

May 16, 2021

Office of the Comptroller of the Currency
Chief Counsel's Office
Attn: Comments Processing
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2020-0033

Kevin J. Kramp, Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW,
Washington, DC 20551
Docket No. R-1742

Melane Conyers-Ausbrooks, Secretary of the
Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
NCUA RIN 3133-AF31

James P. Sheesley,
Assistant Executive Secretary,
Attention: Comments-RIN 3064-ZA16/Legal ESS
Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429

Re: Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Private Flood Insurance

Dear Sir or Madam:

On behalf of the Independent Insurance Agents and Brokers of America, Inc. (IIABA or Big "I"), I would like to offer our comments on the proposed guidance and update to the "Interagency Questions and Answers Regarding Flood Insurance" (the "Q&A").

Founded in 1896, the IIABA is the nation's oldest and largest association of independent insurance agents and brokers, representing more than 25,000 agency locations under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies.

Private Flood Insurance – Mandatory 2:

Mandatory 2 states that a private policy must be reviewed at every policy renewal or when making, increasing, extending or renewing a loan. The IIABA believes that the policy should be reviewed at one event or the other but believes it would be best if the policy is reviewed when making, increasing, extending or renewing a loan. Further down, it states that a lender can rely on prior reviews for discretionary review. The IIABA also believes this should be consistent for mandatory as well.



Private Flood Insurance - Mandatory 5:

The IIABA opposes the language in this section and believes that a lender should be required to accept a flood insurance policy issued by a private insurer that includes the compliance aid assurance clause. Consumers rely on guidance from agents so agents must have reliable information upon which to inform consumers. If an insurer includes a representation on the declarations page OR in the policy form that its policy is compliant with the mandatory purchase requirement, a lender MUST accept it. A lender, who is not an insurance expert, should not be permitted to review a policy form and override the insurer's own representation that its policy is compliant.

Private Flood Insurance - Mandatory 6:

The IIABA supports the language in this section and agrees that if a policy or an endorsement to the policy contains the compliance aid assurance clause, further review is not necessary in order for the lender to determine that a policy meets the definition of "private flood insurance."

Private Flood Insurance - Mandatory 7:

In this section, the IIABA requests that an edit be made to make the Q&A clearer and more appropriate. Specifically, the IIABA requests that the statement below uses the term "Limit" instead of "coverage" where we have bolded.

"Although a lender may rely on the compliance aid assurance clause to determine that a flood insurance policy meets the definition of private flood insurance in the Regulation, the lender must also ensure that the **coverage** is at least equal to the lesser of the outstanding principal balance of the designated loan, or the maximum limit of coverage available for the particular type of property under the Act."

Private Flood Insurance - Mandatory 9:

In this section, the IIABA requests that an edit be made. The answer to the Mandatory 9 question says the representation of compliance is on the declarations page but many private policies do not include this representation on the declarations page, but they do include it in the policy form. The IIABA believes that an edit should be made to allow for that (only so much info can be included on a declarations page).

Private Flood Insurance - Discretionary 2:

The IIABA believes that this section needs more clarity. For example, let's say a commercial property with 10 cottages operates as a motel or inn. The property is ocean front. The value of the land is greater than the loan amount. Could the lender determine that flood coverage is not required or allow for higher deductibles than the mandatory purchase act requires?

Private Flood Insurance – Private Flood Compliance 1:

Similar to the Discretionary 2 section, the IIABA again believes that more clarity is needed. Let's use the same ocean-front property with 10 buildings (commercial) as an example again. Mandatory



Purchase allows for a \$50,000 deductible on each building for a total of \$500,000. Would a private policy that lists all 10 buildings on a single policy with a \$500,000 deductible be acceptable in this situation?

Private Flood Insurance – Private Flood Compliance 10:

The IIABA believes this would be more effective if the answer was more concise. The IIABA would recommend using the following language in response to the question, “Yes, if the surplus lines insurer is eligible or not disapproved to place insurance in the State or jurisdiction in which the property to be insured is located, lenders may accept policies issued by surplus lines insurers as coverage for noncommercial (*i.e.*, residential) properties.”

Private Flood Insurance – Private Flood Compliance 11:

While the IIABA believes the intent of this answer is to clarify that the phrase, “insurer is not licensed in the State or jurisdiction in which the property is located” does not preclude a policy from being accepted, we believe that that is not how it reads. The IIABA believes that the wording is duplicative to Private Flood Compliance 10 and the answer should be re-written to be more direct. The IIABA suggest using the following language to answer the question, “Even if the policy includes a statement indicating that the insurer is not licensed in the State or jurisdiction in which the property is located, suggesting that the policy is issued by a surplus lines insurer, lenders may accept the policy as long as all other regulatory and compliance conditions exist.”

Conclusion

We would like to thank you for the opportunity to express the views of independent insurance agencies on this issue. The IIABA appreciates the effort that has gone into this proposal. Please contact Wyatt Stewart at wyatt.stewart@iiaba.net or (202) 863-7000 should you wish to have additional information regarding our comments.

Sincerely,



Wyatt Stewart

Assistant Vice President, Federal Government Affairs

Staff Administrator, IIABA Flood Insurance Subcommittee

