

December 1, 2011

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Ms. Jennifer J. Johnson, Secretary
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Mr. Robert E. Feldman, Executive Secretary
Attention: Comments
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Mr. Gary K. Van Meter, Deputy Director
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Ms. Mary F. Rupp, Secretary of the Board
National Credit Union Administration
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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 Madam or Sir:

On October 17, 2011, the Federal Lending Regulatory Agencies (“Regulators”) issued a notice within the Federal Register requesting public comment on proposed revisions to the Interagency Questions and Answers Regarding Flood Insurance (the “Q&A”). The National Flood Determination Association¹ (NFDA) is pleased at the opportunity to share our comments on the proposed revisions to the Q&A and respectfully request consideration of our opinions.

We appreciate the Regulators’ receptiveness to the comments and concerns raised by several institutions, individuals and agencies following the release of proposed Answers to Questions 60 and 62 in July 2009. Similarly, we urge consideration of the comments that have been submitted by these institutions and their trade associations during the current comment period as certain language within the proposed answers has raised additional concerns. While the NFDA may not speak directly to certain concerns raised by others, we support the current comments raised by associations such as the Mortgage Bankers Association and the American Bankers Association.

Generally speaking, we would recommend that language related to “best practices”, recommendations, or encouragement for certain actions be removed from the proposed Answers to Question 60 and 62 and the proposed revised Answer to Question 57. As an example, we strongly recommend striking the reference

¹ The NFDA is a professional association of companies that works with federally regulated lenders to facilitate compliance with the mandatory purchase requirements under the NFIP to ensure that properties located in the Special Flood Hazard Area are protected by flood insurance. Member companies complete over 15 million flood determinations each year using FEMA’s Flood Insurance Rate Maps.

in the proposed Answer to Question 57 to a “best practice” for a lender or servicer to provide a copy of the Notice of Special Flood Hazards and Availability of Federal Disaster Assistance (“NSFH”) to borrowers along with the 45-day notice for the following reasons. The language of the NSFH is specific to a loan closing and is not appropriate to a situation in which an existing loan is now subject to the flood insurance requirement. The NSFH would need to be edited before being sent to the borrower in a servicing situation; otherwise there would be considerable confusion on the part of the borrower. Neither the law, the regulations, nor FEMA’s existing guidelines intimate that such practice is advisable or necessary. The law and regulations do not prescribe the language of the 45-day notice, while FEMA’s guidelines merely advise lenders and servicers to “give a close reading to the statute and regulations for guidance” in determining the language of the notice (*Mandatory Purchase of Flood Insurance Guidelines*, Federal Emergency Management Agency, September 2007, p. 41). Introducing this as a “best practice” in the Q&A could lead lenders and servicers to undergo considerable and burdensome system and procedural changes due to concern over compliance and liability issues. Thus, we recommend striking this reference to a “best practice” from the Answer to Question 57, as well as recommendations described in Answers to Question 60 and 62.

In addition, we recommend striking the reference to FEMA’s “map modernization program” within Answers to Questions 57 and 60 for the following reasons. As the most prolific users of FEMA’s flood maps and a primary stakeholder of FEMA’s mapping programs, members of the NFDA believe use of the words “map modernization program” may confuse lenders and servicers given that it refers to an out-dated program. “Map Modernization” was the name of a federally funded FEMA program from 2003-2009 with an objective to modernize flood maps for 92% of the Nation’s population. Beginning with 2010, FEMA’s new mapping program intended to increase risk awareness and understanding is called “Risk MAP”. Further, the parenthetical reference does not provide any guidance which adds to the understanding of the technical compliance issue. Since the 1970s FEMA has issued revised flood maps for communities and it became statutory as part of the 1994 Reform Act for FEMA to review flood maps within a community every 5 years. Thus, a lender or servicer’s obligation to “give notice and force-place such insurance ... as a result of a flood map change” has been a part of the compliance program long before the implementation of the map modernization program. Therefore, we ask that the reference to “map modernization” be removed.

In summary, we recommend adhering to the original intent of the Q&A in providing guidance related to the core concerns of lenders and servicers in trying to best adapt their business processes in the least complicated means to the requirements of the Flood Act. In addition to requesting consideration of the various comments contained in this letter, we request allowing for an additional public comment period related to any further modification of the Q&A prior to its final publication. Again, we appreciate the opportunity to provide comments and your willingness to consider them as you move forward.

Sincerely,



Cheryl A. Small, President
National Flood Determination Association