums with the first loan payment after the first renewal date of the borrower’s flood insurance policy that occurs on or after this date. The process for determining loans requiring escrow could be time consuming for the reasons highlighted in above. This coupled with the fact that internal processes and programming may need to be modified, leaves little time for credit unions to properly comply with the escrow provisions in the rule.

Our members have expressed concern that second mortgages will be especially problematic. These loans must be reviewed to determine lien position and whether the primary lender is subject to escrow requirements. These loans will require ongoing monitoring to determine if a first mortgage that is subject to escrow requirements is paid off.

We request that the Agencies look for ways to add flexibility to the compliance dates. Credit unions need at least two years to comply with these requirements due to the complicated upgrades to computer systems and process for compliance that will be required. A compliance date of less than two years will create a hardship for many credit unions.

Conclusion

CUNA supports the private flood insurance provisions in the proposal as they add to flexibility to the requirements in the 2013 proposed rule. Nonetheless, we urge the Agencies to look closely at the escrow requirement exceptions and timing issues detailed in this letter. These issues may cause hardships for many credit unions when complying with requirements in the proposal. If you have any questions about our letter, please do not hesitate to give me a call at (202) 508-6705.

Sincerely,

A handwritten signature in cursive script that reads "Lance Noggle".

Lance Noggle
CUNA Assistant General Counsel