

**Office of the Comptroller of the Currency (OCC)  
Justification for Nonmaterial Change  
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 of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Farm Credit Administration (FCA), and National Credit Union Administration (NCUA) (collectively, the Agencies) each have issued regulations implementing these statutory requirements for the lending institutions they supervise.<sup>6</sup>

The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act)<sup>7</sup> amended

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1 Pub. L. 90-448, 82 Stat. 572 (1968).

2 Pub. L. 93-234, 87 Stat. 975 (1973).

3 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.

4 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)(10).

5 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.

6 See 12 CFR part 22 (OCC), 208.25 (Board), part 339 (FDIC), part 614 Subpart S (FCA), and part 760 (NCUA).

7 Pub. L. 112-141, 126 Stat. 916 (2012).

the Federal flood insurance statutes that the Agencies have authority to implement and enforce. Among other things, the Biggert-Waters Act: (1) required the Agencies to issue a rule regarding the escrow of premiums and fees for flood insurance;<sup>8</sup> (2) clarified the requirement to force place insurance;<sup>9</sup> and (3) required 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 of the availability of private flood insurance.<sup>10</sup>

The OCC is submitting the change in burden below to align its burden with the other banking agencies.

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

- **12 CFR 22.3 – Requirement to Purchase Flood Insurance Where Available** – Under § 22.3(c)(3), national banks and Federal savings associations 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 set forth in the regulation if, among other things, the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the bank or savings association has documented its conclusion in writing. Under § 22.3(c)(4)(iv), national banks and Federal savings associations 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 bank or savings association 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. When escrow is required, the national bank and Federal savings association must provide the borrower with a written notice informing the borrower that the bank or savings association is required to escrow all premiums and fees for required flood insurance.
- **12 CFR 22.6(a) – 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

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

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

10 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)).

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 bank or savings association owns the loan that the property securing the loan is not covered by adequate flood insurance, the bank or savings association, or its loan servicer, must notify the borrower that the borrower should obtain adequate flood insurance coverage. The forced placement notice informs the borrower that the borrower should obtain flood insurance at the borrower's expense in an amount at least equal to the minimum amount required under the regulation for the remaining term of the loan. If the borrower fails to purchase insurance within 45 days after notification, 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 national bank or federal savings association, or its servicer, must notify the insurance provider 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(a) and (b) – 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 written notice to the borrower and loan servicer (borrower notice). The borrower notice must include a warning that the property securing the loan is located in a special flood hazard area; a description of the flood insurance purchase requirements; and statements indicating that flood insurance is available under the NFIP, where applicable; that flood insurance may be available from private insurance companies; that borrowers are encouraged to compare NFIP and private flood insurance policies; 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 the Administrator's designee) of the identity of the loan servicer (notice of servicer), and must notify the Administrator of FEMA (or the Administrator's designee) of any change

in the loan servicer (notice of servicer transfer) within 60 days after the effective date 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:**

N/A.

**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>Burden Calculation (OMB No. 1557-0326)</b>						
<b>Recordkeeping</b>						
Item	Section	Description	Estimated Annual Number of Respondents	Estimated Annual Number of Responses per Respondent	Estimated Hours per Response	Total Hours
1	22.3(c)(3)(iv) and 22.3(c)(4)(iv)	Private flood Insurance (Required to obtain benefits)	978	7	0.500	3,423.00
2	22.6(b)	Standard flood hazard determination form (Mandatory)	978	436	0.042	17,909.14
3	22.9(d)	Retention of notice of special flood hazards and availability of Federal disaster relief assistance (Mandatory)	978	186	0.250	45,477.00
<b>Disclosure</b>						
4	22.5(b)	Notice of requirement to escrow flood insurance payments and fees (Mandatory)	230	334	0.083	6,376.06
5	22.5(c)(2)	Change in status (Mandatory)	12	2	40	960.00
6	22.5(d)(2)	Notice of option to escrow flood insurance payments and fees (Mandatory)	12	22	0.083	21.91
7	22.7(a)	Notice to borrower to purchase flood insurance (Mandatory)	978	51	0.083	4,139.87
8	22.7(b)(1)(i)	Notification to terminate flood insurance purchased on behalf of a borrower (Mandatory)	978	3	0.250	733.50
9	22.9(a)	Notice of special flood hazards and availability of Federal disaster relief assistance (Mandatory)	978	186	0.250	45,477.00
10	22.10(a)	Notice to Administrator of FEMA of servicer's identity (Mandatory)	978	93	0.083	7,549.18
11	22.10(b)	Notice to Administrator of FEMA of a change in loan servicer (Mandatory)	978	113	0.083	9,172.66
<i>Total Estimated Burden Hours:</i>						<b>141,239.33</b>

**Cost to Respondents:**

$$141,239.33 \times 119.63 = \$16,896,461.05$$

To estimate wages the OCC reviewed May 2021 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities (NAICS 5220A1). To estimate compensation costs associated with the rule, the OCC uses \$119.63 per hour, which is based on the average of the 90th percentile for six occupations adjusted for inflation (6.1 percent as of Q1 2022), plus an additional 32.8 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2021 for NAICS 522: credit intermediation and related activities).

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

None.

**14. Estimate of annualized costs to the Federal Government:**

None.

**15. Changes in burden:**

Prior Burden: 121,069 hours.

Current Burden: 141,239.33 hours.

Difference: + 20,170.33

The change in burden is due to bringing the burden into conformance with the other banking agencies.

**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.