

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 22
[Docket No.]
RIN 1557-AB47

FEDERAL RESERVE SYSTEM
12 CFR Part 208
[Regulation H, Docket No.]

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 339
RIN 3064-AB66

DEPARTMENT OF THE TREASURY
Office of Thrift Supervision
12 CFR Parts 563 and 572
[No.]
RIN 1550-AA82

FARM CREDIT ADMINISTRATION
12 CFR Part 614
RIN 3052-AB57

NATIONAL CREDIT UNION ADMINISTRATION
12 CFR Part 760

Loans in Areas Having Special Flood Hazards

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision, Treasury; Farm Credit Administration; National Credit Union Administration.

ACTION: Joint final rules.

SUMMARY: The Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA) are amending their regulations, and the Farm Credit Administration (FCA) is issuing new regulations, regarding

loans in areas having special flood hazards. This action is required by statute to implement the provisions of the National Flood Insurance Reform Act of 1994. The joint final rules establish new escrow requirements for flood insurance premiums, add references to the statutory authority and the requirement for lenders and servicers to "force place" flood insurance under certain circumstances, enhance flood hazard notice requirements, set forth new authority for lenders to charge fees for determining whether a property is located in a special flood hazard area, and contain various other provisions necessary to implement the National Flood Insurance Reform Act of 1994.

EFFECTIVE DATE: October 1, 1996; except for part 614, which will be effective October 3, 1996, and part 760, which will be effective November 1, 1996.

FOR FURTHER INFORMATION CONTACT:

OCC: Carol Workman, Compliance Specialist (202/874-4858), Compliance Management; Margaret Hesse, Senior Attorney, Community and Consumer Law Division (202/874-5750), or Jacqueline Lussier, Senior Attorney, Legislative and Regulatory Activities Division (202/874-5090), Office of Chief Counsel, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Diane Jackins, Senior Review Examiner, (202/452-3946), Division of Consumer and Community Affairs; Lawranne Stewart, Senior Attorney (202/452-3513), or Rick Heyke, Attorney (202/452-3688), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

FDIC: Mark Mellon, Counsel, Regulation and Legislation Section (202/898-3854), Legal Division, or Ken Baebel, Senior Review Examiner (202/942-3086), Division of Compliance

and Consumer Affairs, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Larry Clark, Senior Manager, Compliance and Trust Programs (202/906-5628), or Ronald Dice, Program Analyst (202/906-5633), Compliance Policy; Catherine Shepard, Senior Attorney, Regulations and Legislation Division (202/906-7275), Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

FCA: Robert G. Magnuson, Policy Analyst, Regulation Development (703/883-4498), Office of Examination; or William L. Larsen, Senior Attorney, Legal Counsel Division (703/883-4020), Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. For the hearing impaired only, TDD (703/883-4444).

NCUA: Kimberly Iverson, Program Officer (703/518-6375), Office of Examination and Insurance; or Jeffrey Mooney, Staff Attorney (703/518-6563), Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428.

SUPPLEMENTARY INFORMATION:

I. Background

The National Flood Insurance Program (NFIP) is administered primarily under two statutes: the National Flood Insurance Act of 1968 (1968 Act) and the Flood Disaster Protection Act of 1973 (1973 Act).¹ The 1968 Act made Federally subsidized flood insurance available to owners of improved real estate or mobile homes located in special flood hazard areas if their community participates in the NFIP. A special flood hazard area (SFHA) is an area within a flood plain having a one percent or greater chance of flood

¹ These statutes are codified at 42 U.S.C. 4001-4129. The Federal Emergency Management Agency (FEMA) administers the NFIP; its regulations implementing the NFIP appear at 44 CFR parts 59-77.

occurrence in any given year. SFHAs are delineated on maps issued by FEMA for individual communities. A community establishes its eligibility to participate in the NFIP by adopting and enforcing floodplain management measures to regulate new construction and by making substantial improvements within its SFHAs to eliminate or minimize future flood damage.

The 1973 Act amended the NFIP by requiring the OCC, Board, FDIC, OTS, and NCUA to issue regulations governing the lending institutions they supervise (regulated lending institutions or regulated lenders). The agencies' regulations directed regulated lenders to require flood insurance on improved real estate or mobile homes serving as collateral for a loan (security property) if the security property was located, or was to be located, in a SFHA in a participating community. To implement statutory amendments enacted in 1974, the regulations required lenders to notify borrowers that their security property is located in a SFHA and of the availability of Federal disaster assistance with respect to the property in the event of a flood.

Title V of the Riegle Community Development and Regulatory Improvement Act of 1994² (CDRI Act), which is called the National Flood Insurance Reform Act of 1994 (Reform Act), comprehensively revised the Federal flood insurance statutes.³ The Reform Act is intended to increase compliance with flood insurance requirements and participation in the NFIP in order to provide additional income to the National Flood Insurance Fund and to decrease the financial burden of flooding on the Federal government, taxpayers, and flood victims.⁴ The Reform Act requires the OCC, Board, FDIC, OTS, and NCUA to revise their current flood insurance regulations and requires the FCA to promulgate flood insurance

² Pub. L. 103-325, tit. V, 108 Stat. 2160, 2255-87 (September 23, 1994).

³ A more detailed description of the pertinent provisions of the CDRI Act appears in the preamble to the agencies' notice of proposed rulemaking (proposal or NPRM). See 60 FR 53962, 53963-65 (October 18, 1995). This preamble refers to the 1968 Act, the 1973 Act, and the Reform Act collectively as the Federal flood insurance statutes.

⁴ H.R. Conf. Rep. No. 652, 103d Cong., 2d Sess. 195 (1994) (Conference Report).

regulations for the first time. In order to fulfill these statutory requirements, the six agencies published a joint NPRM in the fall of 1995. See 60 FR 53962 (October 18, 1995).⁵ The agencies now complete the rulemaking by issuing these joint final rules.

Four of the agencies -- the OCC, Board, FDIC, and OTS -- are required by section 303 of the CDRI Act⁶ to review their regulations in order to streamline and modify the regulations to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. These final rules satisfy the regulation review requirement that section 303 applies to these four agencies. The OCC's final rule is a component of its Regulation Review Program. Similarly, these rules are part of the programs initiated by the Board, FDIC, OTS, NCUA, and FCA to reduce unnecessary regulatory burden and to simplify and clarify their regulations.

Section 303 also requires the OCC, Board, FDIC, and OTS to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. These final rules also satisfy this portion of section 303. All six of the agencies have reviewed their flood insurance regulations with these purposes in mind. The agencies believe that the final rules provide the institutions they regulate with significant flexibility, and minimize the regulatory burden imposed upon regulated lending institutions and loan servicers acting on their behalf, consistent with the requirements of the statute, thus reducing the costs of compliance to those entities and enabling them to operate more efficiently.

II. Overview of Comments Received

⁵ In conducting this rulemaking, all six of the agencies have coordinated and consulted with the Federal Financial Institutions Examination Council (FFIEC), as is required by certain of the CDRI Act provisions. The heads of five of the six agencies (OCC, Board, FDIC, OTS, and NCUA) comprise the membership of the FFIEC.

⁶ 12 U.S.C. 4873.

ATTACHMENT IS AVAILABLE UPON REQUEST

WRITE US AT:

**DISSEMINATION BRANCH
OFFICE OF THRIFT SUPERVISION
1700 G STREET, NW
WASHINGTON, DC 20552**

FAX US AT:

202/906-7755

E-MAIL US AT:

PUBLIC.INFO@OTS.TREAS.GOV