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December 11, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219
Docket ID: OCC-2013-0015

Barry F. Mardock
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090
RIN 3052-AC93

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Regulation H, Docket No. R-1462

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
RIN 3133-AE18

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
RIN 3064-AE03

Re: Loans in Areas Having Special Flood Hazards

Dear Sir or Madam:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on the joint notice of proposed rulemaking, "Loans in Areas Having Special

[1] *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout* ***the United States*** *and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Flood Hazards", issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, the Farm Credit Administration, and the National Credit Union Administration. The proposal would amend the Agencies' regulations to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (the Act) and establish requirements regarding the escrow of flood insurance payments, the acceptance of private flood insurance coverage, and the force-placement of flood insurance.

The proposal would implement a requirement to escrow for insurance policies, but provides an exemption for institutions with assets less than $1 billion as provided in the statute. ICBA strongly supports this exemption due to the costs and burdens that smaller institutions would face in developing the ability to establish and maintain escrow accounts. The Act did not specify a point in time to measure the asset size of an institution to determine if it qualifies for the exemption. ICBA supports the Agencies' proposal that a lending institution qualifies for the exemption if it has total assets of less than $1 billion as of December 31 or either of the two prior calendar years. Also, we ask that when a lender's asset size rises above this threshold they not be forced to implement new escrow requirements on loans that they held on their books when they qualified for the exemption. Rather escrow requirements would only be required for new loans going forward.

The Agencies propose a new definition of private flood insurance such that an insurance policy that is issued by an insurance company that is licensed, admitted or otherwise approved to engage in the business of insurance in the state or jurisdiction in which the insured building is located may be accepted by a lender if it meets certain standards, including that it be at least as broad as the coverage provided by a standard flood insurance policy under that National Flood Insurance Program. The regulators would create a "safe harbor" for compliance if the state determines that the insurance meets the statutory definition of private flood insurance. Discussions with community banks suggest that private flood insurance is more available in some localities than in others. Such a "safe harbor" would be important to community bank acceptance of private insurance since they do not typically have the resources to determine if the insurance meets the definition of private flood insurance. Rather than face the potential of onerous penalties, the lender may not accept private flood insurance if it does not feel confident it complies with the definition. Thus, ICBA supports the proposed "safe harbor."

ICBA supports the proposed exclusion from escrow requirements for business, commercial or agricultural loans secured by property located in a flood zone. Escrow requirements should not be imposed on short-term loans such as construction loans or open-end loans as the balance often changes making it difficult to escrow for the appropriate insurance level. We support exclusion for subordinate liens if the borrower is in compliance with insurance requirements on the first lien. These exclusions would simplify requirements for borrowers and lenders and avoid payment complications on commercial or agricultural loans where payment schedules are uneven. Also, escrow accounts should not be required for nonperforming loans since the borrower is not making the existing loan payment.

If a borrower fails to obtain adequate flood insurance within 45 days after notification, the lending institution or its servicer may purchase flood insurance on behalf of the borrower and charge the borrower for the cost of the premiums and fees incurred in purchasing the insurance. The Agencies propose that charges may commence on the date on which the flood insurance coverage lapsed or did not provide a sufficient coverage amount. Regulated lending institutions

will be permitted to force-place a flood insurance policy purchased on behalf of a borrower that is effective the day after expiration of a borrower's original insurance policy to ensure that it is continuous. The Agencies propose that within 30 days of receipt by a regulated lending institution, or its servicer, of a confirmation of a borrower's existing flood insurance coverage, the lending institution is required to notify the insurer to terminate any force-placed insurance and refund to the borrower all premiums paid by the borrower for any insurance purchased by the lending institution. Confirmation of existing insurance coverage can come from the borrower or a third party such as an insurance agency with whom the lender has direct contact. ICBA views this as a workable timeframe and supports the clarification that lenders can obtain confirmation from the borrower or insurer.

The Agencies propose that the new escrow requirement be effective with the next renewal. This may be a significant change for borrowers and would likely result in a higher mortgage payment. We recommend that the Agencies provide borrowers a one-year lead time from the date of the renewal of the existing policy during which time the lender or servicer provides a notification of the future escrow account and the potential for a higher mortgage payment as a result. This would give borrowers more time to prepare for the change.

ICBA is concerned about the ability of institutions to implement a final rule which would require escrow requirements to begin in July, 2014, given the many new mortgage related rules that are about to become effective and the amount of time it may take to establish new escrow accounts for flood insurance. Also, we urge the Agencies to consider the timing of potential amendments to the Act urged by ICBA and others needed to lighten the burden of high new premiums on owners of homes located in flood areas. Also, FEMA has not yet conducted an affordability study as required by the Act which could significantly impact insurance requirements and premiums. Thus, we urge the Agencies to delay implementation of the proposed rule until after FEMA has completed the study and the results have been reflected in insurance requirements.

Community banks take compliance with flood insurance requirements very seriously to protect borrower property and bank collateral from flood losses and protecting the bank from severe penalties for noncompliance with statutory and regulatory requirements. The Act increased the maximum civil money penalty that the regulatory agencies may impose for violations. Thus, the clarification provided in this proposed rule is helpful but more clarification may be necessary as lenders begin implementing a final rule. Some homeowners are expected to see drastic increases in flood insurance premiums in the coming years and it is important to find ways to implement insurance requirements and escrow requirements in a manner that helps borrowers with the financial burden of the increased premiums and maintain good relationships between lenders and borrowers.

We appreciate the opportunity to comment, and we look forward to working with the Agencies as this rulemaking process moves forward. If you have any questions regarding this comment letter please contact the undersigned at ann.grochala@icba.org.

Sincerely

Ann M. Grochala
Vice President, Lending and Housing Policy