

December 16, 2016

By *electronic submission* [comments@FDIC.gov](mailto:comments@FDIC.gov).

Robert E. Feldman, Executive Secretary  
Attention Comments/Legal ESS  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW, Washington, DC 20429

Re: Comment Letter to the FDIC, Regarding Proposed Rulemaking for "Loans in Areas Having Special Flood Hazards – Private Flood Insurance"

Dear Sir;

Pacific Western Bank appreciates the FDIC, and other federal regulating agencies ("Agencies") providing the opportunity to comment on the issues that we, like our colleagues, face in meeting the needs of our borrowers while adhering to the "private flood insurance" definition requirements of the Biggert-Waters Act ("Act") Section 100239(a)(7) .

Having lenders assist with flood insurance coverage needs for the nation's benefit is an acceptable obligation we willingly assume, but it seems that this obligation should be shouldered more equally by insurance providers who benefit from flood insurance policy sales opportunities.

We are encouraged by the Agencies three proposals [(1), (2), (3)] contained in Section II C (*Compliance aid for mandatory acceptance*). However, we are disappointed that the proposed provisions do not provide a "safe harbor", and agree with the opinion that the proposed number (2) criteria requirement should be unnecessary if a duly licensed insurance provider delivers proposed criteria item numbers (1) and (3). Alternatively, it is suggested that an insurer's furnishing of number (1) and (3) proposals alone would allow lenders to provide verification as proposed by criteria (2).

It is our experience that some flood insurance providers already provide the proposed number (3) criteria provision. An example is offered as shown below:

**NATIONAL FLOOD INSURANCE  
COMPLIANCE GUARANTEE ENDORSEMENT**

In consideration of the payment of the premium for each coverage amount shown and subject to all provisions of this "policy", the insurer specified in the "declaration page" (hereinafter referred to as "we," "our," and "us") hereby agrees with the Insured(s) (hereinafter referred to as "you" and "your") to provide the following compliance guarantee under the terms of "policy" and this Endorsement as follows:

The flood insurance provided under this "policy" is hereby guaranteed to conform to the minimum mandatory private flood insurance requirements of 42 U.S.C. 4012a(b) as amended by Section 100239 of the Biggert-Waters Flood Insurance Reform Act of 2012, in all respects; therefore, to the extent any provision is hereby amended to conform to those minimum mandatory requirements.

As others have commented in the past, bankers are not experts on determining the overall merit of an insurance provider's policies worthiness. While we concur with your thought that the proposed provisions could incent insurance providers to "...*demonstrate that their policy meets the definition of 'private flood insurance' and, therefore, must be accepted...*" we do not believe that it goes far enough. We believe that Agencies making the criteria number (3) provision a "safe harbor"; thereby giving lenders authority to reject private policies not providing the (1) and (3) proposed criteria items, would be a far superior incentive for the insurance providers to assist in meeting the Act's requirements. Furthermore, this would also be more in line with lenders current abilities to except SFIPs, which do not require the detailed scrutiny currently needed for private policies. At the least, it is thought that an insurance provider already authorized to write policies under WYO should to be trusted to issue a private policy with an endorsement as proposed in criteria (3).

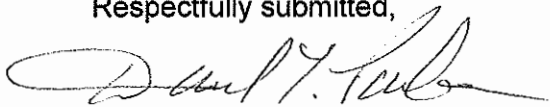
In summary, it is our contention that:

- I. Allowing regulated lenders to accept private policies, which meet the proposed number (1) and (3) criteria requirements (using an endorsement or attachment similar to the above example), without the specter of having to validate further (i.e. a form of "safe harbor"), would be most functional; and
  - a. It would send a positive message to lenders by lessening lender's burden of having to determine a policy's viability; and
  - b. It would also be a strong incentive to private insurance providers by enhancing their ability to meet flood insurance coverage provisions without the current bickering over properly fulfilling the Act's criteria definition requirements.

Pacific Western Bank appreciates the opportunity to comment on this issue. We would be pleased to have the opportunity to discuss this matter further.

Thank you.

Respectfully submitted,



Pacific Western Bank  
David T. Parker - Vice President Lending Compliance  
(805) 437-4287