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Property

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Mr. Robert E. Feldman
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Attention: Comments
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Ms. Jennifer J. Johnson
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Mr. Gary K. Van Meter
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Re: Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance; OCC Docket OCC-2011-0024; FRB Docket No. OP-1431; FDIC RIN No. 3064-ZA00; FCA RIN 3052-AC46; NCUA RIN 3133-AD41.

Dear Sir or Madam:

American Security Insurance Company ("ASIC") is pleased to have the opportunity to respond to, and comment on, specific items raised in the Interagency questions and answers regarding flood insurance ("Q&As"). ASIC provides lender-placed flood insurance products and services to its clients who are industry leaders in the mortgage lending and servicing industry. ASIC is a subsidiary company of Assurant, Inc., an insurance holding company, a Fortune 500 company and a member of the S&P 500, with more than $24 billion in assets and $8 billion in annual revenue, and approximately 15,000 employees worldwide.

Overall we feel the federal agencies listed above ("Agencies") have, through the Q&As provided sufficient clarification on a number of the outstanding issues related to lender-placed flood insurance, with such clarification generally reflecting the historic practices of the industry, including; the provision of continuous coverage, robust notifications to borrowers providing explanation of the lender-placed process, and borrower accountability for the cost of coverage. We do, however, feel further clarification is required in a few of the proposed questions and answers. Specifically, we feel there may still be some confusion in Question and Answers #'s 57, 60 and 62. As such, we are providing detailed comments on these specific question and answers for your consideration.

I. Question and Answer #57 - Lender-Placed Insurance

ASIC agrees with the majority of the language in proposed Question and Answer #57 and feels that it reflects both historic industry practices and the intent and language of the National Flood Insurance Reform Act and associated regulation(s)[I] (the "Act"). With that said, minor revisions to Question and Answer #57 may be in order to improve the guidance to servicers and align with the Act.

Specifically, we do not feel that sending the Notice of Special Flood Hazards ("NSFH") and Availability of Federal Disaster Assistance to borrowers who, as a result of a map change, are required to have flood insurance, should be considered a best practice. The NSFH states that it is being sent in reference to a "*building or manufactured home, proposed as security for the loan for which you have applied....*" There is no reference to existing loans and the language specifically contemplates an "*applicant*" rather than an existing borrower. Further, the NSFH is required to be sent based on certain triggering events, specifically, a loan being made, increased, extended, or renewed[II]. A revision to the flood maps is not included as a triggering event. We share the Agencies' desire to provide notification to those borrowers that are faced with

a new requirement to maintain flood insurance as a result of a map change; however, sending the NSFH would create confusion for borrowers and would be counter to the specific instructions in the Act. Therefore, we feel the historically proven practice of providing notification through FEMA, community & civic groups, as well as existing servicers notices of the need for flood coverage adequately addresses the need to provide notice without confusing the borrower. Further, if necessary, the lender-placed insurance notice cycle, which is composed of multiple letters over a period of at least forty-five (45) days, also provides for notification

II. Question and Answer #60 - Notice to Borrowers

We feel the existing version of Question and Answer #60 is sufficiently clear regarding its core issue - the timing of (and triggers for) the first notice to borrowers. However, it is important to distinguish that, although insurance is monitored by servicers, that does not mean servicers should be required to perform a function traditionally done exclusively by insurance carriers.

We do not agree with the recommendation that the servicer should advise the borrower that flood insurance on the property is about to expire while the flood insurance policy is still in effect. The servicer only has second-hand information, which may no longer be unchanged regarding the expiration/renewal of a policy, and cannot account for recent borrower action regarding continuing the coverage. Due to this limitation on knowledge, and the fact that the servicer is not directly involved in procurement of the policy, servicers currently do not send similar notices for hazard insurance, tax deadlines, etc. Further, there is an existing obligation of the NFIP[III] (as carrier) and WYO companies (as policy administrators) to notify policy holders in advance of expiration.

Additionally, we believe the Agencies should modify the language "*... must send this notice upon receipt of the notice of cancellation or expiration...*" to account for circumstances where proof of new coverage may already have been verified by the servicer. In instances where a borrower has changed his policy, the servicer may receive a notice of cancellation from the old policy, but simultaneously receive a new policy from either a new agent or new carrier. The answer should reflect the possibility of such a circumstance.

III. Question and Answer #62 - Charging a Borrower During the 45-Day Notice Period

We agree with the premise of the revisions to Question and Answer #62 and feel this is a proper reflection of the Act and Regulation. However, we feel it is necessary to clarify what are the appropriate pre-conditions of placing (and charging for) coverage.

A. Express Authority

We do not agree with the inclusion of the language, "*if the borrower has given the lender or servicer the express authority to charge the borrower as a contractual condition of the loan being made*". This wording creates a pre-condition that is not present in the Act[IV] itself. The applicable language states:

> "*If a borrower fails to purchase [the Acceptable] Flood Insurance . . . the lender or servicer for the loan shall purchase the [Acceptable Flood] Insurance on behalf of the borrower... [the servicer] may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the [Acceptable Flood] Insurance*".

Based on this language, servicers are required to ensure that coverage is in effect. Not allowing servicers to recover the cost of coverage required by the Act absent "express authority" would be inequitable, especially given that servicers would only be able to ensure "express authority" is present in loan documents on a going forward basis. While the security instrument remains a relevant document in the lending transaction, the Act is the basis for requiring insurance, and by extension, the basis for assessing charges to the borrower.

B. "Equivalent in Coverage" and "Appropriate Coverage Amounts"

We are concerned that the current answer attempts to establish new criteria, outside of the Act, that must be met in order for borrowers to be charged for lender-placed coverage. Again, we feel the authority to charge for lender-placed coverage is expressly addressed in the Act and exists without any stipulation(s) or pre-conditions.

Both the issues of "*equivalent in coverage*", and "*cover the interest of both the borrower and lender*" have previously been answered in earlier versions of the Q&As. The notion of placing coverage that is "*equivalent in nature*" was addressed by the Question and Answer #63 and Question and Answer #64 in the July 29, 2009 version of the Agencies' Q&As. If the Agencies wish to clarify further, the aspects required of private flood policies to ensure they are equivalent in nature, perhaps revisions to those Q&As are the appropriate means rather than an insertion of a new requirement as a pre-condition of charging for coverage.

Similarly, we feel that the notion of "*cover the interest of both the borrower and lender*" is satisfactorily addressed in existing materials. Previously, the Agencies have provided exhaustive explanations for ensuring

the coverage amount of a flood policy satisfies FEMA requirements. In addition, servicers comply with various collateral protection statutes at a state level when placing coverage. We do not feel it is pertinent or essential to introduce further details on the concept of "*covering the interest of both the borrower and lender*" in this response.

ASIC is appreciative of the opportunity to respond to the Q&As, and is hopeful this response will be useful in assisting the Agencies' formulation of an enduring answer to the questions posed in the Q&As. If you have any questions regarding the above, please feel free to contact ASIC at the address set forth above.

Regards,

John Frobose
President

[I] NFIRA 1973 SECTION 524 RE MANDATORY PURCHASE OF FLOOD INSURANCE GUIDELINES (2007)
[II] 12 C.F.R. 22.0 (1997)
[III] 42 U.S.C. §4104A9C) (2008)
[IV] 42 U.S.C. § 4012A(E)(2).