

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 34**

**[Docket No. OCC-2017-0024]**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 225**

**[Docket No. ]**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 323**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 722**

**Temporary Exceptions to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) Appraisal Requirements in Areas Affected by Severe Storms and Flooding Related to Hurricanes Harvey, Irma, and Maria**

**AGENCY:** Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and National Credit Union Administration (NCUA), collectively referred to as the agencies.

**ACTION:** Statement and order; temporary exceptions.

**SUMMARY:** Section 2 of the Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements under Title XI of FIRREA. The exceptions are available for transactions involving real property located within an area in a state or territory declared to be a major disaster by the President if the agencies determine, and describe by publication of a regulation or order, that the exceptions would facilitate recovery from the disaster and would be consistent with safety and soundness.

In this statement and order, the agencies exercise their authority to grant temporary exceptions to the FIRREA appraisal requirements for real estate-related financial transactions, provided certain criteria are met, in areas of Florida, Georgia, Puerto Rico, Texas, and the U.S. Virgin Islands that have been declared major disasters by President Trump as a result of the severe storms and flooding caused by Hurricanes Harvey, Irma, and Maria. The expiration date for the exceptions in each area is three years after the date the President declared the state or territory a major disaster.

**DATES:** This order is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires three years after the date the President declared the relevant state or territory a major disaster, as follows.

**Hurricane Harvey:** The expiration date for the exceptions for areas declared a major disaster is August 24, 2020, for Texas.

**Hurricane Irma:** The expiration dates for the exceptions for areas declared a major disaster are September 6, 2020, for the U.S. Virgin Islands, September 9, 2020, for Florida and Puerto Rico, and September 14, 2020, for Georgia.

**Hurricane Maria:** The expiration dates for the exceptions for areas declared a major disaster are September 19, 2020, for Puerto Rico and September 20, 2020, for the U.S. Virgin Islands.

**FOR FURTHER INFORMATION CONTACT:**

OCC: Kevin Lawton, Appraisal Specialist, Chief National Bank Examiner's Office, at (202) 649-7152; Christopher Manthey, Special Counsel, Chief Counsel's Office, at (202) 649-6203; or Mitchell Plave, Special Counsel, Chief Counsel's Office, at (202) 649-6285 or, for persons who are deaf or hearing impaired, TTY (202) 649-5597.

Board: Carmen D. Holly, Senior Supervisory Financial Analyst, Division of Supervision and Regulation at (202)-973-6122; Gillian Burgess, Counsel, Legal Division, at (202) 736-5564; or Kirin Walsh, Attorney, Legal Division, at (202) 452-3058.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898-3640; Mark Mellon, Counsel, Legal Division, at (202) 898-3884; Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

NCUA: D. Scott Neat, Director of Supervision, Office of Examination and Insurance, at (703) 518-6363; John Brolin, Staff Attorney, Office of General Counsel, at (703) 518-6438; National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

## **SUPPLEMENTARY INFORMATION:**

### **Statement**

Section 2 of DIDRA, which added section 1123 to Title XI of FIRREA,<sup>1</sup> authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in an area in which the President has determined a major disaster exists, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act,<sup>2</sup> provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness.

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<sup>1</sup> 12 U.S.C. 3352.

<sup>2</sup> 42 U.S.C. 5170.

On August 25, 2017, the President declared a major disaster existed in areas in the state of Texas<sup>3</sup> due to extensive damage that occurred as a result of severe storms and subsequent flooding in connection with Hurricane Harvey. On September 7, 2017, the President declared a major disaster existed in areas in the U.S. Virgin Islands<sup>4</sup> as a result of the severe storms and subsequent flooding from Hurricane Irma. On September 10, 2017, the President declared a major disaster existed in areas in the state of Florida<sup>5</sup> and the Commonwealth of Puerto Rico<sup>6</sup> as a result of the severe storms and subsequent flooding from Hurricane Irma. Further, on September 15, 2017, the President declared a major disaster existed in areas in the state of Georgia as a result of the severe storms and subsequent flooding related to Hurricane Irma.<sup>7</sup>

In addition, on September 20, 2017, and September 21, 2017, the President declared a major disaster existed in areas in Puerto Rico<sup>8</sup> and the U.S. Virgin Islands,<sup>9</sup> respectively, as a result of the severe storms and subsequent flooding from Hurricane Maria. The agencies believe that granting relief from the appraisal requirements set forth in Title XI of FIRREA, and in the agencies' appraisal regulations, for real estate-related financial transactions in areas declared a major disaster is consistent with the provisions of DIDRA.

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<sup>3</sup> Press Release, The White House (August 25, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/08/25/president-donald-j-trump-approves-texas-disaster-declaration>.

<sup>4</sup> Press Release, The White House (September 7, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/07/president-donald-j-trump-approves-us-virgin-islands-disaster-declaration>.

<sup>5</sup> Press Release, The White House (September 10, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/10/president-donald-j-trump-approves-florida-disaster-declaration>.

<sup>6</sup> Press Release, The White House (September 10, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/10/president-donald-j-trump-approves-puerto-rico-disaster-declaration>.

<sup>7</sup> Press Release, The White House (September 15, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/15/president-donald-j-trump-approves-georgia-disaster-declaration>.

<sup>8</sup> Press Release, The White House (September 21, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/21/president-donald-j-trump-approves-puerto-rico-disaster-declaration>.

<sup>9</sup> Press Release, The White House (September 21, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/09/21/president-donald-j-trump-approves-us-virgin-islands-disaster-declaration>.

### *Facilitation of Recovery from the Major Disasters*

The agencies have determined that the disruption of real estate markets in each of the areas declared a major disaster interferes with the ability of depository institutions to obtain appraisals that comply with Title XI statutory and regulatory requirements. Further, the agencies have determined that the disruption may impede institutions in making loans and engaging in other transactions that would aid in the reconstruction and rehabilitation of the affected areas. Accordingly, the agencies have determined that recovery from these major disasters would be facilitated by exempting transactions involving real estate and requiring the services of an appraiser located in the area directly affected by the severe storms and flooding from the real estate appraisal requirements of Title XI of FIRREA and its implementing regulations.<sup>10</sup>

### *Consistency with Safety and Soundness*

The agencies also have determined that the exceptions are consistent with safety and soundness, provided that the depository institution determines and maintains appropriate documentation of the following: (1) the property involved was located in the major disaster area; (2) there is a binding commitment to fund the transaction that was entered into on or within 36 months of the date that the area was declared a major disaster; and (3) the value of the real property supports the institution's decision to enter into the transaction. In addition, the transaction must continue to be subject to review by management and by the agencies in the course of examinations of the institution.

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<sup>10</sup> 12 U.S.C. 3331-3355; 12 CFR 34.41 – 34.47 (OCC); 12 CFR Part 225, Subpart G (Board); 12 CFR Part 323, Subpart A (FDIC); 12 CFR Part 722 (NCUA).

## **Expiration Date**

Exceptions made under section 1123 of FIRREA may be provided for no more than three years after the President determines a major disaster exists in an area.<sup>11</sup> The agencies have determined that the exceptions provided for by this order shall expire three years after the date the President declared a major disaster in each state or territory.

## **Order**

In accordance with section 2 of DIDRA, relief is hereby granted from the provisions of Title XI of FIRREA and the agencies' appraisal regulations for any real estate-related financial transaction that requires the services of an appraiser under those provisions, provided that the institution determines each of the following and maintains supporting documentation made available to the agencies upon request:

- (1) The transaction involves real property located in an area of a state or territory that has been declared a major disaster by the President as a result of severe storms and flooding related to Hurricanes Harvey, Irma, or Maria. The specific areas covered are identified in the Appendix and include:

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<sup>11</sup> 12 U.S.C. 3352(b).

- a. The 39 counties in Texas under the declaration of August 25, 2017 (as amended);<sup>12</sup>
- b. The two islands in the U.S. Virgin Islands under the declaration of September 7, 2017;<sup>13</sup>
- c. The 48 counties in Florida under the declaration of September 10, 2017 (as amended);<sup>14</sup>
- d. The four municipalities in Puerto Rico under the declaration of September 10, 2017;<sup>15</sup>
- e. The three counties in Georgia under the declaration of September 15, 2017;<sup>16</sup>
- f. The 54 municipalities in Puerto Rico under the declaration of September 20, 2017;<sup>17</sup> and
- g. The island in the U.S. Virgin Islands under the declaration of September 21, 2017.<sup>18</sup>

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<sup>12</sup> See <https://www.fema.gov/disaster/4332>.

<sup>13</sup> See <https://www.fema.gov/disaster/4335>.

<sup>14</sup> See <https://www.fema.gov/disaster/4337>.

<sup>15</sup> See <https://www.fema.gov/disaster/4336>.

<sup>16</sup> See <https://www.fema.gov/disaster/4338>.

<sup>17</sup> See <https://www.fema.gov/disaster/4339>.

<sup>18</sup> See <https://www.fema.gov/disaster/4340>.



- (2) There is a binding commitment to fund a transaction that was entered into on or after:
- (a) August 25, 2017, but no later than August 24, 2020, for areas declared a major disaster in Texas as a result of Hurricane Harvey;
  - (b) September 7, 2017, but no later than September 6, 2020, for areas declared a major disaster in the U.S. Virgin Islands as a result of Hurricane Irma;
  - (c) September 10, 2017, but no later than September 9, 2020, for areas declared a major disaster in Florida and Puerto Rico as a result of Hurricane Irma;
  - (d) September 15, 2017, but no later than September 14, 2020, for areas declared a major disaster in Georgia as a result of Hurricane Irma;
  - (e) September 20, 2017, but no later than September 19, 2020, for areas declared a major disaster in Puerto Rico as a result of Hurricane Maria; or
  - (f) September 21, 2017, but no later than September 20, 2020, for areas declared a major disaster in the U.S. Virgin Islands as a result of Hurricane Maria.
- (3) The value of the real property supports the institution's decision to enter into the transaction.

## **Appendix: Areas Declared a Major Disaster**

### **Hurricane Harvey**

Texas: Aransas, Austin, Bastrop, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Hardin, Harris, Jackson, Jasper, Jefferson, Karnes, Kleberg, Lavaca, Lee, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, and Wharton counties.

### **Hurricane Irma**

Florida: Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lafayette, Lake, Lee, Levy, Manatee, Marion, Martin, Miami-Dade, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee, Union, and Volusia counties.

Georgia: Camden, Chatham, and Glynn counties.

Puerto Rico: Canovanas, Culebra, Loiza, and Vieques Municipalities.

U.S. Virgin Islands: St. John (Island), St. Thomas (Island).

## **Hurricane Maria**

U.S. Virgin Islands: St. Croix (Island).

Puerto Rico: Aguas Buenas, Aibonito, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamón, Caguas, Canóvanas, Carolina, Cataño, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Florida, Guayama, Guaynabo, Gurabo, Humacao, Jayuya, Juana Díaz, Juncos, Las Piedras, Loíza, Luquillo, Manati, Maunabo, Morovis, Naguabo, Naranjito, Orocovis, Patillas, Ponce, Rio Grande, Salinas, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, and Yabucoa Municipalities.

**[THIS SIGNATURE PAGE RELATES TO THE JOINT FINAL STATEMENT AND ORDER  
CONCERNING TEMPORARY EXCEPTIONS TO FIRREA APPRAISAL  
REQUIREMENTS IN AREAS AFFECTED BY SEVERE STORMS AND FLOODING  
RELATED TO HURRICANES HARVEY, IRMA, AND MARIA.]**

Dated: October 6, 2017

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Keith A. Noreika

Acting Comptroller of the Currency

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Dated:

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Ann E. Misback

Secretary of the Board

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Dated at Washington, D.C., this 12th day of October, 2017.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

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Robert E. Feldman,

Executive Secretary.

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REQUIREMENTS IN AREAS AFFECTED BY SEVERE STORMS AND FLOODING  
RELATED TO HURRICANES HARVEY, IRMA, AND MARIA.]**

Dated at Alexandria, VA, this \_\_\_th day of \_\_\_\_\_, 2017.

By order of the Board of Directors.

National Credit Union Administration.

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Gerard Poliquin

Secretary of the Board