



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
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Issuance of Final Rule on Loans in Areas Having Special Flood Hazards—Private Flood Insurance

Summary: The Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act) amended Federal flood insurance legislation to require the FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, and the Farm Credit Administration (the Agencies) to issue a final rule that directs insured depository institutions (institutions) to accept private flood insurance as defined by the Biggert-Waters Act. The Agencies have approved the issuance of a joint final rule to amend their respective regulations regarding loans in special flood hazard areas. The final rule amends the FDIC's flood insurance regulation at Part 339 of Title 12 of the Code of Federal Regulations to incorporate and implement certain provisions in the Biggert-Waters Act regarding private flood insurance.

The final rule becomes effective on July 1, 2019. The date should afford institutions sufficient time to make necessary changes to their policies, procedures and operating systems.

Statement of Applicability to Institutions Under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised financial institutions.

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FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Credit Officer
Chief Risk Officer
Chief Compliance Officer

Related Topics:
Biggert-Waters Flood Insurance Reform Act of 2012
Flood Disaster Protection Act of 1973

Attachment:
[Joint Final Rule](#) –PDF([PDF Help](#))

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Highlights:

- The final rule requires institutions to accept flood insurance policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act; and permits institutions to exercise their discretion to accept flood insurance policies issued by private insurers and flood plans provided by mutual aid societies, even if such policies or coverage do not meet the statutory definition of private flood insurance, as long as certain criteria are met.
- **Mandatory Acceptance of Private Flood Insurance:** The Biggert-Waters Act requires institutions to accept private flood insurance that meets both (1) the statutory definition of private flood insurance and (2) the mandatory purchase requirement. The final rule includes a streamlined compliance aid provision to assist institutions with evaluating policies by relying on written assurances from the insurer that a policy satisfies the criteria set out in the Biggert-Waters Act.
- **Discretionary Acceptance of Private Flood Insurance:** The final rule provides that institutions may accept private flood insurance policies that do not meet the Biggert-Waters Act's criteria for mandatory acceptance, provided that certain conditions are met, including that the policy provides sufficient protection of the loan, consistent with general safety and soundness principles.
- **Coverage by Mutual Aid Societies:** The final rule allows institutions to accept certain flood plans provided by mutual aid societies as long as certain conditions are met.

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The FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, and the Farm Credit Administration (the Agencies) approved the issuance of a joint final private flood insurance rule to amend their respective regulations regarding loans in special flood hazard areas.

The FDIC issuance amends the FDIC's flood insurance regulation at Part 339 of Title 12 of the Code of Federal Regulations to incorporate and implement certain provisions in the Biggert-Waters Flood Insurance Reform Act (the Biggert-Waters Act) regarding private flood insurance. The Biggert-Waters Act amended Federal flood insurance legislation to require the Agencies to issue a final rule that directs insured depository institutions (institutions) to accept private flood insurance as defined by the Biggert-Waters Act.

The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended, make Federally subsidized flood insurance available to owners of improved real estate or mobile homes located in participating communities and require the purchase of flood insurance in connection with a loan made by an institution when the loan is secured by improved real estate or a mobile home located in a special flood hazard area in which flood insurance is available under the National Flood Insurance Program.¹ The laws specify the amount of insurance that must be purchased and require that such insurance be maintained for the term of the loan.²

The final rule covers four key provisions:

- Mandatory Acceptance of Private Flood Insurance
- Compliance Aid for Mandatory Acceptance
- Discretionary Acceptance of Private Flood Insurance
- Coverage by Mutual Aid Societies

Mandatory Acceptance of Private Flood Insurance

The Biggert-Waters Act requires institutions to accept private flood insurance that meets both (1) the statutory definition of private flood insurance, and (2) the mandatory purchase requirement.

Compliance Aid for Mandatory Acceptance

The final rule includes a streamlined compliance aid provision to assist institutions in evaluating whether a flood insurance policy meets the definition of private flood insurance. This provision allows an institution to conclude that a private flood insurance policy meets the definition of private flood insurance, without further review of the policy, if the following statement is included within the policy or as an endorsement to the policy by the insurer: "This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding

¹ Administered by the FEMA, the National Flood Insurance Program is the means whereby Federally issued flood insurance is made available to owners of improved real estate or mobile homes located in participating communities.

² The requirement to purchase and maintain flood insurance, and the term and amounts of such coverage, is known as "the flood insurance purchase requirement."

regulation.” An institution may also choose not to rely on an assurance statement and conduct its own due diligence to ensure the private policy meets the definition of private flood insurance.

Discretionary Acceptance of Private Flood Insurance

The final rule permits institutions to accept flood insurance policies issued by private insurers that do not meet the statutory and regulatory definition of private flood insurance if the policy:

- (1) provides coverage in the amount required by the flood insurance purchase requirement;
- (2) is issued by an authorized insurer that is licensed, admitted, or not disapproved by a state insurance regulator;
- (3) covers both the mortgagor(s) and the mortgagee(s) as loss payees, except in the case of a policy that is provided, and for which the premium is paid by a condominium association, cooperative, homeowners association, or other applicable group; and
- (4) provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the institution documents its conclusion regarding sufficiency of the protection of the loan in writing.

Coverage by Mutual Aid Societies

Pursuant to the final rule, an institution, in satisfaction of the mandatory flood insurance requirement, may accept a plan provided by a mutual aid society, as defined below, if the institution’s primary Federal supervisory agency has determined that such plans qualify as flood insurance for purposes of the Biggert-Waters Act and the plan:

- (1) provides coverage in the amount required by the flood insurance purchase requirement;
- (2) covers both the mortgagor(s) and the mortgagee(s) as loss payees; and
- (3) provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the lending institution documents its conclusion regarding sufficiency of the protection of the loan in writing.

Links

[Joint Final Rule](#)- PDF ([PDF Help](#))
[Press Release](#)