

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 22**

[Docket No. 95-12]

RIN 1557-AB47

FEDERAL RESERVE SYSTEM**12 CFR Part 208**

[Regulation H, Docket No. R-0882]

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 339**

RIN 3064-AB62

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 563**

[No. 95-124]

RIN 1550-AA82

FARM CREDIT ADMINISTRATION**12 CFR Part 614**

RIN 3052-AB57

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 760****Loans in Areas Having Special Flood Hazards**

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); Farm Credit Administration (FCA); and National Credit Union Administration (NCUA) (collectively, the Federal entities for lending regulation or the agencies).

ACTION: Joint final rule.

SUMMARY: The OCC, Board, FDIC, OTS, and NCUA are amending their regulations concerning loans in areas having special flood hazards to require depository institutions to use the Standard Flood Hazard Determination Form (the standard form) in determining whether real property offered as collateral for a loan is located in a special flood hazard area. The FCA is adopting this same requirement in new regulations. The standard form has been developed by the Federal Emergency

Management Agency (the FEMA), in consultation with the Federal entities for lending regulation and other agencies. Use of the standard form will help ensure that borrowers obtain the required flood insurance for improved real property and mobile homes located in special flood hazard areas.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT:

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BOARD: Diane Jackins, Senior Review Examiner, or Jennifer Lowe, Review Examiner, Division of Consumer and Community Affairs, (202) 452-3946, or Lawranne Stewart, Senior Attorney, (202) 452-3513, or Rick Heyke, Attorney, (202) 452-3688, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551.

FDIC: Mark Mellon, Senior Attorney, Regulation and Legislation Section, Legal Division, (202) 898-3854, or Ken Baebel, Senior Review Examiner, (202) 942-3086, or Barbara L. Boehm, Consumer Affairs Specialist, (202) 942-3631, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

OTS: Larry Clark, Program Manager, Compliance Policy, (202) 906-5628, or Catherine Shepard, Senior Attorney, Regulation and Legislation Division, Office of the Chief Counsel, (202) 906-7275, Office of Thrift Supervision, 1700 G Street, NW, Washington, D.C. 20552.

FCA: Robert G. Magnuson, Policy Analyst, Regulation Development, Office of Examination, (703) 883-4498, or William L. Larsen, Senior Attorney, Office of General Counsel, (703) 883-4020, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

NCUA: Kimberly Iverson, Program Officer, (703) 518-6375, or Jeffrey S. Mooney, Staff Attorney, (703) 518-6563, 1775 Duke Street, Alexandria, VA 22314-3428.

SUPPLEMENTARY INFORMATION:**I. Background***Federal Flood Insurance Legislation*

Congress enacted the National Flood Insurance Act of 1968 (the 68 Act) (Pub.

L. 90-448, 82 Stat. 476) and the Flood Disaster Protection Act of 1973 (the 73 Act) (Pub. L. 93-234, 87 Stat. 975) to provide, through the authorization of a Federal flood insurance program, an opportunity for property owners to purchase protection for property subject to flooding. The 68 Act and the 73 Act are codified at 42 U.S.C. 4001 *et seq.*

The Reform Act

Amendments to the 68 Act and the 73 Act are set forth in the National Flood Insurance Reform Act of 1994 (the Reform Act), Title V of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103-325, 108 Stat. 2160). Several of these amendments require implementing regulations by the Federal entities for lending regulation.¹

As amended by the Reform Act, the 73 Act directs the Federal entities for lending regulation (a term defined by section 3(a)(5) of the 73 Act (42 U.S.C. 4003(a)(5)) to include the OCC, Board, FDIC, OTS, FCA, and the NCUA) to issue regulations which direct regulated lending institutions (a term defined by section 3(a)(10) of the 73 Act (42 U.S.C. 4003(a)(10)) to include any bank, savings and loan association, Farm Credit System institution, and credit union) which are subject to their supervision to ensure that any loan secured by improved real estate or a mobile home (real property) located or to be located in a special flood hazard area is covered for the term of the loan by flood insurance. Section 102(b) of the 73 Act (42 U.S.C. 4012a(b)).

Standard Flood Hazard Determination Form

Section 528 of the Reform Act amends the 68 Act by adding a new section 1365 (42 U.S.C. 4104b). Section 1365(a) of the 68 Act requires the Director of the FEMA, in consultation with the Federal entities for lending regulation (among others), to develop a Standard Flood Hazard Determination Form for use in determining whether real property offered as collateral on a loan is located in a special flood hazard area. Section 1365(a) states that the standard form shall be established by FEMA regulations issued not later than 270 days after the date of enactment of the Reform Act. The Reform Act was signed

¹ One change effected by the Reform Act is to make Farm Credit System institutions subject for the first time to the requirements of the 68 Act and the 73 Act. See sections 1370(a)(13) of the 68 Act (42 U.S.C. 4121(a)); and 3(a)(10) of the 73 Act (42 U.S.C. 4003(a)(10)). As a result, the FCA, the Federal entity responsible for the supervision of such institutions, must promulgate regulations to implement the requirements of these statutes. This final rule is part of that project.

into law on September 23, 1994. The standard form must therefore be established by the FEMA by no later than June 20, 1995.

A proposed rulemaking to establish the standard form was approved for release for notice and comment by the FEMA on March 30, 1995. See 60 FR 17758 (April 7, 1995). The public comment period on the proposed rule ended on May 8, 1995. The proposed rule was adopted by the FEMA in final form on June 20, 1995, and is published elsewhere in today's **Federal Register**.

Section 1365(c) of the 68 Act states that the Federal entities for lending regulation must promulgate regulations which require the use of the standard form by regulated lending institutions when determining whether real property offered as collateral for a loan is located in a special flood hazard area. Section 1365(c) further states that a lender or other person may comply with this requirement by using the standard form in a printed, computerized, or electronic manner.

Section 1365(f) of the 68 Act states that the regulations requiring use of the standard form must be issued together with the FEMA regulation which establishes the standard form and that the form will have an effective date of 180 days after the date of issuance of the regulations. To satisfy this requirement, this final rule requiring the use of the standard form is published in the same issue of the **Federal Register** as the final rule of the FEMA which establishes the standard form.

II. The Final Rule

Notice and comment on the final rule requiring the use of the standard form are unnecessary since the rulemaking merely implements the statutory requirement that the standard form be used by regulated lending institutions. The rulemaking is therefore technical in nature. The required use of the standard form is not in need of definition or interpretation. Moreover, the public has already had the opportunity to comment on the substantive content and format of the standard form, thus fulfilling the public interest in notice and comment. The final format and content of the standard form have been determined through the related FEMA rulemaking described above.

The Federal entities for lending regulation therefore find good cause, in accordance with section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), to omit notice and comment on the rules as unnecessary and to instead issue final rules which impose the requirement that the standard form

be used by regulated lending institutions.

III. Effective Date

The final rule will become effective January 2, 1996.

IV. Paperwork Reduction Act

As noted previously, it is the responsibility of the FEMA to establish the standard form by regulation. The FEMA has determined that the standard form constitutes a "collection of information" as that term is defined in section 3502(4) of the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501 et seq.). See 60 FR 17760. The FEMA has submitted information on the standard form to the Office of Management and Budget for review as required by section 3507 of the PRA (44 U.S.C. 3507). The Director of OMB has approved the proposed information collection request of the FEMA, as required by section 3507.

V. Regulatory Burden

Section 302 of the Riegle Community Development and Regulatory Improvement Act (12 U.S.C. 4802) provides that each Federal banking agency must consider the administrative burdens and benefits of any new regulations that impose additional requirements on insured depository institutions. Section 302 also requires that any regulations which impose additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. This requirement need not be observed, however, if a Federal statute requires that the regulation take effect on a different date from the one mandated by section 302. See section 302(b)(1)(C) (12 U.S.C. 4802(b)(1)(C)).

Requiring the use of the standard form will be an additional requirement for depository institutions. Section 528 of the Reform Act provides, however, that the standard form be used and the agencies must implement this statutory requirement.

Moreover, as noted previously, the new section 1365(f) of the 68 Act, as added by section 528 of the Reform Act, provides that the regulations requiring the use of the standard form shall be effective upon the expiration of the 180-day period beginning on the date of the regulations' issuance. Since the 68 Act requires that the regulations requiring the use of the standard form take effect on a different date from the one mandated by section 302, the exception in section 302 is operative.

VI. Executive Order 12866

The OCC and the OTS have determined that this rule is not a significant regulatory action as defined in Executive Order 12866.

VII. Unfunded Mandates Act of 1995

The OCC and the OTS have determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VIII. NCUA Executive Order 12612 Statement

This rule, like the current part 760 it is replacing, will apply to all Federally insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined, however, that this rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government. Further, this rule will not preempt provisions of state law or regulations.

List of Subjects

12 CFR Part 22

Flood insurance, Mortgages, National banks, Reporting and recordkeeping requirements.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Flood insurance, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 339

Flood insurance, Reporting and recordkeeping requirements.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 760

Credit unions, Mortgages, Flood insurance, Reporting and recordkeeping requirements.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set forth in the joint preamble, part 22 of chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 22—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

1. The authority citation for part 22 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. A new § 22.6 is added to read as follows:

§ 22.6 Required use of Standard Flood Hazard Determination Form.

A bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in appendix A of 44 CFR part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (12 U.S.C. 4001 *et seq.*). The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 20, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

12 CFR CHAPTER II

For the reasons set forth in the joint preamble, the Board amends 12 CFR Part 208 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(j), 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 208.8 is amended by adding a new paragraph (e)(4) to read as follows:

§ 208.8 Banking practices.

* * * * *

(e) * * *

(4) *Required use of Standard Flood Hazard Determination Form.* A state member bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 20, 1995.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the joint preamble, the Board of Directors of the FDIC amends Part 339 of Chapter III of title 12 of the Code of Federal Regulations as follows:

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

1. The authority citation for part 339 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 339.7 is added to read as follows:

§ 339.7 Required use of Standard Flood Hazard Determination Form.

A bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan (as that term is defined in § 339.2(b)) is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The

standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

By order of the Board of Directors.

Dated at Washington, D.C., this 19th day of June, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

Accordingly, for the reasons set forth in the joint preamble, the Office of Thrift Supervision hereby amends chapter V, title 12 of the Code of Federal Regulations, as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

1. The authority citation for part 563 is revised to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4012a, 4104a, 4104b, 4106, 4128.

2. Section 563.48 is amended by adding a new paragraph (f) to read as follows:

§ 563.48 Flood disaster protection.

* * * * *

(f) *Required use of Standard Flood Hazard Determination Form.* A savings association shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 16, 1995.

By the Office of Thrift Supervision.

John F. Downey,

Director, Supervision.

Farm Credit Administration

12 CFR Chapter VI

Authority and Issuance

For the reasons stated in the joint preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

2. Part 614 is amended by adding a new subpart S to read as follows:

Subpart S—Flood Insurance Requirements

Sec.

614.4940 Required use of Standard Flood Hazard Determination Form

Subpart S—Flood Insurance Requirements**§ 614.4940 Required use of Standard Flood Hazard Determination Form.**

An institution of the Farm Credit System shall use the standard flood

hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 16, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Chapter VII****Authority and Issuance**

For the reasons set forth in the joint preamble, the NCUA amends 12 CFR Part 760 as follows:

PART 760—FLOOD INSURANCE

1. The authority citation for part 760 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1789; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 760.12 is added to read as follows:

§ 760.12 Required use of Standard Flood Hazard Determination Form

A credit union shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

By the National Credit Union Administration Board on June 26, 1995.

Becky Baker,

Secretary of the Board.

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