

**Office of the Comptroller of the Currency**  
**Supporting Statement**  
**Loans in Areas Having Special Flood Hazards**  
**OMB Control No. 1557-0326**

**A. Justification.**

***1. Circumstances that make the collection necessary:***

The National Flood Insurance Act of 1968 (1968 Act)<sup>1</sup> and the Flood Disaster Protection Act of 1973 (FDPA),<sup>2</sup> as amended, (collectively referenced herein as the Federal flood insurance statutes) govern the National Flood Insurance Program (NFIP).<sup>3</sup> These laws make Federally subsidized flood insurance available to owners of improved real estate or mobile homes located in participating communities and require the purchase of flood insurance in connection with a loan made by a regulated lending institution<sup>4</sup> when the loan is secured by improved real estate or a mobile home located in a special flood hazard area (SFHA)<sup>5</sup> in which flood insurance is available under the NFIP. The laws specify the amount of insurance that must be purchased, and also require that such insurance be maintained for the term of the loan. (The requirement for flood insurance, and the term and amounts of such coverage, are hereinafter described as “the flood insurance purchase requirement.”) The OCC, Board, FDIC, FCA, and NCUA (collectively, the Agencies) each have issued regulations implementing these statutory requirements for the lending institutions they supervise.<sup>6</sup>

Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act)<sup>7</sup> amends the Federal flood insurance statutes that the Agencies have authority to implement and enforce. Among other things, the Biggert-Waters Act: (1) requires the Agencies to issue a rule regarding the escrow of premiums and fees for flood insurance;<sup>8</sup> (2) clarifies the requirement to force place insurance;<sup>9</sup> and (3) requires the Agencies to issue a rule to direct regulated lending institutions to accept “private flood insurance,” as defined by the Biggert-Waters Act, and to notify borrowers

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<sup>1</sup> Pub. L. 90-448, 82 Stat. 572 (1968).

<sup>2</sup> Pub. L. 93-234, 87 Stat. 975 (1973).

<sup>3</sup> These statutes are codified at 42 U.S.C. 4001-4129. The Federal Emergency Management Agency (FEMA) administers the NFIP; its regulations implementing the NFIP appear at 44 CFR parts 59-77.

<sup>4</sup> The FDPA defines “regulated lending institution” to mean any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation. 42 U.S.C. 4003(a)(1).

<sup>5</sup> An SFHA is an area within a flood plain having a one percent or greater chance of flood occurrence in any given year. 44 CFR 59.1. SFHAs are delineated on maps issued by the FEMA for individual communities. 44 CFR part 65. A community establishes its eligibility to participate in the NFIP by adopting and enforcing flood plain management measures that regulate new construction and by making substantial improvements within its SFHAs to eliminate or minimize future flood damage. 44 CFR part 60.

<sup>6</sup> See 12 CFR part 22 (OCC), part 208 (Board), part 339 (FDIC), part 614 Subpart S (FCA), and part 760 (NCUA).

<sup>7</sup> Pub. L. 112-141, 126 Stat. 916 (2012).

<sup>8</sup> Section 100209 of the Biggert-Waters Act, amending section 102(d) of the FDPA (42 U.S.C. 4012a(d)).

<sup>9</sup> Section 100244 of the Biggert-Waters Act, amending section 102(e) of the FDPA (42 U.S.C. 4012a(e)).

of the availability of private flood insurance.<sup>10</sup>

This supporting statement is being filed in connection with a final rule regarding loans in areas having special flood hazards, issued to implement the private flood insurance provisions of the Biggert-Waters Act. Specifically, the final rule requires regulated lending institutions to accept policies that meet the statutory definition of “private flood insurance” in the Biggert-Waters Act; and permits regulated lending institutions to exercise their discretion to accept flood insurance policies issued by private insurers and plans providing flood coverage issued by mutual aid societies, that do not meet the statutory definition of “private flood insurance,” subject to certain restrictions.

## **2. Use of the information:**

- **12 CFR 22.3 – Requirement to Purchase Flood Insurance Where Available** – Under § 22.3(c)(3) of the final rule, institutions have the discretion to accept a flood insurance policy issued by a private insurer that is not issued under the NFIP and does not meet the definition of private flood insurance if, among other things, the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the institution has documented its conclusion in writing. Under § 22.3(c)(4)(v), institutions may accept a private policy issued by a mutual aid society if, among other things, the coverage provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the institution has documented its conclusion in writing.
- **12 CFR 22.5 – Escrow Requirements** – With certain exceptions with respect to types of loans and size of institution, national banks and federal savings associations, and their servicers, must escrow flood insurance premiums and fees for all loans secured by properties located in a Special Flood Hazard Area made, increased, extended, or renewed on or after January 1, 2016. Written notice must be provided informing the borrower that the institution is required to escrow all premiums and fees for required flood insurance.
- **12 CFR 22.6 – Required Use of Standard Flood Hazard Determination Form** – A national bank or federal savings association must use the Standard Flood Hazard Determination Form developed by FEMA.
- **12 CFR 22.6(b) – Retention of Standard Flood Hazard Determination Form** – A national bank or federal savings association must retain a copy of the completed Standard Flood Hazard Determination Form for the period of time the bank or savings association owns the loan. The OCC uses this record to verify regulatory compliance.
- **12 CFR 22.7 – Notice of Forced Placement of Flood Insurance** – If a national bank or federal savings association, or its loan servicer, determines during the period of time the

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<sup>10</sup> Section 100239 of the Biggert-Waters Act, amending section 102(b) of the FDPA (42 U.S.C. 4012a(b)) and section 1364(a)(3)(C) of the 1968 Act (42 U.S.C. 4104a(a)(3)(C)).

bank or savings association owns the loan that the property securing the loan is not covered by adequate flood insurance, the national bank or savings association, or its loan servicer, must notify the borrower that the borrower should obtain adequate flood insurance coverage (forced placement notice). The forced placement notice informs the borrower of the amount of flood insurance to purchase. If the borrower fails to purchase insurance, the bank or savings association, or its servicer, must purchase insurance on the borrower's behalf and may charge the borrower for the premiums and fees. The insurance provider must be notified to terminate any insurance purchased by an institution or servicer within 30 days of receipt of confirmation of a borrower's existing flood insurance coverage.

- 12 CFR 22.9 – Notice to Borrower and Servicer – A national bank or federal savings association making, extending, increasing, or renewing a loan secured by property located in a special flood hazard area must provide a notice to the borrower and loan servicer (borrower notice). The borrower notice advises the borrower that the property securing the loan is located in a special flood hazard area and that flood insurance on the property securing the loan is required. Among other things, the borrower notice includes a description of the flood insurance purchase requirements and states that flood insurance is available under the National Flood Insurance Program, where applicable, that flood insurance may be available from private insurance companies, and that federal disaster relief assistance may be available in the event of a declared federal flood disaster.
- 12 CFR 22.9(d) and (e) – Record of Borrower and Servicer Receipt of Notice and Alternate Method of Notice – A national bank or federal savings association must retain a record of the receipt of the borrower notice by the borrower and the loan servicer for the period of time the bank or savings association owns the loan. In lieu of providing the borrower notice, a national bank or savings association may obtain a satisfactory written assurance from a seller or lessor that, within a reasonable time before completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The bank or savings association must retain a record of the written assurance from the seller or lessor for the period of time the bank or savings association owns the loan. The OCC uses these records to verify regulatory compliance.
- 12 CFR 22.10 – Notices to FEMA – A national bank or savings association making, increasing, extending, renewing, selling, or transferring a loan secured by property located in a special flood hazard area must notify the Administrator of FEMA (or FEMA's designee) of the identity of the loan servicer (notice of servicer), and must notify the Administrator of FEMA of any change in the loan servicer (notice of servicer transfer) within 60 days of such change. FEMA uses the notice of servicer and notice of servicer transfer to maintain current information regarding to whom to direct notices or inquiries regarding flood insurance or to send notices of flood insurance policy renewals.

### **3. Consideration of the use of improved information technology:**

Any improved information technology may be used to meet the requirements of the

regulation.

**4. Efforts to identify duplication:**

The information required is unique and is not duplicated elsewhere.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden:**

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

**6. Consequences to the federal program if the collection were conducted less frequently:**

Less frequent notice would not meet statutory requirements.

**7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:**

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.

**8. Efforts to consult with persons outside the agency:**

The OCC published the information collection requirements in the preamble to an NPR, 81 FR 78063 (November 7, 2016). OMB directed the OCC to examine public comment in response to the NPR and include in the supporting statement of the next ICR—to be submitted to OMB at the final rule stage—a description of how the OCC has responded to any public comments on the ICR, including comments on maximizing the practical utility of the collection and minimizing the burden. No comments were received on the information collection.

**9. Payment to respondents:**

None.

**10. Any assurance of confidentiality:**

The information collected will be kept confidential to the extent permitted by law.

**11. Justification for questions of a sensitive nature:**

Not applicable. No personally identifiable information is collected.

**12. Burden estimate:**

<b>Section</b>	<b>Description</b>	<b>Type of Burden</b>	<b>Number of Respondents</b>	<b>Annual Frequency</b>	<b>Time per Response</b>	<b>Total Estimated Burden Hours</b>
22.3	Protection of the Designated loan: Documentation of Conclusion	Recordkeeping	1,094	56,469 Total Responses From all Respondents	0.25	14,118
22.6	Retention of Standard FEMA Form	Recordkeeping	1,550	336	2.5 min.	21,700
22.9	Notice of Special Flood Hazards to Borrowers and Servicers	Disclosure	1,550	60	5 min.	7,750
22.10	Notice to FEMA of Servicer	Disclosure	1,550	60	5 min.	7,750
22.10	Notice to FEMA of Change of Servicer	Disclosure	1,550	30	5 min.	3,875
22.7	Notice to Borrowers of Lapsed Mandated Flood Insurance	Disclosure	1,550	7	5 min.	904
22.7	Purchase of Flood Insurance on the Borrower's Behalf	Disclosure	1,550	3	15 min.	1,163
22.7	Notice to Borrowers of Lapsed Mandated Flood Insurance Due to Remapping	Disclosure	1,550	5	5 min.	646
22.7	Purchase of Flood Insurance on the Borrower's Behalf Due to Remapping	Disclosure	1,550	3	15 min.	1,163
22.5	Escrow Notice	Disclosure	1,550	1	40	62,000
	<b>Total</b>					<b>121,069</b>

**Cost to Respondents:**

121,069 hours x \$117 = \$ 14,165,073

To estimate wages we reviewed data from May 2017 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$117 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2.2 percent), plus an additional 34.2 percent to cover private sector benefits for financial activities.

***13. Estimate of annualized costs to respondents:***

None.

**14. Estimate of annualized costs to the government:**

None.

**15. Changes in burden:**

Former burden: 106,951

Current burden: 121,069

Difference: +14,118

The increase in burden is due to the recordkeeping requirements added by the rule.

**16. Information regarding collections whose results are planned to be published for statistical use:**

No publication for statistical use is contemplated.

**17. Display of expiration date:**

Not applicable.

**18. Exceptions to certification statement:**

Not applicable.

**B. Collections of Information Employing Statistical Methods.**

Not applicable.