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January 22, 2021

Regulations Division - Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Acceptance of Private Flood Insurance for FHA-Insured Mortgages; Docket No. FR-6084-P-01;
RIN 2502-AJ43

Dear Sir or Madam:

The Credit Union National Association (CUNA) represents America's credit unions and their 120 million members. On behalf of our members, we are writing regarding the U.S. Department of Housing and Urban Development's (HUD) proposed rule on "Acceptance of Private Flood Insurance for FHA-Insured Mortgages."¹

Background

This proposed rule would amend Federal Housing Administration (FHA) regulations at 24 CFR parts 201, 203, and 206 to allow owners the option to purchase private flood insurance on FHA-insured mortgages for properties located in Special Flood Hazard Areas (SFHAs) in satisfaction of the mandatory purchase requirement of the Flood Disaster Protection Act of 1973 (the FDPA).² The FDPA requires the owner of a property mapped in a SFHA, and located in a community participating in the National Flood Insurance Program (NFIP), to purchase flood insurance as a condition of receiving a mortgage backed by the Government Sponsored Enterprises (GSEs), Veterans Administration (VA), U.S. Department of Agriculture (USDA), or FHA.

FHA's current rules do not permit private flood insurance as an option to satisfy the mandatory purchase requirement under the FDPA. Instead, the FHA requires owners to obtain and maintain NFIP flood insurance during such a time as the mortgage is insured, to the extent that NFIP insurance is available.

Comments

CUNA is generally supportive of the proposed rule. We believe that allowing a private flood insurance option for FHA-insured mortgages located in SFHAs would ensure owners have access to flood insurance during potential lapses in the NFIP, expand the availability of lower cost alternatives to the NFIP, and potentially reduce the waiting periods associated with the processing of new originations. The proposed rulemaking would also better align FHA's rules with the Congressional intent of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act), which sought to expand the private flood insurance

¹ Acceptance of Private Flood Insurance for FHA-Insured Mortgages, 85 Fed. Reg. 74630 (Nov. 23, 2020).

² See Public Law 93-234 (1973).

market, and the federal banking regulators' 2012 Final Rule implementing the private flood insurance provisions of the Biggert-Waters Act.³

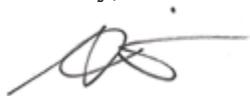
The proposed rule would revise 24 CFR 203.16a to include the definition of “private flood insurance” specified in section 100239 of the Biggert-Waters Act, which added a new section 102(b)(7) to the FDPA.⁴ This proposed definition of “private flood insurance” would ensure that private insurers can satisfy claims and that private flood insurance coverage is at least as broad as the coverage provided under the NFIP. However, while similar, the proposed definition of “private flood insurance” would not be identical to the definition in the Biggert-Waters Act. HUD has also proposed adopting slight changes to the language of the compliance aid statement because the agency is not subject to the Biggert-Waters Act or its implementing regulations.

Credit unions believe consistency across the housing market with respect to private flood insurance would not only benefit consumers but also mitigate any lender confusion. As a result, we recommend HUD adopt definitions of “private flood insurance” and compliance aid provisions that are identical to the language used by the federal banking regulators to assert the insurance policy meets the definition of “private flood insurance” and fulfills the requirements of both the federal regulators and HUD. Aligning the FHA’s rules with the private flood insurance procedures established by the federal banking agencies would best protect the interests of both borrowers and lenders.

Conclusion

On behalf of America’s credit unions and their 120 million members, thank you for your consideration. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or amonterrubbio@cuna.coop.

Sincerely,



Alexander Monterrubio
Senior Director of Advocacy & Counsel

³ Loans in Areas Having Special Flood Hazards, 84 Fed. Reg. 4953 (Feb. 20, 2019).

⁴ 42 U.S.C. 4012a(b)(7).