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To: Office of the Comptroller of the Currency (OCC)
Submission by Email Attachment sent to:

- Federal eRulemaking Portal: http://www.regulations.gov
- OCC regs.comments@occ.treas.gov

Re: Loans in Areas Having Special Flood Hazards- Private Flood Insurance
Docket ID OCC-2016-0005

Introduction:

In the Pacific Northwest, a majority of the condominiums are required to carry flood insurance covering 100% of the building including fixtures including betterments and improvements to each unit. If the building(s) are in a flood zone, the association must purchase a master flood policy and pay for it out of common operating expenses. Some associations have the option of purchasing flood insurance through private carriers verse purchasing the same policy through the NFIP. This allows the association to save tens of thousands of dollars each year for identical coverage.

Issue: Over the last few years, increasing situations arose where lending institutions rejected the flood insurance on a condominium master policy that is written through a private carrier and forced placed insurance on the unit owner through an NFIP policy. The main reasons for declines are:

- Deductible is higher than the Fannie Mae guidelines which must meet NFIP requirements
- The private flood insurance policies are layered

This situation is upsetting to the unit owners of those associations as they already pay for the flood insurance through their dues on the master policy and then are charged again for another policy that is forced placed on them by lending institutions due to "not meeting the requirements per the NFIP guidelines Fannie Mae requires. Unit owners are having to pay for a forced placed policy that also likely will never pay. It is merely a way for insurers and FEMA to collect more premiums. The individual purchased policies technically should never have to pay any sort of loss amount because the master policy is primary and the extra policy the individual unit owners have forced placed on them is duplicate coverage.

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Private insurers don't have the same rules as the federal government's flood policy. In some cases private carriers can offer better terms, coverages and give increased flexibility to insureds yet lending institutions refuse to accept the policies written through private flood carriers.

1. Master policy deductible greater than requirements

A specific issue that lending institutions have is that the private flood policies typically have higher deductibles than what Fannie Mae will accept which is based on the NFIP guidelines. Typical Master policy flood deductibles through private carriers will either be 2% or a flat dollar amount such as $500,000 or $1 million.

Solution: Allow for lending institutions to calculate on a per unit basis to determine what the responsibility of a specific unit owner would be in the event of an assessment to collect the deductible in the event of a loss. Likely in every situation, the borrower would qualify under this revised rule as their deductible would be a small fraction of the overall deductible.

2. Layered policies with private carriers

It is not uncommon for private carriers to spread the risk over several other private insurers. Either the insurers can have a specific participation percentage and/or there can be a mix of a primary and excess policy. This is unacceptable to Fannie Mae. In some cases the association, who is the named insured, is insuring greater than the minimum requirement of $250,000 per unit that FEMA requires. Specifically we have seen a problem with an association's master policy to be where an insurer of a property policy has endorsed flood coverage for a specific amount and then the association purchases an excess policy to cover the remaining building amount to insure at 100% replacement cost. Due to the policies being "layered" this is not acceptable by lending institutions.

Solution: Exception to the rule of allowing layered policies with private carriers that have at least a certain AM Best rating that can be verified by the lending institution. With the risk more diversified among various reputable and financially sound insurers, it makes no sense why this isn't acceptable.

Concluding Comments:

Unit owners should not be required to purchase secondary flood policies through FEMA due to these reasons above. These situations aren't about having no flood coverage insured at all because the master policy has this covered. Associations have no choice but to insure on a master policy. Why should they have to purchase a policy through FEMA for three to four times the amount a private carrier will insure them for? The guidelines need to change to accept private flood carrier's insurance policies for condominium and homeowner associations and their unit owners.