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via www.regulations.gov

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RE: Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance (Docket ID OCC-2020-0008; Federal Reserve System Docket No. OP-1720; FDIC RIN 3064-ZA16; FCA RIN 3052-AD42; NCUA RIN 3133-AF14)

Ladies and Gentleman:

The American Bankers Association (ABA)[1] appreciates the opportunity to comment on the Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Farm Credit Administration; and National Credit Union Administration (collectively, the Agencies) proposal to reorganize, revise, and expand the Interagency Questions and Answers Regarding Flood Insurance (proposed Q&As). We recognize the considerable effort that went into reorganizing and revising the existing Q&As. We comment on each section separately. For Q&As not directly addressed in this comment letter, ABA has no comment at this time but may offer further analysis at a later date as issues become known.

[1] The American Bankers Association is the voice of the nation's $20.3 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $15.8 trillion in deposits and extend nearly $11 trillion in loans.

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I. Summary of Comment

ABA welcomes this guidance on flood compliance, in light of the substantial legislative and regulatory changes brought about by the 2012 Biggert-Waters Flood Insurance Reform Act (BWA), the 2014 Homeowners Flood Insurance Affordability Act (HFIAA), and the 2019 final rule regarding the acceptance of private flood insurance (Private Flood Rule). Bankers routinely report that examiners cite flood violations for matters and issues not covered or specifically addressed by the regulations. Banks are eager to comply with the flood requirements but are challenged by unclear rules and supervisory expectations. Additionally, banks regularly confront examiners who are eager to cite technical errors that do not harm borrowers, negatively impact safety and soundness, or raise the risk of flood loss as contemplated under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 and subsequent revisions (collectively, the Statute).

While we appreciate the Agencies' commitment to issuing additional Q&As that respond to industry questions on the Private Flood Rule, we encourage their publication as quickly as possible so that lenders can confidently accept private policies, where appropriate. ABA further encourages the Agencies to review and revise the Q&As on a regular basis, which would provide industry and other stakeholders predictable opportunities to provide feedback on compliance issues and questions as they arise, which will facilitate compliance and borrower protection from flood risk.

Lastly, we ask the Agencies to include in the final Q&As a clear and explicit statement referencing the Interagency Statement Clarifying the Role of Supervisory Guidance, issued in September 2018.[2] The Q&As should state clearly that they are guidance, not regulation, and that failures to comply with the Q&As are not grounds for matters requiring attention ("MRAs"), matters requiring immediate attention ("MRIAs"), or any other adverse supervisory action.

II. Applicability

- **Applicability 6** – This proposed Q&A addresses whether flood regulations apply to loans being transferred or modified.

  While this Q&A is a reiteration of existing Q&A 5, it would benefit from illustrative examples to clarify when flood compliance requirements are *not* triggered. For example, restructuring or modifying a delinquent loan to defer the delinquent payments and other fees authorized and due under the loan agreement without extending the loan's maturity date, even if such payments and fees are recapitalized into the principal loan balance with re-amortization of the monthly payment, would not trigger flood compliance requirements as there is no "making, increasing, renewing, or extending" of the loan terms. This would be consistent with the analysis in the Q&A Force Placement 10, as the delinquent payments and fees are already

[2] Bd. of Governors of the Fed. Reserve Sys., SR 18-5 / CA 18-7, Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 2018), https://www.federalreserve.gov/supervisionreg/srletters/sr1805.htm. At the time of this letter's filing, the FDIC had just proposed a rulemaking to codify the Interagency Statement.

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required and authorized by the loan agreement. The need for examples is particularly pressing in the current moment, as the COVID-19 crisis has greatly increased the volume of loan modifications and restructurings to accommodate borrowers in distress.

- **Applicability 9** – This proposed Q&A addresses the responsibilities of lenders participating in loan syndications which implicate flood regulations.

  While this is a revision of existing Q&A 4, ABA requests that the Agencies offer further clarity on what constitutes sufficient "upfront due diligence" and "adequate controls to monitor the activities of the leader or agent." Several of our members have noted that problems arise when lead lenders have different regulators employing different approaches for upfront due diligence as well as monitoring for flood compliance. These differences can cause disagreements among participating lenders and even lead to lenders declining to participate in a facility because of operational concerns about the adequacy of due diligence and ongoing monitoring, particularly in cases where the lead lender is not federally regulated and thus not subject to flood compliance requirements. By offering further clarity on these two clauses, the Agencies can promote more consistency within the commercial lending space regarding flood compliance. We recommend the inclusion of an explicit statement that if a lead lender on a facility is not federally regulated, and thus not subject to flood compliance requirements, any participating lenders on that facility also do not have flood compliance obligations with respect to that facility.

- **Applicability 10** – This proposed Q&A addresses expectations of lenders participating in multi-tranche credit facilities which implicate flood regulations.

  The same clarifications requested for Q&A Applicability 9 are also requested and applicable to Q&A Applicability 10.

III. Exemptions

ABA notes generally that several of the Exemptions Q&As might be read to imply that commercial buildings are subject to the residential detached structure exemption generally. The Q&As should be revised to make clear when the detached structure exemption is applicable.

- **Exemptions 7** – This proposed Q&A addresses the detached structure exemption.

  ABA requests that the Agencies allow lenders to defer to insurer's definitions for a "structural connection" as this term is not defined in the flood regulations or Statute, nor the FEMA Flood Insurance Manual, or, alternatively, that the Agencies define this term.

IV. Coverage

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- **Coverage 1** – This proposed Q&A addresses lender determinations of the acceptability of a private flood insurance policy.

  This Q&A as proposed implies that lenders may reject private flood policies if the lender deems that the insurance company does not have the financial solvency, strength, or ability to pay claims, contrary to the statutory definition of private flood insurance and the Agencies' Private Flood Rule. As currently phrased, Coverage Q&A 1 may cause confusion with the mandatory acceptance provisions for private flood policies. The Q&A should be edited to clarify that the criteria described are applicable only to the discretionary acceptance of private flood insurance.

- **Coverage 2** – This proposed Q&A addresses the use of "portfolio-wide" flood coverage to meet the mandatory purchase or force placement requirements.

  The agencies must clarify what is meant by "portfolio wide" coverage. Specifically, clarify that the typical master policy that lenders obtain and use to force-place flood insurance on individual loans is not "portfolio wide" coverage as referenced in this proposed Q&A. Master insurance policies, which are commonly used in the industry to ensure coverage in the event of gaps in coverage for general hazard as well as flood, provide coverage at the loan level when directed by the lender. These policies are the mechanism by which lenders are able to quickly and accurately force place coverage when needed. Further, such policies often provide coverage in situations where primary coverage may have lapsed. In ABA's view, these master policies meet flood compliance requirements and while they must be accompanied by proper force placement procedures, they are an appropriate backup to ensure that flood compliance is maintained. Lenders should be allowed to rely on master policies for compliance purposes.

- **Coverage 3** – This proposed Q&A addresses when flood insurance must be in place during the closing process.

  This proposed Q&A is unclear as to when flood coverage would need to be in place for loan transactions where no transfer of property ownership takes place, such as a refinance. The Q&A contemplates a "property transfer" pursuant to state law, however not all transactions feature such a transfer. For example, if a customer is refinancing a property and purchasing a new flood insurance policy, or is required to increase flood insurance coverage, would the policy need to be effective as of the execution of the loan documents or funding date? ABA recommends that the Agencies allow for flood coverage to be effective as of the latter of either the effective date as stated in the loan documents, or the funding date.

V. Special Flood Hazard Determination Forms (SFHDF)

- **SFHDF 4**- This proposed Q&A addresses when a lender may rely on a previous determination for refinancing, loan assumptions, or multiple loans to the same borrower secured by the same property.

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This Q&A should be clarified to note when a SFHDF may be re-used for the same collateral on a subsequent loan secured by the same collateral. ABA also notes that as a practical matter, flood determination vendors tie life-of-loan monitoring to a specific SFHDF, thus in practice a new SFHDF is obtained for any new loan transaction in order to obtain the vendor's life-of-loan monitoring coverage.

VI. Zone

- **Zone 1** – This proposed Q&A addresses lender responsibilities when there is a flood zone discrepancy between a flood policy and the flood determination form.

  ABA appreciates that the agencies have clarified that there is no need to resolve flood zone discrepancies between the SFHDF and policy declarations, removing the burden from lenders to adjudicate such discrepancies when they arise. However, the Q&A now imposes a new requirement on lenders to force-place for any underpaid NFIP premiums that result from such a discrepancy in the event of a loss. In ABA's view, this is an unnecessary requirement, as it will not result in coverage for a loss that has already occurred. The Agencies should revise this Q&A to omit the second paragraph.

  If it is the Agencies' intention to note that lenders must follow normal force placement procedures to ensure that adequate coverage is in place for the future (after the claim), then the Q&A should be revised to state that point more clearly. It is our view that if the borrower does not pay any additional required premium and the policy is reformed to a lower coverage amount, lenders would initiate force placement procedures to cover the insufficiency of coverage on a *prospective*, not retroactive basis, based on the date that the lender determines that coverage is insufficient.

VII. Notice

As a general matter, ABA recommends that the Agencies add a new Notice Q&A to address the timing of when a lender must provide the Notice to Borrower. The Regulation says that notice should be provided within a "reasonable time" before completion of the transaction.[3] In response to the 2009 Q&As, at least one commentator asked for further clarity.[4] In the preamble to the final 2009 Q&As, the Agencies noted that ten days would be considered sufficient; however, "reasonable" notice may vary according to the circumstances of the particular transaction.[5] That guidance should be formalized in a Q&A, with explicit reference to the fact that a notice period of fewer or greater than ten days may also be "reasonable" according to circumstances.

[3] 12 C.F.R. §§ 22.9, 208.25, 339.9 (2020) (OCC, Board, and FDIC regulations).
[4] Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance, 74 Fed. Reg. 35914 (July 21, 2009), https://www.fema.gov/media-library-data/20130726-1742-25045-4927/interagency_q_a.pdf.
[5] *Id.*

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- **Notice 5** – This proposed Q&A addresses lender maintenance of notice receipt records.

  Notice Q&A 4 acknowledges that borrowers may be provided with electronic notice, thus we recommend that for further clarity, the Agencies add an electronic example to examples listed in Notice Q&A 5.

VIII. Amount

- **Amount 1** – This proposed Q&A addresses the meaning of the phrase "maximum limit of coverage available for the particular type of property under the Act."

  It would be helpful for the Agencies to address commercial condominiums in the listed examples of coverage amount calculations. In particular, the Agencies should clarify that there is no mandatory purchase requirement for loans secured by individual commercial condominium unit structures, as the NFIP does not provide coverage for such units other than contents coverage. This is in contrast to residential condominium units, which are insurable under the NFIP for both structure and contents.

- **Amount 4** – This proposed Q&A addresses examples of nonresidential buildings.

  The first sentence of this proposed Q&A implies that a building must be owned by a commercial enterprise to be considered a nonresidential building. However, usage of a building is not dependent on its ownership, and the Q&A should be revised to omit this language. Further, the Agencies should clarify that lenders may rely on borrower or agent assertions as to percentage of residential/commercial usage of a given property, rather than lenders needing to make an independent determination.

- **Amount 7** – This proposed Q&A addresses whether lenders must require flood insurance up to the balance of a loan if the insurable value of the property is less than the outstanding principle balance of the loan.

  ABA notes that the last sentence of the Q&A should be clarified by changing "improvements" to "building" as the former term would include items that, like land itself, are not insurable under the NFIP for flood loss, such as fencing or paving.

- **Amount 9** – This proposed Q&A addresses whether a lender may allow a borrower to use the maximum deductible to reduce the cost of flood insurance.

  As ABA previously raised with the Agencies in an August 2018 joint meeting with the Mortgage Bankers Association, the original Q&A 17 guidance, on which this updated proposed Q&A is based, was written with the assumption that the property in question is a single building covered by a single flood policy. However, it is common, especially for private flood policies, for a single flood policy to include multiple buildings or structures of varying

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value. The Q&A should be revised to make clear that it is acceptable to have buildings or structures included on the policy that have a value lower than the deductible amount of the policy. We recommend revising the last sentence of the proposed Q&A to read as follows: "A lender may not allow the borrower to use a deductible amount equal to the aggregate insurable value of the property (i.e. building(s) and/or contents, as applicable) to avoid the mandatory purchase requirement for flood insurance."

IX. Construction

- **Construction 4** – This proposed Q&A addresses when flood insurance must be in place for a construction loan.

  This Q&A should clarify that lenders may disburse funds to fund *any* building work that is not insurable under the NFIP, prior to flood coverage being in place. As proposed, the Q&A implies that only "necessary" site work may be funded before the placement of flood insurance. For example, if the borrower needs one or more disbursements to pay for pouring of the slab, performing other site work, clearing brush, or the purchase and delivery of building materials, the lender can make those disbursements without requiring the borrower to obtain flood insurance since none of that work is insurable under the NFIP.

- **Construction 5** – This proposed Q&A addresses whether the NFIP 30-day waiting period applies when the purchase of a flood policy is deferred on a construction loan.

  This Q&A should add language that allows lenders to rely on agent representations regarding waiting periods. FEMA's NFIP Flood Insurance Manual notes that the insurer "may rely on an agent's representation on the application that there is no waiting period."[6] ABA recommends that the Agencies clarify that lenders are also able to rely on such representations.

- **Construction 6** – This proposed Q&A addresses when a lender must begin escrow of flood insurance during a construction loan.

  This Q&A should be revised to clarify that it only applies to designated loans which do not otherwise qualify for an exception to the mandatory escrow requirement. For example, a construction loan for commercial purposes that is secured by residential property is exempt from the escrow requirement altogether.

X. Condo and Co-op

- **Condo and Co-op 5** – This proposed Q&A addresses lender responsibilities when RCBAP coverage is insufficient to meet the mandatory purchase requirement.

[6] Fed. Emergency Mgmt. Agency, Flood Insurance Manual: Before You Start 2-13 (Apr. 2020), https://www.fema.gov/sites/default/files/2020-05/fim_before-you-start_apr2020.pdf.

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This Q&A should be revised to be clear as to whether force placement of coverage must occur after a notice cycle (i.e., within 45 days), or if it can begin immediately.

- **Condo and Co-op 9** – This proposed Q&A addresses whether flood insurance requirements apply to a loan secured by a share in a cooperative building located in a Special Flood Hazard Area.

  The Q&A should clarify that since loans to cooperative unit owners secured by the owner's share in the cooperative are not designated loans, lenders also do not need to verify building-level coverage.

XI. Other Security Interests

- **Other Security Interests 4** – This proposed Q&A addresses the amount of coverage required when a lender makes, increases, extends, or renews a second mortgage.

  As noted below for proposed Q&A Escrow 6, junior lien holders are not specifically subject to the escrow requirements according to the Statute and Regulation. The Agencies should not create such requirements via the Q&A guidance.

XII. Escrow

As a general matter, the force placement of flood insurance is not a "making, increasing, renewing, or extending"[7] (MIRE) event that would trigger the escrow requirements of the 2014 HFIAA statute. Several of the proposed Escrow Q&As make this presumption and should be edited for clarity as recommended below. Likewise, ABA recommends that the Agencies clarify that when a property is "mapped in" to a Special Flood Hazard Area, that such event is also not a MIRE event that triggers the escrow requirement.

ABA also hopes that the Agencies will address, in the upcoming private flood Q&As, recommendations for situations in which the lender has not been able to assess the adequacy of a private flood policy, but the premium for the policy is due and must be paid from escrow.

- **Escrow 1** – This proposed Q&A addresses when escrow accounts must be established for flood insurance.

  This Q&A should also state that if there is contractual authority to escrow and it is otherwise permitted by law, the lender may escrow flood premiums for safety and soundness reasons, even if the lender is not required to escrow under the Statute and Regulation.

[7] Homeowner Flood Insurance Affordability Act of 2014, Pub. L. No. 113-89, 128 Stat. 1020 (2014), https://www.congress.gov/113/plaws/publ89/PLAW-113publ89.pdf.

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- **Escrow 3** – This proposed Q&A addresses whether lenders are required to escrow for force-placed insurance.

  This Q&A as proposed implies that escrow is required for force-placed insurance on loans which were made, increased, extended, or renewed *before* January 1, 2016 when no such requirement exists. The Q&A should be revised to make clear that no requirement for escrow exists on loans that were made, increased, extended, or renewed before January 1, 2016 per HFIAA.

- **Escrow 6** – This proposed Q&A addresses whether junior lien holders must escrow for additional flood coverage if the first lienholder does not have sufficient flood coverage and does not escrow.

  There is no specific requirement in the Statute or Regulation that a junior lienholder holder must escrow, and the Agencies should not read in such a requirement – indeed, the Agencies acknowledge that no such requirement exists in the proposed Q&A Loan Exceptions 3, which notes "a lender is not required to monitor whether a subordinate lien moves into the first lien position for the purpose of the mandatory escrow requirement[.]"

  The Q&A Escrow 6 as proposed assumes that a junior lienholder is notified and made aware that there is a lapse in flood coverage. However, typically this is not true, as primary lien holders have no obligation to inform junior lien holders of a lapse in flood coverage. Junior lien holders are not given notice in the event that they become the primary lien holder (such as when there is a payoff of the primary loan), nor is the junior lienholder routinely notified of a failure to escrow.

  ABA members note that introducing such a requirement would create significant operational challenges for mortgage and home equity loan originations, as well as mortgage servicing, as there is currently no mechanism to determine whether a first lienholder is escrowing (or no longer escrowing) for flood insurance. The Q&A Other Security Instruments 4 also evinces this presumption and should be revised accordingly.

XIII. Small lender exemptions

This section should be folded into the proposed Escrow Q&As, as these questions are fundamentally escrow-related questions. This would also reduce confusion with the Exemptions section of the Q&A.

XIV. Loan exceptions

This section should be re-titled to avoid confusion with the Exemptions section of the Q&A.

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- **Loan Exceptions 1** – This proposed Q&A addresses whether escrow accounts for flood insurance premiums and fees are required for commercial loans secured by multi-family residential buildings.

  As a general matter, the Agencies should provide a definition of "residential property" or clarify that lenders may rely on borrower or agent assertions as to a property's intended use.

XV. Force Placement

ABA understands that the Agencies plan to release further guidance on private flood insurance. We encourage the release of those proposed Q&As as soon as possible, ideally with the opportunity for public comment before these proposed Q&As are finalized.

ABA urges the Agencies to clarify when the insufficiency or inadequacy of a private policy necessitates starting the force placement process, such as when a lender receives a new private flood policy and determines that such private policy is insufficient and/or inadequate, and/or when flood policies are renewed and coverage is determined insufficient and/or inadequate.

Additionally, ABA appreciates that the Agencies did not memorialize the April 2018 informal guidance on restarts. However, bankers continue to request further guidance on when it is appropriate to restart the 45-day notice cycle. We recommend the Agencies consider situations in which borrowers could assert that a lack of sufficient notice or opportunity to obtain a policy on their own was unfair or deceptive. ABA further notes that the Statute and Regulation state that if a lender "determines at *any* time" (emphasis added) during the course of a designated loan that the lender "shall notify" the borrower to obtain flood insurance[8]-- not just the *first* time. The Agencies' wholesale prohibition of notice restarts is a disservice to consumers who should be given ample opportunity to obtain sufficient coverage on their own.

Finally, ABA generally notes that the Q&As for Coverage 2, as well as Force Placement 2 and 9, suggest that lenders may not rely on master policies for coverage gaps. However, gap policies do cover borrower losses and are written at the loan level to provide coverage that meets the compliance requirements of the Statute and Regulation. Further analysis is provided in the comments for each proposed Q&A.

- **Force Placement 1** – This proposed Q&A addresses the force placement requirements.

  This Q&A should clearly state whether lenders are required to inform borrowers of insufficient amounts of coverage. We recommend avoidance of the word "should" which may lead some readers to believe that lenders are required to provide notice of insufficiency, when no requirement exists in the Statute or Regulation.

[8] 12 C.F.R. § 208.25 (2020).

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- **Force Placement 2** – This proposed Q&A addresses when a lender must provide force-placement notice to the borrower.

  ABA recommends that this Q&A be updated to reflect current industry practices for generating and sending notices. The Q&A refers to a "brief delay" that may be caused by "batch processing;" however, this language has been strictly interpreted by examiners. We recommend stating that a "reasonable delay" is acceptable due to "operational time needed to prepare and send notice."

- **Force Placement 5** – This proposed Q&A addresses when flood insurance must be in place if the borrower has not obtained adequate coverage within 45 days of notification.

  Again, ABA recommends revising "brief delay" to "reasonable delay" and removing specific reference to batch processing in favor of a more general term such as "operational time needed to prepare and send notice."

- **Force Placement 8** – This proposed Q&A addresses the amount of coverage needed for force placement.

  The Statute and Regulation use the term "outstanding principal balance" in calculating the minimum amount of flood insurance required. Since that term is not defined in either the Statute or Regulation, we infer that Congress intended its plain meaning, which is distinct from the concept of a "loan balance" as used in this Q&A, or other concepts such as a "payoff balance." The outstanding principal balance of a loan does not include fees, advances, or other charges, which are not part of the principal and are treated differently for accounting purposes. Moreover, many lenders maintain a separate account to hold force-placed premiums, foreclosure fees, property preservation fees, late fees, inspection costs, and other charges due under the contractual loan agreement and securitized by the property that are not considered part of the "outstanding principal balance." ABA recommends that the Agencies use the term "outstanding principal balance" and further clarify that unless fees or other charges have been capitalized into the outstanding principal balance they are excluded from a force placement calculation. This will ensure that consumers are not required to pay higher premiums for flood insurance coverage than necessary.

- **Force Placement 9** – This proposed Q&A addresses when borrowers may be charged for the cost of force-placed insurance.

  This Q&A should include additional examples of when it would be appropriate to charge a borrower for backdated coverage. For example, it is not unusual for borrowers to cancel flood insurance without notification to the lender, making the lender unaware of the lapse in coverage until the policy renewal. Bankers report that examiners are inconsistent on whether it is allowable to charge the customer for coverage back to the date of lapse, or only back to the date of discovery.

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- **Force Placement 10** – This proposed Q&A addresses whether adding the flood insurance premium to the "outstanding loan balance" constitutes a triggering event to reassess the amount of coverage needed.

  As discussed above in the comment for Force Placement Q&A 8, ABA recommends that the Agencies apply consistent terminology when referring to the outstanding principal balance as required by the Statute and Regulation, and avoid using terms such as "outstanding loan balance," "existing mortgage loan balance," "loan amount," or "loan balance," which generate confusion and unnecessary operational complexity for bankers. When a loan agreement contemplates and authorizes the premium to be capitalized into the outstanding principal balance, this would not represent an "increase" for flood compliance purposes. Similarly, if a lender does not capitalize the premium into the loan's outstanding principal balance, whether authorized by the loan agreement or not, this would also not represent an "increase" to the loan's principal balance that would serve as a triggering MIRE event.

- **Force Placement 11** – This proposed Q&A addresses refunding of borrower-paid premiums for force-placed insurance which overlapped borrower-purchased insurance.

  This Q&A implies that the Regulation requires that a lender must cancel and refund a force-placed policy upon receipt of a declaration page which includes the policy number and insurance contact information. However, the declaration page may include information that enables the lender to determine that coverage is insufficient—for example, an inadequate coverage amount or insufficient coverage period. The Q&A should be revised to clarify that if the lender receives information sufficient to determine that force placement should occur, that such course of action is acceptable. Additionally, this Q&A should clarify that it does not apply to private flood coverage.

- **Force Placement 13** – This proposed Q&A addresses whether a lender may make, increase, extend, or renew a loan on a property with existing force-placed flood insurance.

  This Q&A appears to have a typo. The word "refinances" is included in the first sentence of the second paragraph; however, a refinance transaction is not necessarily a MIRE event that would trigger the notice requirement. ABA recommends that the sentence be revised to state "[w]hen a lender increases, renews, or extends an existing loan, the lender is required to…"

- **Force Placement 16** – This proposed Q&A addresses flood insurance requirements when a lender receives notice of remapping.

  This Q&A assumes that lenders receive advance notice of a "map in" change. However, that assumption is not necessarily standard practice and is subject to existing agreements between lenders and flood determination vendors. The Q&A should address what should happen if the lender does not receive notice until after the "map in" change, particularly with respect to force

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placement. For example, assume that a map-in occurs effective January 1; the lender is not notified until February 10; and notice to the borrower is not sent until February 20, due to batch letter cycles. The Q&A should be clarified to note that lenders must force place coverage no later than April 6, or shortly after the expiration of the 45 day notice cycle, to allow borrowers the full 45-day notice period to obtain coverage. Coverage may be issued with an effective date as early as February 20, but no later than April 6. Giving borrowers the full 45-day notice period avoids potential UDAP/UDAAP concerns about force placement back to a date before the borrower was given notice, as the borrower is not able to obtain retroactive coverage on his or her own.

XVI. Servicing

ABA recommends clarifying all Q&As in this section as to whether they would apply to private flood policies.

XVII. Conclusion

We appreciate the Agencies' considerable efforts to revise and clarify the Interagency Questions and Answers. We hope that our feedback is helpful for understanding the operational impacts of the guidance proposed, and look forward to working with the Agencies to further streamline flood compliance and ensure that more Americans are protected from flood peril.

Sincerely,

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