NATIONAL BANKER TELECONFERENCE
UPDATE ON MANDATORY FLOOD INSURANCE
PURCHASE REQUIREMENTS

December 9, 2014
1:00 pm CT

Coordinator: Thank you all for standing by. All lines have been placed on a listen-only mode throughout the duration of today's conference.

Today's conference is being recorded. If you do have any objections you may disconnect at this time.

I would now like to turn the call over to Mr. Bean. Thank you. You may begin.

Daniel Bean: Thank you good afternoon everyone. Welcome to today's Risk Analysis Center Event entitled National Banker Teleconference Update on Mandatory Flood Insurance Purchase Requirements.

I would like now to turn this call over to Paul Robin, Section Chief Supervisory Policy Branch Division of Depositor and Consumer Protection at FDIC.

Paul Robin: Hello everyone. My name is Paul Robin. And I'm a Section Chief in the Supervisory Policy Branch of the FDIC's Division of Depositor and Consumer Protection.

This call is part of a series of consumer compliance teleconferences and Webinars conducted by the FDIC throughout the year to communicate information to institutions on a variety of topics and respond to industry questions.

Today's call is an inter-agency call to discuss current legislative and regulatory matters pertaining to the mandatory flood insurance purchase requirements.

Several agencies have rule writing authority and are responsible for enforcement of the federal flood insurance laws and regulations including the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, the National Credit Union Administration and the Farm Credit Administration.

These same agencies are working on joint rulemaking to implement provisions in the Bigger Waters Insurance Reform Act and the Homeowner Flood Insurance Affordability Act that amended the mandatory flood insurance purchase requirements found in the Flood Disaster Protection Act of 1973.

Representatives from each of these agencies have participated in putting together today's presentation. And I thank them for their efforts.

Flood insurance is critically important in helping to protect individual consumers, the communities where they live and the financial institutions that provide them with mortgage loans from some of the most severe financial consequences of floods.

Today's program will discuss the changes to the mandatory flood insurance purchase requirements that have occurred and those currently under consideration by the agencies as a result of the Bigger Waters Flood Insurance Reform Act which we'll refer to as the Bigger Waters Act and the Homeowner Flood Insurance Affordability Act which we'll refer to as the Affordability Act.

Thank you for participating in today's call. And now I'll turn it over to John Jackwood of the FDIC to kick off the program and to introduce today's speakers.

John is a Senior Policy Analyst in the Supervisory Policy Branch of the FDIC's Division of Depositor and Consumer Protection.

John Jackwood: Thank you Paul. Good afternoon and thank you to everyone on the line for calling in today. I am here with a team of colleagues from the agencies responsible for writing the rules, implementing the provisions in the Bigger Waters Act and the Affordability Act.

And I will introduce them in just a couple of minutes.

First let's tee up the program. During the program today we'll start by providing a brief general overview of the flood insurance requirements just to be sure everyone has the basics down and so that you may better understand what changes are being made to the current requirements.

Following that we'll describe the changes to the Federal Flood Insurance Laws pertaining to the mandatory purchase of flood insurance. After that we'll discuss some strategies for building and maintaining an effective compliance program for flood insurance.

And we'll finish the program by updating you on the status of the joint rulemaking that each of the agencies on the program today has been diligently working on.

After the presentation we'll move on to the question and answer session. Some bankers have already submitted questions in advance of this call and will be accepting additional questions by email during today's call.

If you have questions please email them now or during the program to bankerteleconference@fdic.gov.

Again that's banker teleconference with no spaces @fdic.gov. The email address is also on the slide you are viewing now.

Before I introduce our presenters, just a quick disclaimer about today's presentation. The information contained in today's call is for informational purposes only.

It's provided as a public service in an effort to enhance understanding of the laws and regulations administered by the agencies participating in this program.

It expresses the views and opinions of staff for the agencies and is not binding on any of the agencies.

Also the agencies are actively engaged in rulemaking at this time. Therefore we are limited in the types of questions we can answer about current rulemaking activity and can only discuss publicly available information.

For example, questions about interpretations of proposed rules or details about future rulemaking plans will not be addressed.

However the agencies can address questions about issues subject to laws or regulations that are in effect now.

I should also note that by law the Federal Emergency Management Agency known as FEMA has general authority regarding the National Flood Insurance Program and changes to the flood insurance premiums, fees, and mapping under that program resulting from the Bigger Waters Act and the Affordability Act.

Consequently if you have any questions about these topics you should direct them to FEMA. We'll provide you with FEMA's contact information at the end of the program for those types of questions. And now I'll introduce our speakers.

For today's presentation representatives from the FDIC, the Federal Reserve Board, the FCA, the NCUA and the OCC will take you through the slides.

We have with us Alex Chang, a Policy Analyst in the Supervisory Policy Branch in FDIC's Division of Depositor and Consumer Protection.

Lanette Meister, a Senior Supervisory Consumer Financial Services Analyst in the Division of Consumer and Community Affairs at the Federal Reserve Board, Paul Gibbs, a Senior Accountant in the Office of Regulatory Policy at the FCA, Rhonda Daniels, a Compliance Specialist in the Compliance Policy Department at the OCC, and Sarah Chung a staff attorney in the Office of Regulations and Legislation at the NCUA.

Before we start I'll note that it looks like we have already received a number of questions via email. We'll try to get to as many questions as we can during this program.

And don't forget even after this call you can always reach out to your primary regulator with any questions that come up in this area.

And now I'll turn it over to Alex Cheng to start us off on the first topic, a brief general overview of the requirements of the flood insurance regulations.

Alex Cheng: Thank you John. Starting on Slide 4 we'll first briefly review some of the basic requirements for financial institutions under the current flood insurance regulations.

When we use the turn financial institution during this presentation we mean banks, thrifts, credit unions and farm credit system institutions that make loans that are subject to the federal flood insurance regulations.

As many of you know institutions are required to ensure adequate flood insurance coverage is in place for certain properties that secure a loan and are located in a special flood hazard area as identified by FEMA.

Flood insurance is required for the term of the loan on all buildings or mobile homes when all three of the following factors are present.

One, the institution makes, increases, extends or renews a loan secured by improved real estate or a mobile home that is affixed to a permanent foundation.

Two, the properties securing the loan is located or will be located in a special flood hazard area which are those areas within a floodplain that have a 1% chance of being flooded in any given year.

And three, the community participates in the National Flood Insurance Program or the NFIP.

In the case of mobile homes the requirements only apply to mobile homes that are or will be affixed to a permanent foundation.

The regulation and the interagency questions and answers regarding flood insurance outline the criteria for determining the required amount of flood insurance which is the minimum of the outstanding principal balance of the loans or the maximum amount of insurance available under the NFIP which is the lesser of the maximum limit available for the particular type of structure or the insurable value of the structure which is described in QNA9 of the interagency question and answers regarding flood insurance.

Now turning to Slide 5, another basic mandate of the flood regulations is borrower notification of the flood insurance requirements.

When a property securing a loan is or will be located in a special flood hazard area the institution must provide written notice to the borrower and the servicer when it makes, increases, extends or renews the loan.

The notice must be provided regardless of whether the property is located in a participating or nonparticipating community.

Participating communities are those that have decided to participate in the NFIP and for which FEMA has authorized the sale of flood insurance under that program.

The written notice must contain the following information. One, a warning that the building or mobile home is or will be located in a special flood hazard area; two, a description of the flood purchase requirements contained in section 102B of a Flood Disaster Protection Act; three, a statement of whether flood insurance coverage is available under the NFIP and that it may also be available from private insurers; and four, a statement regarding whether flood disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a federally declared disaster.

Delivery of this notice must take place within a reasonable time before the completion of the transaction.

What constitutes reasonable notice will necessarily vary according to the circumstances of a particular transaction.

An institution should bear in mind however that a borrower should receive notice timely enough to ensure that the borrower has the opportunity to become aware of his or her responsibilities under the NFIP and where applicable the borrower can purchase flood insurance before completion of the loan transaction.

The agencies have indicated that ten days in advance of closing is regarded as a reasonable time interval.

Now turning to Slide 6, in certain situations an institution or its servicer may be required to purchase flood insurance on behalf of the borrower or in other words force place insurance.

If an institution or its servicer determines over the term of the loan that flood insurance coverage has lapsed or is no longer adequate it must commence forced placement procedures.

Forced placement should not be necessary at the time an institution makes a loan because at that time it is obligated to require that flood insurance be in place prior to closing.

Rather forced placement of authority is designed to be used if over the term of the loan the institution or its servicer determines that flood insurance coverage on the security property is deficient.

For example a borrower may have let the flood insurance policy lapsed by not renewing the policy or a borrower may have purchased a new flood insurance policy in an amount that is less than what is required by law.

While an institution is not required to monitor whether FEMA makes changes to its flood maps and designations of special flood hazard areas an institution continues to be responsible for ensuring that where flood insurance was required at origination the borrower renews the flood insurance policy and continues to renew it for the term of the loan.

Typically the insurance carrier should notify the institution along with the borrower when the insurance contract is due for renewal.

The insurance carrier also notifies these parties if it has not received the policy renewal. If a borrower allows the policy to lapse the institution or its servicer must commence forced placement procedures.

As part of its forced placement procedures the institution must provide written notice to the borrower that flood insurance is required as soon as institution becomes aware that the flood insurance coverage on the property is deficient. The notice should state that the borrower should purchase adequate insurance.

However if the borrower does not do so within 45 days the institution must force place it on the borrower's behalf.

As we'll discuss later in the presentation recent legislation has clarified when the institution may begin charging a borrower for forced placed insurance.

Now turning to slide 7, the final basic requirement that we'll discuss today involves the escrow of flood insurance premiums.

The escrow provisions are designed to improve compliance with flood insurance requirements by ensuring that homeowners located in special flood hazard areas obtain and maintain flood insurance for the life of the loan.

Under current regulations for loans secured by residential improved real estate an institution must require the escrow of flood insurance premiums if it is - if it requires escrow funds to cover other charges associated with the loan such as taxes, premiums for hazard or fire insurance or any other fees.

The requirement has been the subject of recent legislative changes in the Affordability Act. And we'll discuss those in further detail later in the presentation.

Now having covered the basic requirements of the current flood insurance rules including mandatory purchase notice, escrow, and forced placement which have all been affected by the Bigger Waters Act and the Affordability Act I'm now going to turn the presentation over to Lanette Meister who will begin the discussion on the statutory changes to the mandatory flood insurance purchase requirements.

Lanette Meister: Thank you Alex for that discussion of the current flood insurance regulations. We'd like to remind you of some of the recent statutory changes that have occurred and how they might impact your institutions' flood insurance compliance management program.

Moving now to Slide 9, just as mentioned the Bigger Waters Act and the Affordability Act amended the mandatory flood insurance purchase requirements found in the Flood Disaster Protection Act.

In the next portion of this presentation we'll discuss the statutory changes involving civil money penalties, forced placed insurance, insurance coverage for other residential buildings, escrow and private flood insurance.

The agencies also have issued notices of proposed rulemaking to implement and incorporate the Bigger Waters Act and the Affordability Act provisions into the flood insurance regulations.

Two notices of proposed rulemaking were issued, one in October of 2013 and the other in October of 2014. We'll get you up to speed on the status of the agency's rulemaking at the end of the presentation.

Let’s get started with a discussion about the increase in civil money penalty amounts, Slide 10.

One of the areas impacted by the Bigger Waters Act was the requirements regarding the assessment of civil money penalties when an agency identifies a pattern or practice of violations.

By way of review when one of the agencies identifies a pattern of practice of certain violations of the flood insurance regulations the Flood Disaster Protection Act requires that the agency, that agency to assess a civil money penalty against the financial institution.

The interagency questions and answers regarding flood insurance Q&A 82 explains the pattern of practice considerations include but are not limited to the presence of one or more of the following factors.

First, whether the conduct resulted from a common cause or source within the financial institutions control including third-party vendors.

Second, whether the conduct appears to be grounded in a written or unwritten policy of established practice, third, whether the noncompliance occurred over an extended period of time.

Fourth, the relationship of the instances of noncompliance to one another so for example whether the instances of noncompliance occurred in the same area of a financial institution’s operations.

Fifth, whether the number of instances of noncompliance is significant relative to the total number of applicable transactions.

It's worth noting that depending on the circumstances however violations that involve only a small percentage of an institution's total activity could constitute a pattern of practice.

Six, whether a financial institution was cited for violations of the flood insurance requirements during prior examinations and the steps taken by the financial institution to correct the identified deficiencies.

Seventh, whether a financial institution's internal and/or external audit process had not identified and addressed deficiencies in its flood insurance compliance.

And finally whether the institution lacks generally effective flood insurance policies and procedures and/or a training program for its employees.

As I mentioned, any one or more of these factors can be considered in determination of a pattern of practice.

The Bigger Waters Act increased the maximum civil money penalty per flood disaster protection act violation when there is a pattern of practice of flood insurance violations to $2000.

In addition, the Bigger Waters Act eliminated the previous statutory limit on the total amount of penalties that the agencies may assess against any individual institution during any calendar year. This provision became effective upon enactment.

Moving now to Slide 11, let's look at the new fourth placement provisions. The Bigger Waters Act amended the Flood Disaster Protection Act to one, provide that the premiums and fees that a lender or servicer may charge the borrower include premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.

Two, require the lender or servicer within 30 days of receiving a confirmation of a borrower's existing flood insurance coverage to terminate any forced placed insurance and refund to the borrower all forced placed insurance premiums and any related fees paid for by the borrower during any period of overlap between the borrower's policy and the forced placed policy.

And three require the lender or servicer to accept as confirmation of a borrower's existing flood insurance policy a declarations page that includes the existing flood insurance policy number and the identity and contact information for the insurance company or agent.

A force placement provisions of the act described above became effective upon enactment. The agency's 2013 proposal would incorporate these requirements into the flood insurance regulations substantially as set forth in the statute.

Now slide 12. The Bigger Waters Act also increased the maximum limits of building coverage available for non-condominium residential buildings designed for use for five or more families classified as other residential buildings by the NFIP.

FEMA announced the availability of insurance under the Standard Flood Insurance Policy or SFIP reflecting these increased maximum limits effective June 1, 2014.

FEMA changes to the maximum limits are first the maximum building coverage increased from $250,000 to $500,000 per building. And second the maximum contents coverage remained at $100,000.

In response to the availability of SFIPs with increased limits the agency issued the inter-agency statement on increased maximum flood insurance coverage for other residential buildings on May 30, 2014.

This statement conveys the agency's expectations of supervised institutions with regard to any loans secured by other residential buildings located in a special flood hazard area that may be affected by the availability of increased maximum insurance for these types of properties.

You should be aware that the increase in the maximum amount of building coverage could affect the minimum amount of flood insurance that would be required.

Moving to Slide 13, on this slide we've included the calculation a lender should perform to confirm the minimum amount of flood insurance required for a covered loan.

The amount of insurance required for all loans in a special flood hazard area is the lesser of the outstanding principal balance of the loan or the maximum amount of insurance available under the NFIP which is the lesser of the maximum limited available for the particular types of structure or the insurable value of the structure.

Slide 14, if as a result of the increase of the maximum limited building coverage for other residential builders a financial institution makes a determination that the building securing the designated loan is now covered by flood insurance in an amount less than required. It should take steps to ensure that the borrower obtains sufficient coverage.

If an affected borrower has not provided evidence of the increased flood insurance the financial institution must notify its borrower that the borrower should obtain additional flood insurance at the borrower's expense for the remaining term of the loan and forced placed insurance if necessary.

Paul Gibbs is going to continue this section by talking about the revised escrow requirements and the new exception for detached structures.

Paul Gibbs: Thank you Lanette. Slide 15 summarizes the escrow requirements of the Affordability Act. The Affordability Act would require your institution to escrow premiums and fees for flood insurance on properties securing residential loans in a special flood hazard area in a participating community when that loan is made, increased, extended or renewed.

This provision applies to all designated loans on residential improved real estate that your institution makes or modifies after January 1, 2016 and it is subject to certain exceptions.

Financial institutions including farm system, farm credit system institutions and credit unions as well that historically require borrowers to escrow taxes, insurance premiums fees or any other charges for a loan secured by residential improved real estate or a mobile home has been required to escrow premiums and fees for flood insurance since the enactment of the National Flood Insurance Reform Act of 1994.

The Bigger Water Act had expanded this requirement by requiring a financial institution or a servicer acting on its behalf to escrow all premiums and fees for flood insurance for loans outstanding or entered into on or after July 6, 2014 that are secured by residential real estate.

However among other changes the Affordability Act changed the scope and effective date of the Bigger Waters Act escrow provision to apply to any loan secured by residential improved real estate or mobile homes that is made increased, extended, renewed or refinanced on or after January 1, 2016.

Note that while the Affordability Act applies to - applies the escrow requirement to loans originated, refinanced, increased extended or renewed our proposed rule would apply the provisions to loans made, increased, extended or renewed in order to be consistent with the way these triggering events are referenced elsewhere in the current flood insurance regulations.

It is important to remember that the escrow provisions are not effective until the agencies issue final implementing rules.

Slide 16 lays out the first of several statutory exceptions to the escrow requirement. The Affordability Act retained the Bigger Waters Act exceptions and added a few more.

First is there’s a small institution exception. This exception applies if your institution has total assets of less than $1 billion and on or before July 6, 2012 the institution was not required under federal or state law to deposit taxes, insurance premiums, fees, or any other charges into an escrow account for the entire term of the loan secured by the residential improved real estate or mobile home.

And it did not have a policy consistently and uniformly requiring the deposit of taxes, insurance premiums, fees or any other charges in an escrow account for a loan secured by residential with improved real estate or a mobile home.

Now this exception warrant some additional discussion but first just another quick reminder here that these escrow rules are only proposed at this time and that the agencies are accepting public comments on the proposal until December 29, 2014.

In our October 2014 proposed rule the agencies propose to implement the statutory small lender exception to the escrow requirement with some clarifications.

Because the statute does not specify a point in time to measure the asset size of an institution in order to determine whether that institution qualifies for the exception the 2014 proposal states that a financial institution may qualify for the exception if it has total assets of less than $1 billion as of December 31 in either of the two prior calendar years.

Consequently with the statutory effective date of January 1, 2016 financial institutions with assets of $1 billion or more as of both December 31, 2014 and December 31, 2015 would not qualify for the exception.

In contrast, a financial institution with assets of less than $1 billion as of either December 31, 2014 or December 31, 2015 may qualify for the exception provided the other conditions for the exception which I just mentioned above previously are met.

It is important to note that while the asset size threshold can change over time the other part of the small institutional exception, that is whether or not the institution was required by federal or state law to escrow taxes for insurance or had a policy to escrow taxes or insurance is fixed in time on July 6, 2012.

Slide 17 lays out additional exceptions to these escrow exceptions. The first additional exception to the requirement to escrow would apply if the loan is an extension of credit primarily for a business purpose even if secured by residential real estate.

As proposed by the agencies this exception for a business purpose loan would include a loan primarily for commercial or agricultural purposes.

Furthermore loans secured by residential improved real estate or mobile homes either of which is part of a condominium, cooperative or other project development would also be excepted from escrowing provided the property is covered by a flood insurance policy that one, meets the mandatory flood insurance purchase requirement and two is provided by the condominium association cooperative homeowner's association or other applicable group and the premium is paid by the applicable group as a common expense.

This exception would include instances when the property is covered by for example a national flood insurance program Residential Condominium Building Association Policy otherwise known as an RCBAP that meets the mandatory flood insurance purchase requirement including coverage for the proper amount.

If the amount of the policy purchased by the condominium association, cooperative, homeowners association or other applicable group is insufficient to meet the mandatory flood insurance purchase requirement the borrower would be required to obtain a supplemental policy to cover the deficiency.

The agencies would expect that the financial institution would escrow the premiums and fees for the supplemental policy unless a small lender exception applies.

For example if a condominium association purchases an RCBAP or a private flood insurance policy for less than the amount of insurance required by the mandatory purchase requirement under the Flood Disaster Protection Act the borrower would need to obtain a dwelling policy for supplemental coverage..

If the borrower is required to obtain a dwelling policy at the time the loan is made increased, extended or renewed under the proposed rule the financial institution would have to escrow the premiums and fees for such policies.

Three additional statutory exceptions from the escrow requirement applied to subordinate junior liens, home equity lines of credit and nonperforming loans.

Our proposed rule would clarify that the nonperforming loans exception applies to loans that is 90 or more days past due.

Finally, the statutory exceptions provide that a financial institution need not escrow flood insurance payments and fees for short-term loans, that is ones that have terms of 12 months or less.

Now on Slide 18 to ensure that borrowers of the need to escrow premiums and fees for mandatory flood insurance a financial institution should provide borrowers with a written notice.

The 2014 proposed rule would provide that a financial institution or servicer acting on its behalf mail or deliverer a written notice letting a borrower know when the institution will escrow premiums and fees for flood insurance.

To minimize the burden the financial institutions of providing this notice and to ensure the borrowers receive the notice at a time when they are considering the purchase of flood insurance the proposal would direct that a financial institution or a servicer acting on his behalf provide notice of the escrow requirements with the same notice lenders already providing in a notice a special flood hazards and availability of federal disaster relief assistance.

Because the escrow provisions are triggered when a loan is made, increased extended or renewed borrowers will already be receiving this notice of special flood hazards and availability of federal disaster assistance.

The agency's proposed rules provides a revised sample of this notice as Appendix A. And financial institutions would be expected to use language substantially similar to the model clauses for escrow in the revised sample notice.

Turning to Slide 19 now, the Affordability Act requires financial institutions to offer and make available to a borrower the option to escrow flood insurance premiums and fees for loans that are outstanding as of January 1, 2016.

In addition, the agencies believe that for financial institutions to have a change in status and no longer qualify for the small lender exception the institution should offer borrowers on existing loans the option to escrow because institution will now be in a position to escrow flood insurance premiums and fees for new borrowers.

The 2014 proposed rule would require notice to the borrower of the option to escrow in these two scenarios.

The statue provides that financial institutions must offer and make available the option to escrow flood insurance premiums and fees.

The agencies are proposing to implement this provision by requiring that for outstanding loans a lender or a servicer may mail or deliver or provide electronically if the borrower agrees a notice informing borrowers of the option to escrow by March 31, 2016. This date is three months after the statutory effective date of the escrow provision.

Similarly for lenders that no longer qualify for the small lender exception the agencies are proposing that the notice informing borrowers of the option to escrow be provided by September 30 of the succeeding calendar year following the lender’s change in status again which is three months after the date a lender that no longer qualifies for the small lender exception would be required to escrow for designated loans.

The proposed timing of this notice would give financial institutions up to three months to determine which loans are outstanding as of the designated day and to provide the notice for these loans.

The agencies solicit comments on whether the proposed timelines for providing the notice are appropriate.

To facilitate compliance the agencies are proposing a model class for this notice in Appendix B.

Now let’s go through an example of how this optional escrow provision would affect a lender that no longer qualifies for the small lender exception.

Suppose a loan is made on March 16, 20 - excuse me March 1, 2016 by a financial institution that qualifies for the exception for small lenders.

If the lender then no longer qualifies for the exception for small lenders as a January 1, say 2018 under the proposed rule the lender would have to escrow flood insurance premiums and fees for loans made increased, extended or renewed on or after July 1, 2018.

The borrower of the loan made on March 1, 2016 would now have a lender that has the capability to escrow flood insurance premium and fees on July 1, 2018.

Consequently the borrower for a loan made by the financial institution with the change in status that no longer qualifies for the small lender exception should be provided with the option to escrow.

In this case the lender would be expected to provide a notice informing that borrower of the option to escrow by September 30. Therefore the agencies are proposing to use our regulatory authority to direct financial institutions that no longer qualify for the small lender exception to provide the option to escrow for borrowers of loans outstanding on July 1 of the succeeding calendar year following the lender's change in status.

The agencies are also soliciting comments on this approach.

The proposal would not require that the notice be provided in conjunction with any other disclosure or that it be segregated from other information provided to the borrower.

As a result under the proposed rule financial institutions may choose whether to provide the notice as a separate notice or add it to any other disclosure the lender provides the borrower on or before the proposed deadline such as a periodic statement.

Also the proposal - a lender under the proposal, a lender or its servicer would be expected to begin escrowing premiums and fees for flood insurance as soon as reasonably practicable after the lender or servicer receives the borrowers request to escrow.

The approach would be similar to the requirements and Regulation E and Regulation Z regarding how soon a financial institution or credit card issuer must implement the revocation of an opt in for overdraft services or an over limit feature of a credit card.

The 2014 proposal request comments on whether any further guidance on this is needed.

Now turning to Slide 20, The Affordability Act includes a new exemption to the mandatory purchase of flood insurance.

Specifically the statue provides of flood insurance is not required in the case of any residential property for any structure that is part of such property but is detached from the primary residential structure and does not serve as a residence.

The 2014 proposed rule would incorporate this exemption into the agency’s flood insurance regulations.

The exemption would address an area of concern for borrowers and lenders by excluding relatively low value structures such as detached sheds, garages or dilapidated barns from the mandatory flood insurance coverage if they were to secure the designated loan.

The agencies understand however that some detached structures might be a relatively high value such as a detached greenhouse.

While the statute does not require flood insurance for such structures as a matter of safety and soundness lenders may nevertheless require flood insurance on these detached structures.

Requiring flood insurance even when the statute does not mandate it may also be in the borrower's interest.

The agencies solicit comment on whether this section should be clarified. For instance there may be some ambiguity as to when such structures serve as a residence but may not meet certain state or local definitions of a residence or when a detached structure that was not initially residence becomes a residence.

Furthermore the agencies note that the statute applies to exemption to residential properties and that agencies specifically request comment on whether or how we should define residential properties.

For example the term residential may refer not only to the type of properties securing the loans but also to the purpose of the loans.

As a result the agencies could clarify that the exemption is only available if the detached structure does not secure a loan that is an extension of credit primarily for business commercial or agricultural purposes.

Now we want to note here that the financial institution should be aware that the Affordability Act amends the Real Estate Settlement Procedures Act so-called RESPA to create a related disclosure from institutions to borrowers informing them that they may still wish to obtain and mortgage lenders may still require borrowers to maintain flood insurance even when it is not mandated by the Flood Disaster Protection Act.

The disclosure will be made in the special information booklet is implemented by the Consumer Financial Protection Bureau which is the agency that has the authority and responsibility for rulemaking under RESPA.

Now let’s turn to Rhonda Daniels now who will wrap up this section of the presentation with a discussion about private flood insurance.

Rhonda Daniels: Thanks Paul, moving to Slide 21. Another key change resulting from the Bigger Waters Act concerns the mandatory acceptance of private flood insurance.

The Bigger Waters Act amended the mandatory purchase requirement of the Flood Disaster Protection Act to require a financial institution to accept a private insurance policy and satisfaction of the mandatory purchase requirement if the coverage provided by the private flood insurance meets the standards specified in the act.

The requirement to accept private flood insurance will not be effective until the agencies issue final rules and to implement this provision.

The private flood insurance provision requires a financial institution to accept a private flood insurance policy if the policy is issued by an insurance company that is licensed, admitted or otherwise approved to engage in the business of insurance in the state in which the insured building is located or is recognized as a surplus lines insurer, provides flood coverage at least as broad as the coverage provided by standard flood insurance policy under the National Flood Insurance Program, includes a mortgage interest clause similar to the clause contained in the standard flood insurance policy.

And moving to Slide 22 the policy includes a clause providing for 45 days written notice of cancellation, contains cancellation provisions as restrictive as the provisions contained in the standard flood insurance policy, requires the insurer to file suit within one year after written denial of a claim under the policy, and includes information about the availability of NFIP coverage.

Now you may be asking yourself can our institution accept a private flood insurance policy now even though the final rules have not been issued?

The answer to that question is yes. As indicated on Slide 23 currently an institution may accept a private flood insurance policy.

And in fact the agencies I've consistently advised through the regulations for the notice of special flood hazards and through interagency guidance that flood insurance may be available from private insurers and that your institution makes a private policies under certain circumstances including private flood insurance policies that have the same level of coverage as a standard flood insurance policy issued under the National Flood Insurance Program.

We will discuss the status of the private flood insurance rulemaking later in this presentation.

Now that we have covered the statutory changes in the Bigger Waters Act and the Affordability Act John Jackwood will highlight some factors to consider when building an effective compliance management program for flood insurance.

John Jackwood: Thank you Rhonda. On Slide 24 as you just heard from our speakers there have been a number of changes to federal flood insurance laws and to the mandatory flood insurance purchase requirements in particular.

Some are effective now and some will be effective in the coming months. Therefore it is important for your institution to maintain a sound compliance management program made up of board and management oversight, a compliance program and A compliance audit to ensure compliance with the flood insurance laws and regulations.

Let’s take a couple of minutes to highlight a few steps compliance officers can take to ensure continued compliance with the flood insurance laws and regulations.

First learn about flood insurance requirements and keep up to date on the changes in the flood insurance space.

A compliance officer’s knowledge about flood insurance requirements will help him or her assess emerging issues and potential liabilities related to the new laws and regulations.

Presentations like this one and guidance from the agencies are helpful in building your knowledge. You should also seek out other resources on flood insurance from industry groups and from FEMA about the NFIP.

Sarah Chung will identify some useful resources at the end of today's program.

Second, educate your board of directors and senior management to keep them informed about flood insurance and the changes in the flood insurance laws and regulations.

Some level of education for the board of directors seems appropriate given the significant changes in the NFIP and the regulatory requirements for mandatory purchase.

The ultimate responsibility for ensuring compliance with consumer protection laws and regulations including flood insurance rest with the institution's board of directors and management.

When you meet with the board and management make flood insurance and the changes in this area part of the compliance discussion at those meetings.

Their knowledge level and commitment will be important in setting a positive tone and empowering the compliance officer to take the actions necessary across departmental lines if appropriate to create accountability throughout the institution and to avoid and mitigate risks of consumer harm associated with flood insurance.

Third, review and update the institution's compliance policies and procedures in light of the new flood insurance laws and regulations.

Changes to laws and regulations should trigger a review of an institution's established compliance policies and procedures.

Compliance officers will want to identify any gaps between their current processes and the new flood insurance provisions.

Based on their findings they will want to expeditiously modify policies and procedures to adjust current needs and minimize compliance risk.

Compliance officers also will want to use their findings to prepare for future changes to ensure a continued strong compliance management program for flood insurance.

Because institutions procedures may impact personnel from various departments such as residential, commercial, agricultural and loan servicing assigning responsibility to specific individuals and providing detailed instructions on their assigned tasks could promote accountability inconsistency and eliminate confusion.

This could be helpful for example for staff to handle forced placement of flood insurance and the new refund provisions.

Whether the procedures are contained within the compliance policy or as separate written guidance institution staff should clearly understand the responsibilities and know where to find guidance when needed.

Institutions that successfully comply with flood insurance rules typically have specific and detailed procedures that refer to the individual, business line or job title performing the action.

Moreover it may be prudent to meet with operations staff responsible for management information systems to be sure that institution's information systems can handle the institution's new flood insurance responsibilities at the appropriate time such as escrowing a flood insurance premiums and fees.

Institutions that include a compliance officer in the planning, development and implementation of business activities increase the likelihood of mitigating the risks to the institution and its customers.

Fourth, train management and staff about the flood insurance requirements in a way that will help them understand not only their specific compliance responsibilities but also the purpose of the new flood insurance laws and regulations and the importance of complying with them to the institution and to the institution's customers they serve.

This may also increase the institution staff's confidence when explaining the new flood insurance laws and regulations to customers.

Given that the majority of an institutions loans likely do not do not require flood insurance lending personnel need refreshers on what to do when a loan is secured by property in a flood zone. Compliance tools such as checklists can be effective in providing that support.

Compliance should be a part of the daily routine of management and employees of the institution. Therefore communication with all levels of the organization from the board of directors to the front line staff is especially important during periods of regulatory transition and change like this one.

Training is essential to maintaining an effective compliance program and reducing the risk of consumer harm in the operations of the institution's business and should be updated as changes to the flood insurance requirements are known and implemented.

Fifth coordinate responses to customer inquiries. Compliance officers are receiving questions from customers about flood insurance and should expect to receive questions in the future from customers on issues like the new escrow requirements, their option to escrow flood insurance premiums and fees or how to request a flood - or excuse me, how to request a forced placed flood insurance premium refund.

In anticipation of these types of questions compliance officers may want to review establish procedures for addressing customers' inquiries to ensure that individuals or departments responsible for handing flood insurance inquiries are designated and known to all institution personnel to expedite the institution's response.

Finally modified institutions compliance monitoring and auditing. The new flood insurance laws and regulations will impact the institution's operations at different stages such as providing borrowers with new flood insurance notices at closing, excepting private flood insurance policies and meet regulatory requirements or escrowing flood insurance premiums and fees at loan renewal.

A compliance officer will want to make sure that the scope of the monitoring and audit programs incorporate the institution's new flood insurance responsibilities to increase the likelihood of success of these key components of an effective compliance management system.

So we have identified six actions a compliance officer should take to make sure their institution effectively incorporates new flood insurance rules and regulations insurers continue compliance.

Remember as discussed earlier in this presentation some flood provisions are affective now and others will be effective when the agencies issue final rules.

But actively addressing current requirements and laying the groundwork for future requirements are sensible and prudent actions that will enhance an institution's record of compliance with the federal flood insurance regulations.

One final point remember there is no standard structure for a compliance management program. The board of directors and senior management must determine the appropriate compliance program structure for the institution based on its business strategies, resources and flood insurance risks.

Each of the agencies provide further information about building and maintaining an effective compliance management program in their respective compliance manuals and handbooks. So you can always find more detailed guidance there.

And now I'm going to turn the microphone over to Sarah Chung to wrap up the presentation with an update on the agencies rulemaking and information about helpful resources. Sarah take it away.

Sarah Chung: Thank you John. Good afternoon. Starting on Slide 25 I will be giving an update on the agencies rulemaking.

As discussed earlier in this presentation the agencies published a Notice of Proposed Rulemaking on October 30, 2013.

This proposed rule address the major provisions in the Bigger Waters Act such as escrow, forced placement and private flood insurance.

In 2014 Congress passed the Affordability Act which mainly amended its escrow provisions for flood insurance.

In response on October 30, 2014 the agencies published a notice of proposed rulemaking and re-proposed the escrow requirement for flood insurance based on the Affordability Acts new provisions.

It also incorporates the exemption of certain detached structures on residential property from mandatory flood insurance purchased as explained earlier in this presentation.

The agencies wanting to get this proposed rule published so that we can finalize an escrow rule in a timeframe that gives institutions time to prepare for the new requirements prior to January 1, 2016.

We are requesting public comments on both of these aspects of the October 2014 proposed rule.

For example the agencies solicit comments on whether the section on detached structures should be clarified for terms such as residents or residential property.

The agencies also solicit comments on specific parts of the escrow provisions.

Now moving on to Slide 26, the agencies plan to finalize all provisions submit October 30, 2013 proposed rule and the October 30, 2014 proposed role in the near future.

The agencies are meeting regularly and continuing to work on all provisions and hope to finalize these future rulemaking's as soon as possible.

For example, you continue to work on the rulemaking for the private flood insurance provisions from the October 2013 proposed rule to address all public comments and questions.

Also the agency stated in our interagency statement in 2013 that the forced placement provisions from the Bigger Waters Act were effective upon enactment.

While that is the case the relevant forced placement regulatory provisions from the October 2013 proposed role will be incorporated into the agency's final flood insurance regulations.

So we still have some work to do but we're nearing the end of the rulemaking process. We encourage you to submit comments on October 2014 proposed rule by December 29, 2014 when the public comment period closes.

Now moving on to Slide 27, this slide lists important flood statutes in each agency's flood insurance regulation. If you click on each bullet point it should take you to the statute or regulation.

The National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 are the main federal flood insurance statutes.

These statutes created, governed and amended the NFIP and made the purchased flood insurance mandatory for loans made increased extended or renewed by financial institutions and secured by improved real estate or mobile homes located in a special flood hazard area and a participating community.

These statutes also address escrow and forced placement. We've already discussed the Bigger Waters Act and Affordability Act.

Moving on to Slide 28, this slide shows relevant agency guidance. The agencies released an interagency statement and 2013 about the Bigger Waters Act explaining which provisions were effective immediately and providing preliminary guidance before the proposed rules publication.

Earlier this year the agencies released interagency guidance on increased maximum coverage for other residential buildings.

This slide also provides references to the interagency questions and answers regarding flood insurance which was mentioned a few times during today's presentation.

In addition this slide show - this slide shows two resources from FDIC and two articles on these recent flood insurance statutes from the Federal Reserve's Consumer Compliance Outlook newsletter.

Moving on to Slide 29 this slide shows two FEMA links that will be helpful for participants. The first link will take you to the most recent flood insurance manual maintained by FEMA.

The second link will take you to a NFIP Web site. This Web site has comprehensive information for anyone involved in the program from lenders to property owners and provides contact information for FEMA NFIP administrators so that you can reach out to FEMA with questions about the NFIP, flood insurance premiums, map changes or other insurance matters.

That completes the presentation portion of the program so we'll now go to some of your questions. I'll give the microphone back to John to get us started.

John Jackwood: Thank you Sarah. So again thank you all for tuning in today. As mentioned earlier during today's call questions will be accepted by email. You still have time to submit questions and please email them to bankerteleconference@fdic.gov.

We do want to remind everyone that the scope of this presentation is limited to the mandatory flood insurance purchase requirements and compliance responsibilities.

And as stated at the top of the presentation we are limited in the types of questions we can answer about the agencies, current rulemaking as well as the FEMA NFIP and changes to flood insurance premiums, fees, mapping, et cetera.

Sarah just gave you some helpful resources to aid you in contacting FEMA with those types of questions.

Now we're going to take the rest of the time to answer your questions so going to our first question it looks like the first question is on detached structures. So I'll read the questions and then I'll ask one of our panelists to answer the question.

If flood insurance is optional on any detached structure not serving as a residence but has significant contributory value what leeway is given to the lender from the safety and soundness aspect?

And is there a safe harbor afforded lenders when flood damage occurs and the borrower suffers a loss of property that he or she cannot afford to replace? Lanette can you take that question?

Lanette Meister: Sure John. In our October 2014 Notice of Proposed Rulemaking the agencies are requesting comment on matters pertaining to the detached nonresidential structures.

Although insurance may not be required by federal flood insurance laws institutions could always request or require for safety and soundness reasons that the borrower obtain flood insurance coverage on any detached structure.

In fact the Affordability Act requires such a disclosure to the borrower in a special information booklet.

John Jackwood: Okay great, thank you Lanette. Second question we have is also on detached structures so Lanette if you don't mind taking this I'll read the question and then I'll just, I'll give it back to you.

Lanette Meister: Sure.

John Jackwood: I have been hearing that the Affordability Act eliminates the flood insurance requirement for detached nonresidential structures on a residential property.

I have heard both that it was effective upon enactment of the Affordability Act and that we are required to wait? Please clarify.

Lanette Meister: Yes, we've gotten this question a lot and I'm glad it came up. The exclusion for the attached structures from the mandatory purchase requirement became effective immediately upon enactment of the Affordability Act which was March 21, 2014.

John Jackwood: Okay great. Thanks Lanette. The third question, this one looks like it's on determination so let's take that one.

We are seeing differences in what zones our flood certifications have as compared to the insurance company policies.

At one time we were told that the zones have to match between the insurance policy and the determination. Do they need to match? Paul would you mind taking that one?

Paul Gibbs: Sure. Thanks John. Sure. Thanks John. First please note that institutions are encouraged to review the 2009 inner agency Q&A's numbered 71 and 72 which specifically addressed flood insurance zone discrepancies.

Now let's say a flood insurance policy shows the property located in a low risk flood zone but the standard flood hazard determination shows a property located in a high risk flood zone.

In this situation a lender needs to only be concerned with the discrepancy between a high risk zone such as Zone A or Zone B and a low or moderate risk zone.

So if the insurance company policy reflects a lower risk flood zone than an institution's determination shows and the grandfather rule does not apply the institution needs to investigate.

The flood zone discrepancy could be a simple mistake. So you could verify that the institution provided the correct property address when ordering the flood determination.

If the correct property address was provided but then asked to have the determination and location of the improvements reject.

If the institution provided an erroneous address you need to obtain a new determination using the correct property address.

If the discrepancy is still not resolved at that point the institution should document its efforts to resolve the difference in the loan file.

John Jackwood: Okay great. Thanks Paul -- appreciate that. It looks like the next question is on documentation so if you don't mind taking that one as well?

Paul Gibbs: Sure.

John Jackwood: Are the agencies expecting to see a flood zone on a catastrophe difference and conditions insurance policy that includes flood insurance?

Some of the policies have the zone included with the coverage and others do not.

Paul Gibbs: The agencies do not have the authority over insurance companies to direct them on whether flood zone designations need to be included in each of their policies.

What the agencies are expecting to see is that properties securing a designated loan has flood insurance coverage in the required amount and for the proper term.

John Jackwood: Thanks. See the fifth question we have pertains to Replacement Cost Value or RCV. Is it the agent and or the customer the determine the RCV? What if there is a difference in the RCV on the hazard insurance versus the flood insurance policy? Rhonda can you take that question?

Rhonda Daniels: Sure. Thanks John. The inter-agency questions and answers regarding flood insurance address this in Q&A Number 9.

In calculating the amount of insurance to require the lender and the borrower either by themselves or in consultation with the flood insurance provider may choose from a variety of approaches to establish the insurable value of the property, in this case the RCV.

You may use an appraisal based on a cost value approach, a construction cost calculation, the insurable value used in a hazard insurance policy, or any other reasonable approach so long as it can be supported.

It's important to note that a difference between the RCV on the hazard policy and on the flood insurance policy is not that uncommon because some hazard policies do not cover foundations.

Lenders must recognize that the insurable value for flood insurance purposes may differ from the coverage provided by hazard insurance and make adjustments as necessary.

John Jackwood: Okay great. Thank you. We have another question on property values so Rhonda you can answer that one as well. I'll read it first.

We have three properties securing one loan in the amount of $150,000. The first property is valued at $25,000 not located in a flood zone.

The second property is valued at $50,000 not located in the flood zone. The third property is valued at $75,000 and is located in the flood zone.

Must the flood insurance cover the amount of the total loan $150,000 or just the property value in the flood zone of $75,000?

Rhonda Daniels: Thanks John. In this scenario only the building valued at $75,000 would be subject to the mandatory flood insurance purchase requirements since it's the only one located in the special flood hazard area.

Since the value of that property is less than the outstanding loan amount and the maximum insurance available through the NFIP the lender should ensure that a flood insurance policy is purchased for the value of that property or $75,000.

John Jackwood: Thanks. The next question is on a notification to the borrower. Is there a mandatory time limit for a lender to notify a borrower once it learns of a map change from in to out of a flood area out - to into a flood zone to another within a flood area? Sarah can you take that question?

Sarah Chung: Sure. Thanks John. Under the agency's forced placement regulations when a lender determines that security property lacks required insurance the lender must notify its borrower that flood insurance is required.

The agencies would expect this notification to occur very soon after the lender makes a determination. In the event that a map change places the property into a flood hazard area these requirements to obtain sufficient flood insurance apply.

If there is a map change that removes the property from a flood hazard area a lender may still require flood insurance.

The interagency Q&As regarding flood insurance Q&A Number 2 addresses this issue. The Q&A states that the lender is no longer obligated to require mandatory flood insurance although the lender may continue to require flood insurance for risk management purposes.

However the borrower can elect to convert the existing NFIP policy to a preferred risk policy. It would be beneficial to notify the borrower of a map change out of a flood hazard area.

For a change in flood zones lenders may also choose to notify borrowers. Some changes in flood zones could save borrowers money on their premiums.

John Jackwood: Great. Thanks Sarah. We have another question on value so it's a long one. Let me read it and here it goes. The borrower has a commercial building that is valued at $1 million and the content is valued at $100,000.

The maximum building coverage is $500,000 and the bank needs $100,000 coverage for the contents.

Does this mean that the bank under FEMA is able to get $500,000 for both the building and the contents, we'll say 400,000 for the building and 100,000 for the contents for a total of $500,000 or can the bank get $500,000 for the building and an additional $100,000 for the contents for a total of $600,000? Alex can you take that question?

Alex Cheng: Sure John. The NFIP's general property form offers commercial policyholder coverage for building property up to $500,000 and separate coverage for personal property up to an additional $500,000.

For businesses personal property refers to the contents of the business such as furniture, fixtures, machinery, and equipment and includes stock is defined in the policy.

Each policy contains a complete list of what is and is not covered. Therefore the bank would be able to require coverage of $500,000 for the building and additional coverage of $100,000 for the contents for a total of $600,000.

John Jackwood: Thanks Alex. Okay next question. Okay this one seems to do with the timing of the notice and forced placement.

When there is a map change in a property that was previously not in a flood zone is now located in a zone and a call to the borrower does not obtain results what should be the process as to the timing of the letters? I think they need notice here. And at what point can we force place and at what point can we charge for the insurance? Alex I'll give that back to you if you don't mind?

Alex Cheng: Sure. The institution should initiate the forced placement process as soon as it's determined the flood insurance is now required on the property securing the loan.

The institution can contact the borrower as well. But it's required to send the forced placement notice.

The institution can obtain force placed flood insurance coverage right away and can charge the borrower for that coverage back to the time it determined that the borrower did not have adequate insurance coverage.

John Jackwood: Okay great, thank you. Another question on value, again it's a long one.

If all buildings other than those defined as a primary residence are only insured at actual cash value why would we need to ensure them for the replacement cost value loan amount maximum insurable amount, whichever is less, which will create situations where the borrower is paying for the insurance that they don't actually have?

For example $75,000 loan secured by a rental dwelling in flood zone with $100,000 replacement cost at $50,000 actual cash value which requires mandatory purchase of $75,000 in flood insurance.

Would we now ensure these buildings for actual cash value loan amount maximum insurable value amount whichever is less? Lanette can you take that one?

Lanette Meister: Sure John. First I want everybody to note that institutions are encouraged to review the question and answer Number 9 on insurable value in the 2011 inter-agency questions and answers on flood insurance.

That Q&A specifically addresses the issue that's raised in this question. And it's a complicated question so I appreciate that the person sent this in in advance so we could look at that Q&A and hone in on what your question actually references.

As we know it in Q&A Number 9 it's reasonable for lenders in determining the amount of insurance required to consider the extent of recovery allowed under the NFIP policy for the type of insurance that's - type of property that's being insured.

This will allow the lender to assist the borrower in avoiding situations in which the insured pays for coverage that exceeds the amount the NFIP will pay in the event of a loss.

Based on the example in this question the building is a rental property. For this type of property losses under the NFIP are settled based on the actual cash value.

For those of you who are unfamiliar with this term actual cash value is the replacement cost value less physical depreciation.

As stated in Q&A Number 9 in certain cases involving residential properties where the insurance loss payout is based on actual cash value insurance policies written at replacement cost value may require an insured to pay for coverage that exceeds the cost the NFIP would pay in the loss of an event - in the event of a loss.

Therefore it's reasonable for lenders to consider the extent of recovery allowed under the NFIP for the type of property being insured.

So where the loan is for $75,000 and the building has a $100,000 replacement cost value and $50,000 actual cash value the insurable value would be $50,000 therefore it would be reasonable for the lender to require flood insurance coverage in the amount of $50,000.

John Jackwood: Long question and a good answer, thank you. The next question is on forced placement.

What do we do if we have to force place a policy to cover the shortfall in coverage of the borrower's policy? This would be two policies on the same structure. Paul?

Paul Gibbs: Good question. It's true that a borrower can only have one NFIP policy per building. And FEMA rules prohibit two NFIP policies for the building structure.

However if a borrower has a NFIP policy it is permissible for the lender to purchase a separate private policy to supplement an inadequate NFIP policy.

John Jackwood: Thank you. The next question is on the amount, let's see flood insurance coverage. We hold a mortgage on 4-1/2 acres that is situated in a special flood hazard area.

Could the borrower finance the purchase of a manufactured home through another lender and place it on the parcel?

Since we do not have a security interest in the manufactured home is flood insurance required? Rhonda can you take this one?

Rhonda Daniels: Sure John. The institution that financed the manufactured home is responsible for making sure flood insurance coverage is in place.

John Jackwood: Short and sweet. Thank you.

Rhonda Daniels: Thank you.

John Jackwood: Appreciate it. Question on force placed insurance again. Is a 45 day force placed flood insurance notice required each time force placed flood insurance is renewed for a given borrower?

For example on December 1, 2013 a borrower had to have force placed flood insurance placed on his loan. The borrower has not obtained flood insurance since that time. Accordingly the force placed flood insurance coverage was renewed on December 1, 2014.

So the basic question is, is a 45 day force placed flood insurance notice required each time force placed flood insurance is renewed for a given borrower? Sarah can you take that question?

Sarah Chung: Sure John thanks. Under the agency’s forced placement regulation a lender must notify a borrower if it determines at any time during the term of a designated loan that the building or mobile home and any personal property securing the designated loan is now covered by flood insurance or is covered by flood insurance in an amount less than required under the regulation.

Such determination generally occurs once an existing policy has lapsed. If the existing policy has lapsed the regulation provides that if the borrower fails to obtain flood insurance within 45 days after notification then the lender or servicer shall purchase insurance on the borrower’s behalf.

Now the regulation is silent concerning whether another 45 day notice period is required when a policy that had been force placed expires.

It is reasonable for a lender to follow the procedures set forth in FEMA's Mortgage Portfolio Protection Program. Under the MPPP FEMA requires lenders to send notification lenders - letters at least 45 days prior to insurance renewal or expiration.

John Jackwood: Great, thank you Sarah. The next question is on notification requirements to borrowers. Is ten days prior to closing still considered by the agencies as reasonable time in regards to the notification requirement provided to the borrower? Alex can you take that one?

Alex Cheng: Sure. And the answer is yes the agencies have indicated that ten days in advance closing is regarded as a reasonable time interval.

John Jackwood: Great, thank you. We got that question a lot. Next question is on again, another question on value.

Many rural properties have structures that qualify as being required to have flood insurance but the appraiser gives the structure no value as it may be abandoned or obsolete.

If there is no value to the structure based on the appraisal is it acceptable to waive the flood insurance?

If we are required to have flood insurance on a structure that we place no value on what is the minimal acceptable level of insurance required?

They're sticking two questions in one question there Paul. Can you handle that one?

Paul Gibbs: I'll certainly try. Thanks John. Under the act and the regulation lenders must require flood insurance on real estate improvements when those improvements are part of the property securing the loan and are located in a special flood hazard area in a participating community.

Since the tax structure provision of the Affordability Act is currently in effect an institution is not required to require flood insurance in connection with a residential property for any structure that is part of such property but is detached from the primary residential structure of such property and that property does not serve as a residence.

If the structure is not part of a residential property then flood insurance would be based on the insurable value of the covered property.

A nonresidential structure's insurable value is based on the actual cash value which is the cost to replace the property at the time of the loss less physical depreciation.

With respect to whether the appraisal can be supported it would be important to know whether the structure is currently in use and would need to be replaced if destroyed.

If the structure is in fact abandon or obsolete and would not be replaced in the event of a flood then it would appear that zero value would make sense. If this is the case flood insurance would not be required.

John Jackwood: Thank you, appreciate that. Next question is on forced place. Page 11 of the slides, I guess they're referring to Page 11 in the slides. When can we actually force place the flood insurance, day one when coverage lapsed or at the end of the 45 days? Rhonda can you take that one?

Rhonda Daniels: Sure thanks John. The lender or servicer can obtain force placed flood insurance coverage as soon as the day after the lapse in a borrower's flood insurance policy. The lender's servicer can charge the borrower for that coverage back to the time of policy lapse.

John Jackwood: Thanks Rhonda. Another question on the flood notice, so maybe we'll give this one back to Alex. But under the old FEMA mandatory purchase guidelines a flood notice was required to be given every time a loan was renewed, extended, increased, et cetera.

A new determination was not necessarily required but the notice was. Is this still the rule?

Alex Cheng: So Q&A 79 and our interagency questions and answers regarding flood insurance gets at this question because it concerns whether a lender can rely on a previous notice.

The Q&A actually speaks to a notice that is less than seven years old. And it is the same property, same borrower and same lender.

The answers states that a lender may not rely on a previous notice in such circumstances and further states that a lender must provide a new notice to the borrower even if a new determination is not required.

John Jackwood: Great, thanks Alex. I appreciate it. We have a couple more minutes here. We'll take a couple more questions. I want to save some time for concluding remarks from Paul Robin so let's just take a couple more.

If a borrower is notified of a shortage - let's see, of flood insurance and does not provide - excuse me, let me start over again.

If a borrower is notified of a shortage on flood insurance and does not provide the increased amount do we obtain force placed for the difference or disregard their partial coverage completely and retain full force placed coverage? Paul can you take that question?

Paul Gibbs: Sure. So straightforward answer the lender would need only force placed for the amount of the insufficient coverage.

John Jackwood: Okay great. Thanks appreciate it.

Paul Gibbs: Sure.

John Jackwood: Another question here it looks like another forced placement related question.

If a property that is securing a loan was not originally in a special flood hazard area but is later classified as being in a flood zone due to a map revision what procedures should the lender take to get flood insurance in place?

Should the standard notice be sent to the borrower? What should the timing before the notice? And for force placed insurance that the borrower does not obtain require insurance? Alex can you take this last question?

Alex Cheng: Sure. The lender should follow standard forced placement notice procedures by sending 45 day notice upon its awareness of the map revision.

If the borrower does not obtain insurance within 45 days then the lender should force place it.

John Jackwood: Okay great. Thanks Alex. I, you know, like I said we've run out of time. I wish we could get some more questions but that is all the time that we do have.

Please feel free to reach out to your primary regulator with questions you may continue to have about the mandatory flood insurance purchase requirements.

I'll turn things over to Paul Robin now for concluding remarks.

Paul Robin: Thank you John. First I want to thank everyone who took time to call in today including those who sent in their very good questions.

I also want to thank our colleagues at the Federal Reserve Board, the OCC, the NCUA and the FCA for collaborating on this presentation. We very much appreciate their participation in the development and delivery of today's presentation.

We hope you enjoyed today's call and that this presentation has provided you with a good understanding of the changes to the mandatory flood insurance purchase requirements and the status of agency's rulemaking. Have a great day everyone. This call is now concluded.

Coordinator: Thank you. That does conclude today's conference. Thank you for your participation. You may now disconnect from the audio portion.

END