BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

CA 20-7

May 6, 2020

TO THE OFFICERS AND MANAGERS IN CHARGE OF CONSUMER AFFAIRS SECTIONS:

Applicability: This letter is relevant to all state member banks supervised by the Federal Reserve.

SUBJECT: Flood Insurance Compliance in Response to the Coronavirus

On March 9, the Federal Reserve Board and the other federal financial institution regulatory agencies and state bank regulators issued a statement to encourage financial institutions to meet the financial services needs of their customers and members in areas affected by the coronavirus.[1] Since that time, the Federal Reserve Board has received questions from state member banks regarding flood insurance compliance requirements during the national emergency due to the COVID-19 outbreak (COVID-19 emergency). This letter provides two flood insurance questions and answers to assist state member banks in their efforts to meet the financial needs of their customers.

Questions and Answers

Q1. If a bank works with its borrowers by extending maturities/payments or balloon payments due to the COVID-19 emergency, would the bank be required to make a new flood zone determination and provide new notices of special flood hazards for the extended loan?

A1. Under the federal flood statutes and the Federal Reserve's implementing regulation, flood insurance requirements are generally triggered upon the making, increasing, renewing, or extending of any designated loan.[2] If a lender modifies a loan by extending the loan term, then this change is a triggering event, and flood insurance requirements would apply, provided no other existing exception to the requirements under the Federal Reserve's regulation is applicable. Such requirements may include establishing escrow for flood insurance payments and fees, making a flood zone determination on the property securing the loan, or providing the notice of special flood hazards to the borrower. The federal flood statutes and the Federal Reserve's implementing regulation do not provide for a waiver of these requirements in emergency situations.

[1] Refer to the Board's public website at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200309a.htm .
[2] 42 USC 4012a(b)(1); 12 CFR 208.25(c)(1).

However, consistent with the "Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised)"[3] dated April 7, 2020, when exercising supervisory and enforcement responsibilities, the Federal Reserve will take into account the unique circumstances impacting borrowers and institutions resulting from the COVID-19 emergency. The Federal Reserve will take into account an institution's good-faith efforts demonstrably designed to support consumers and comply with the flood insurance requirements. The Federal Reserve expects that supervisory feedback for institutions will be focused on identifying issues, correcting deficiencies, and ensuring appropriate remediation to consumers. The Federal Reserve does not expect to take a public enforcement action against an institution, provided that the circumstances were related to the COVID-19 emergency and that the institution made good faith efforts to support borrowers and comply with the flood insurance requirements, as well as responded to any needed corrective action.

Q2: How does FEMA Bulletin W-20002 affect the force placement requirement under the Flood Disaster Protection Act and the implementing regulation?

A2: On March 29, 2020, the Federal Emergency Management Agency (FEMA) announced in Bulletin W-20002 that the grace period to renew National Flood Insurance Program (NFIP) policies that expire between February 13, 2020 and June 15, 2020 (FEMA emergency period) has been extended from 30 days to 120 days due to the COVID-19 emergency.[4] Based on Bulletin W-20002, a borrower will be covered by the NFIP policy if the flood insurance premium is paid before the 120-day grace period expires.

In accordance with the flood insurance force placement regulations, when a lender makes a determination that a designated loan is not covered by a sufficient amount of flood insurance, it must notify the borrower.[5] If the borrower does not provide evidence of sufficient coverage within 45 days after notification, the lender must force place flood insurance in an amount that will satisfy the regulatory requirements.[6] However, in light of Bulletin W-20002, for NFIP policies expiring during the FEMA emergency period:

- A lender may provide the required notice to the borrower after determining the policy has expired with an indication that the NFIP grace period has been extended for 120 days. Lenders may inform borrowers that, in light of Bulletin W-20002, force placement will not occur until after the end of the 120-day period.

- Alternatively, a lender may provide the required notice to the borrower at least 45 days before the end of the 120-day grace period.

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[3] Refer to the Board's public web site at:
https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200407a1.pdf .

[4] See Memo to WYO Companies and NFIP Direct, Extension of the Grace Period for Payment of National Flood Insurance Program (NFIP) Premiums Due to COVID-19 Pandemic (March, 28, 2020), available here: https://nfipservices.floodsmart.gov/sites/default/files/w-20002.pdf; and https://www.fema.gov/news-release/2020/03/29/fema-extends-grace-period-flood-insurance-renewal-premiums.

[5] 42 USC 4012a(e)(1); 12 CFR 208.25(g)(1).

[6] 42 USC 4012a(e)(2); 12 CFR 208.25(g)(1).

- For either alternative, the lender must force place flood insurance on the borrower's behalf if the borrower does not pay the premium by the end of the 120-day grace period.

- Consistent with the "Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised)"[7] dated April 7, the Federal Reserve does not expect to take supervisory or enforcement action against the lender for violating the flood insurance force placement requirements, provided that the circumstances were related to the COVID-19 national emergency, and that the lender has made good faith efforts to support borrowers and comply with the flood insurance requirements, as well as responded to any needed corrective action.

- Lenders should be aware that if they force place flood insurance for NFIP policies that expire during the FEMA emergency period prior to the expiration of the 120-day grace period and the borrower pays the premium by the end of the 120-day grace period, consistent with the flood insurance regulatory requirements, the lender would be required to refund the borrower for any overlapping flood insurance coverage.[8]

Reserve Banks are asked to distribute this letter to the Federal Reserve-supervised state member banks in their districts, as well as to their supervisory and examination staff. If state member banks have questions about the guidance set forth in this letter, they are encouraged to contact the responsible Federal Reserve Bank. In addition, questions may be sent via the Board's public website.[9]

Sincerely,

Suzanne Killian
Senior Associate Director

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[7] Refer to the Board's public website at: https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200407a1.pdf .
[8] 42 USC 4012a(e)(3); 12 CFR 208.25(g)(2).
[9] http://www.federalreserve.gov/apps/contactus/feedback.aspx