

V. Lending — Flood Insurance

If an institution is found to have a pattern or practice of committing violations, the agencies shall assess civil penalties in an amount not to exceed \$385 per violation with a total amount against any one regulated institution not to exceed \$125,000 in any calendar year. Any penalty assessed will be paid into the National Flood Mitigation Fund. Liability for violations cannot be transferred to a subsequent purchaser of a loan. Liability for penalties expires four years from the time of the occurrence of the violation.

Federal Emergency Management Agency (FEMA)

FEMA administers the National Flood Insurance Program through the Federal Insurance Administration located at:

**Federal Emergency Management Agency
Federal Insurance Administration
500 C Street, S.W.
Washington, DC 20472
1-800-621-FEMA (1-800-621-3362)**

A list of regional contacts is located at:

**[http://www.fema.gov/about/
contact/regions.shtm](http://www.fema.gov/about/contact/regions.shtm)**

Examination Objectives

1. To determine whether an institution performs required flood determinations for loans secured by improved real estate or a mobile home affixed to a permanent foundation in accordance with the final rule.
2. To determine if the institution requires flood insurance in the correct amount when it makes, increases, extends, or renews a loan secured by improved real estate or a mobile home located or to be located in a SFHA.
3. To determine if the institution provides the required notices to the borrower, servicer and to the Director of FEMA whenever flood insurance is required as a condition of the loan.
4. To determine if the institution requires flood insurance premiums to be escrowed when flood insurance is required on a residential building and other items are required to be escrowed.
5. To determine if the institution complies with the forced placement provisions if at any time during the term of a loan it determines that flood insurance on the loan is not sufficient to meet the requirements of the regulation.
6. To initiate corrective action when policies or internal controls are deficient, or when violations of law or regulation are identified.

Examination Procedures

The following procedures should be performed, as appropriate:

- By reviewing previous examinations and supervisory correspondence;
- By obtaining and reviewing the institution's policies, procedures and other pertinent information;
- By reviewing the institution's system of internal controls;
- Through discussions with management; and
- By reviewing a sample of loan files.

Coverage and Internal Control

1. Determine the method(s) used by the institution to ascertain whether improved real estate or mobile homes are or will be located in a special flood hazard area.
2. Verify that the process used accurately identifies special flood hazard areas.
3. For those special flood hazard areas identified, determine if the communities in which they are located participate in the National Flood Insurance Program (NFIP).
4. If the institution provides "table funding" to close loans originated by mortgage brokers or dealers, verify that it complies with regulatory requirements.
5. If the institution purchases servicing rights, review the contractual obligations placed on the institution as servicer by the owner of the loans to ascertain if flood insurance requirements are identified and compliance responsibilities are adequately addressed.
6. If the institution utilizes a third party to service loans, review the contractual obligations between the parties to ascertain that flood insurance requirements are identified and compliance responsibilities are adequately addressed.

Property Determination Requirements

1. Verify that flood zone determinations are accurately prepared on the Standard Flood Hazard Determination Form (SFHDF).
2. Verify that the institution only relies on a previous determination if it is not more than seven years old, is recorded on the SFHDF and that it is not in a community that has been remapped.
3. If the institution utilizes a third party to prepare flood zone determinations, review the contractual obligations between the parties to ascertain that flood insurance requirements are identified and compliance responsibilities are adequately covered, including the extent of the third party's guarantee of work and the procedures in place to resolve disputes relating to determinations.
4. Verify that the institution retains a copy of the completed SFHDF, in either hard copy or electronic form, for as long as it owns the loan.

Purchase Requirements

1. For loans that require flood insurance, determine that sufficient insurance was obtained prior to loan closing and is maintained for the life of the loan.
2. If the institution makes loans insured or guaranteed by a government agency (SBA, VA or FHA) determine how it complies with the requirement not to make these loans if the security property is in a SFHA within a non-participating community.

Determination Fee Requirements

1. Determine that any fees charged to the borrower by the institution for flood zone determinations (absent some other authority such as contract language) are charged only when a loan:
 - Is made, increased, renewed or extended;
 - Is made in response to a remapping by FEMA; or
 - Results in the purchase of flood insurance under the forced placement provisions.
2. If other authority permits the institution to charge fees for determinations in situations other than the ones listed above, determine if the institution is consistent in this practice.
3. Determine the reasonableness of any fees charged to a borrower for flood determinations by evaluating the method used by the institution to determine the amount of the charge. Consider, for example, the relationship of the fees charged to the cost of services provided.

Notice Requirements

1. Ascertain that written notice is mailed or delivered to the borrower within a reasonable time prior to loan closing.
2. Verify that the notice contains:
 - A warning that the property securing the loan is or will be located in a SFHA;
 - A description of the flood insurance purchase requirements;
 - A statement, where applicable, that flood insurance coverage is available under the NFIP and may also be available from private insurers, if applicable; and
 - A statement whether Federal disaster relief assistance may be available in the event of damage to the property caused by flooding in a Federally declared disaster, if applicable.
3. If the seller or lessor provided the notice to the purchaser or lessee, verify that the institution obtained satisfactory written assurance that the notice was provided within a reasonable time before the completion of the sale or lease transaction.

4. Verify that the institution retains a record of receipt of the notice provided to the borrower for as long as it owns the loan.
5. If applicable, verify that the institution provided written notice to the servicer of the loan within the prescribed time frames and that the institution retains a record of receipt of the notice for as long as it owns the loan.
6. If the institution transfers servicing of loans to another servicer, ascertain whether it provides notice of the new servicer's identity to the flood insurance carrier (Director of FEMA's designee) within prescribed time frames.

Escrow Requirements

1. If the institution's policies or loan documents require the escrow of funds to cover charges such as taxes, premiums for hazard insurance or other fees, verify that the institution requires the escrow of funds for loans secured by residential improved real estate to cover premiums and other charges associated with flood insurance.
2. For loans closed after October 1, 1996, where flood insurance is required and where the loan is subject to RESPA, verify that the institution's escrow procedures comply with Section 10 of RESPA.

Forced Placement Requirements

1. If the institution determines that flood insurance coverage is less than the amount required by the FDPA, ascertain that it has appropriate policies and procedures in place to exercise its forced placement authority.
2. If the institution is required to force place insurance, verify:
 - That it provides written notice to the borrower that flood insurance is required, and
 - That if the required insurance is not purchased by the borrower within 45 days from the time that the institution provides the written notice, that the institution purchases the required insurance on the borrower's behalf.

FDPA Examination Checklist

The following questions are designed to be used in conjunction with the Examination Procedures to guide the examiner in a comprehensive review of the requirements of the regulation as it is applied to depository institutions.

Coverage

1. Does the institution offer or extend credit (consumer or commercial) that is secured by improved real estate or mobile homes as defined in the regulation? If yes, complete the remainder of this checklist.
2. If the institution provides "table funding" to close loans originated by mortgage brokers or dealers, does it have