



Office of the President

December 29, 2016

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

Re: Loans in Areas Having Special Flood Hazards  
Private Flood Insurance, Proposed Rule  
12 CFR Part 760  
RIN 3133-AE64

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 the private flood insurance 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 approximately \$79 billion in assets, 6.7 million members, 294 branches, and a workforce of over 13,000 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 insurance policies that meet the statutory definition of “private flood insurance” in the Biggert-Waters Act and to permit credit unions to accept flood insurance policies provided by private insurers that do not meet the statutory definition on a discretionary basis, subject to certain proposed restrictions.

We have, however, concerns about the proposed “compliance aid” provision in the proposed rule. This provision would assist members and credit unions determine whether and how a flood insurance policy meets the statutory definition of “private flood insurance” and if it does, then the credit union is required to accept it as long as it otherwise meets the mandatory purchase requirement for flood insurance.<sup>1</sup>

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<sup>1</sup>12 CFR 760.3(a)

Based on our review of the proposed rule and our experience with the National Flood Insurance Program (NFIP), Navy Federal believes the proposed “compliance aid” provision can be improved in order to protect our members’ collateral, to minimize the risk of credit union losses and to facilitate credit unions’ support and full participation in the National Flood Insurance Program as amended by the Biggert-Waters Act.

### **“Compliance Aid” for Mandatory Acceptance of Private Flood Insurance**

Navy Federal appreciates the NCUA and the other Agencies’ acknowledgment of the difficulty many regulated lending institutions would have evaluating whether a flood insurance policy meets the statutory definition of “private flood insurance” given credit unions’ lack of technical insurance expertise at evaluating whether such policy meets the definition. To that end, the regulatory agencies are proposing a “compliance aid” framework to assist our members and credit unions, in general, to determine whether and how the policy meets the statutory “private flood insurance” definition. We applaud the Agencies for taking this positive step toward enabling the acceptance of private flood insurance in the marketplace.

We understand the three-prong “compliance aid” provision to require:

1. The insurer to include, or accompany, in the insurance policy a written summary that demonstrates how the insurance policy meets the statutory definition by identifying the provisions of the policy that meet each criterion in the definition, and confirms that the insurer is regulated according to the requirements in that definition.
2. The credit union to verify in writing that the policy includes the provisions identified by the insurer in the written summary and that these provisions satisfy the criteria required in the definition of “private flood insurance.”
3. The insurer to include the following provision within the insurance policy or as an endorsement to the policy: “This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.”

The “compliance aid” provision aims to facilitate the ability of credit unions, as well as consumers, to recognize policies that a lender must accept under the mandatory purchase requirement for flood insurance and to encourage insurance providers to issue policies that meet the criteria required in the statutory definition of “private flood insurance.” We are concerned, however, with the second prong of the “compliance aid” provision and its requirement that credit unions “verify in writing” the provisions identified by the insurer and that these provisions satisfy the requirements of the statutory definition. As you are well aware, credit unions do not have the technical insurance expertise to make such an evaluation. Further, as drafted, it is unclear what credit unions are required to do with the “writing” after performing the verification.

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Navy Federal recommends that the second prong be deleted from the proposed “compliance aid” provision and that it be replaced with a criterion whereby the insurer will indemnify the regulated lending institution if the policy should prove not to comply with the statutory definition and result in a loss to the lender.

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, Manager of Regulatory Compliance, at (703) 206-3263.

Sincerely,



John Peden  
Chief Operating Officer

JP/cb