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Submitted via: Federal eRulemaking Portal: <http://www.regulations.gov>

To FDIC as: FDIC Loans in Areas Having Special Flood Hazards

To Whom It May Concern:

Columbia Bank appreciates the opportunity to provide comments on the Proposed Rule implementing certain provisions of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA). After review of the proposed rule, the Bank submits the following comments:

1. The HFIAA amends section 102(c) of the Flood Disaster Protection Act (FDPA) such that flood insurance will no longer be required (in the case of any residential property) for any structure that is a part of such (residential) property but is detached from the primary residential structure and does not serve as a residence. The Agencies seek comment on whether clarification to this section is necessary.
 - a. This section, while offering great relief to financial institutions on the basis that banks will no longer be required to enforce insurance on covered appurtenant structures, requires clear definitions and parameters in order to support consistent compliance. Financial institutions will be better able to differentiate between structures that require insurance and structures that do not if those structures are clearly defined by regulators.
 - b. The Agencies should further define “residential property” to remove the risk of ambiguity during compliance examinations. For instance, an agricultural property may contain a residence, but agricultural purpose loans are frequently exempted from regulatory definitions that apply to residential loans. Many appurtenant structures on an agricultural property are high value and integral to the operation of the business, while others are near-valueless sheds that are unlikely to be replaced in the event of a flood. In this case, the Bank would request clear regulatory guidance relative to whether the presence of a residence alone qualifies a property as “residential” and if the nature of the appurtenant structures can be utilized to determine the applicability of the exemption.
 - c. The Agencies indicate that “residential property” as referenced in the HFIAA could currently relate to either a property type or a loan purpose. The Bank discourages reference to loan purpose as it relates to the definition of a “residential property,” as

this could cause inequities between customers. If the exemption from the requirement to enforce insurance on appurtenant structures was limited to loans for the purpose of purchasing or refinancing a residence, a consumer purchasing a home with a permanent shed in the backyard would not be required to insure the shed against flooding, however, a small business owner looking to expand her business with a loan secured by the same home would be required to purchase insurance for the same shed.

- d. Further clarification is also necessary relative to when an appurtenant structure “serves as a residence.” In the event financial institutions will be required to enforce insurance when a structure would not traditionally be defined as a “residence” but is occupied as one, the Agencies should provide guidelines for the amount of due diligence required on the part of the financial institution. For example, is the borrower’s statement of usage enough to make the determination? Will it be expected by examiners that banks make the determination of whether a structure “serves as a residence” through other means, such as by appraisal? Further, if a structure does not serve as a residence at the time of loan origination, does the Bank have an obligation to obtain periodic certifications that the structure remains non-residential? Adoption of the proposal without such clarification may lead to ambiguity during examinations.
2. The HFIAA amends section 102(d) of the FDPA to include certain exemptions from the requirement to escrow flood insurance premiums under the Biggert-Waters Act. The Agencies solicit comment on whether the exemption for “non-performing” loans should be defined as loans that are 90 or more days past due.
 - a. In general, 90 days or more past due conforms to the Bank’s definition of “non-performing” and the Bank recommends adoption of the rule as proposed in this regard.
 3. Section 25(b) of the HFIAA requires regulated lending 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, requiring notice to be sent to covered borrowers following that date. The Agencies seek comment regarding the proposal to require lenders to act “as soon as reasonably practicable after the lender or servicer receives the borrower’s request to escrow.”
 - a. In general, a lack of clearly defined timelines associated with regulatory requirements creates ambiguity during examinations that can lead to financial institutions being held to variable standards at the discretion of individual examiners. After examination of the Bank’s internal processes regarding escrow account establishment, it is suggested that the Agencies implement a rule that escrow should be established within 30 days of receipt of a borrower’s request.
 4. The Agencies are proposing an amendment to the FDPA specifying that in accordance with the exemption from the mandatory purchase requirement for appurtenant structures on residential properties, lenders would no longer be required to obtain a flood hazard determination in connection with those exempted structures. The intent of this proposal is to prevent borrowers from being charged fees associated with unnecessary flood hazard determinations.
 - a. The Bank is in support of this amendment, given that it is illogical to obtain a determination in the event no insurance is to be required. However, clarification is

necessary to prevent confusion during the examination process. It is recommended the amendment include a provision to describe that there is not a prohibition on obtaining such determinations. Many financial institutions obtain a determination prior to obtaining a property appraisal or other inspection, and as such may not have information regarding the nature of the structures or property at the time a determination would be included in normal workflow. As such, a determination may be made on a structure not requiring insurance, and the Bank should not incur penalties as a result.

Thank you for the opportunity to engage in the regulatory process regarding the proposed amendments to the Flood Disaster Protection Act.

Sincerely,

A handwritten signature in black ink, consisting of stylized initials 'KM' followed by a flourish.

Kathryn Morris, CRCM

Vice President and Lending Compliance Manager