

RESCINDED



Replaced - See OCC 2019-8.

OCC BULLETIN 2016-38

Subject: Loans in Areas Having Special Flood Hazards—Private Flood Insurance
Date: November 7, 2016

To: Chief Executive Officers of All National Banks and Federal Savings Associations, Federal Branches and Agencies, Department and Division Heads, All Examining Personnel, and Other Interested Parties

Description: Notice of Proposed Rulemaking

Summary

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) (collectively, the agencies) are issuing a proposed rule that would implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act or act). Specifically, the proposed rule would *require* regulated lending institutions to accept policies that meet the statutory definition of “private flood insurance” in the Biggert-Waters Act. The proposed rule also would *permit* regulated lending institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of private flood insurance, subject to certain restrictions. The proposed rule has a 60-day comment period, ending on January 6, 2017.

Note for Community Banks

The amendments proposed by this rulemaking would apply to all national banks and federal savings associations (collectively, banks), including community banks.

Highlights

Pursuant to section 100239 of the Biggert-Waters Act, the proposed rule would require banks to accept “private flood insurance,” as defined in the act, to satisfy the requirement that flood insurance be purchased in connection with loans secured by buildings or mobile homes located in special flood hazard areas in which flood insurance is available under the National Flood Insurance Program (NFIP). The proposed rule

- includes a “compliance aid” provision to assist a bank in determining whether a flood insurance policy meets the definition of private flood insurance and must be accepted.
- would permit banks to accept certain flood policies issued by private insurers that do not meet the definition of private flood insurance.
- would permit banks to accept private flood coverage provided by mutual aid societies, such as Amish Aid Societies, subject to certain restrictions.

Background

The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act govern the NFIP. Among other things, these statutes require the purchase of flood insurance in connection with loans secured by certain properties and make available federally subsidized flood insurance to owners of improved real

estate or mobile homes located in special flood hazard areas if the community where the improved real estate or mobile home is located participates in the NFIP. The Federal Emergency Management Agency administers the NFIP. Regulations issued by the OCC, Federal Reserve Board, FDIC, FCA, and NCUA implement these statutes for the lending institutions they supervise.

The Biggert-Waters Act significantly amended the NFIP requirements. Among other changes, the Biggert-Waters Act clarified the requirement to force place insurance, revised the escrow requirements, and required the agencies to issue a rule directing regulated lending institutions to accept private flood insurance as defined in the act. On October 30, 2013, the agencies jointly issued a proposed rule to implement these and other provisions of the act.¹ The agencies are now issuing a second proposed rule on the private flood insurance provisions.

Currently, the OCC allows banks to accept private flood insurance in satisfaction of NFIP requirements on a discretionary basis if the bank determines that the insurance adequately protects its security for a loan. Until the OCC finalizes this proposed rule, banks may continue to accept private flood insurance as currently permissible.

Further Information

Please contact Rhonda L. Daniels, Compliance Specialist, Compliance Policy Division, (202) 649-5405; Sadia Chaudhary, Counsel, Community and Consumer Law Division, (202) 649-6350; Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 649-5490; or Melissa J. Lisenbee, Attorney, Legislative and Regulatory Activities Division, (202) 649-5490.

Amy S. Friend
Senior Deputy Comptroller and Chief Counsel

¹ 78 Fed. Reg. 65108 (October 30, 2013). In July 2015, the agencies finalized the force-placed flood insurance provision as well as the escrow provision, as amended by the Homeowner Flood Insurance Affordability Act. 80 FR 43216 (July 21, 2015).

Related Link

- [Loans in Areas Having Special Flood Hazards—Private Flood Insurance \(PDF\)](#)