Supplement to the FCA Informational Memorandum Providing Guidance for System Institutions Affected by the COVID-19 Pandemic

Flood insurance requirements

The Farm Credit Administration issued an informational memorandum on May 4 (PDF) to provide guidance to Farm Credit System (System) institutions on issues related to the COVID-19 pandemic. The memorandum includes guidance for working with borrowers affected by the pandemic. It also states that we will provide additional guidance in the form of supplements to the informational memorandum.

This is the third supplement to the May 4 informational memorandum. It discusses flood insurance requirements.

How does FEMA Bulletin W-20002 affect the force-placement requirement under the Flood Disaster Protection Act and the implementing regulation?

On March 28, the Federal Emergency Management Agency (FEMA) issued Bulletin W-20002 (PDF), announcing that the grace period to renew National Flood Insurance Program (NFIP) policies that expire between February 13 and June 15, 2020, (the FEMA emergency period) has been extended from 30 days to 120 days because of the COVID-19 pandemic. According to Bulletin W-20002, a borrower will be covered by the NFIP policy if the flood insurance premium is paid before the 120-day grace period expires.

In accordance with FCA's flood insurance force-placement regulations, when a System institution determines that a designated loan is not covered by a sufficient amount of flood insurance, it must notify the borrower. If the borrower does not provide evidence of sufficient coverage within 45 days after notification, the institution must force-place flood insurance in an amount that will satisfy the regulatory requirements.

However, in light of Bulletin W-20002, for NFIP policies expiring during the FEMA emergency period, the following guidance applies:

- An institution has two options regarding when it notifies a borrower about an expired policy:
  - — It may notify the borrower after determining the policy has expired, explaining that the grace period has been extended to 120 days and that it will not force-place flood insurance until after the end of the 120 days.
  - — It may notify the borrower at least 45 days before the end of the 120-day grace period.

  In either case, the institution must force-place flood insurance on the borrower's behalf if the borrower does not pay the premium by the end of the 120-day grace period.
- We do not expect to take supervisory or enforcement action against an institution for violating the flood insurance force-placement requirements, provided that (1) the circumstances were related to COVID-19, (2) the institution has made good-faith

efforts to support borrowers and comply with the flood insurance requirements, and (3) the institution has responded to any needed corrective action. This approach is similar to the approach described in the Federal Reserve's COVID-19 Supervisory and Regulatory FAQs.

- Please note: If an institution force-places flood insurance for an NFIP policy that expires during the FEMA emergency period prior to the expiration of the 120-day grace period and if the borrower pays the premium by the end of the 120-day grace period, then the institution would be required to refund the borrower for any overlapping flood insurance coverage. This would be required by the flood insurance regulations.

If a System institution works with its borrowers by extending maturities/payments or balloon payments because of COVID-19, would the institution be required to make new flood zone determinations and provide new notices of special flood hazards for the extended loans?

Under the federal flood statutes and FCA's implementing regulation, flood insurance requirements are generally triggered upon the making, increasing, renewing, or extending of any designated loan. If an institution modifies a loan by extending the loan term, then this change is a triggering event, and flood insurance requirements would apply, provided no other exception to the requirements under our regulation is applicable. These requirements may include establishing escrow for flood insurance payments and fees, making a flood zone determination on the property securing the loan, or providing the notice of special flood hazards to the borrower. The federal flood statutes and FCA's implementing regulation do not provide for a waiver of these requirements in emergency situations.

However, when exercising supervisory and enforcement responsibilities, we will take into account the unique circumstances impacting borrowers and institutions resulting from COVID-19. We will take into account an institution's good-faith efforts demonstrably designed to support borrowers and comply with the flood insurance requirements. We expect supervisory feedback for institutions to focus on identifying issues, correcting deficiencies, and ensuring appropriate remediation to borrowers.

As stated above, we do not expect to take an enforcement action against an institution, provided that (1) the circumstances were related to COVID-19, (2) the institution made good-faith efforts to support borrowers and comply with the flood insurance requirements, and (3) the institution responded to any needed corrective action. This approach is similar to the approach described in the Federal Reserve's COVID-19 Supervisory and Regulatory FAQs.

Whom do I contact for more information?

If you have any questions regarding this supplement, please contact Ira Marshall, Senior Policy Analyst, Office of Regulatory Policy, at (703) 883-4379 (marshalli@fca.gov), or Jennifer Cohn, Senior Counsel, Office of General Counsel, at 720-213-0440 (cohnj@fca.gov).