



# Flood Insurance Rule Changes: Update on June Final Rule and Its Impact on Your Financial Institution's Lending Practices

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- A professional services firm with three distinct business lines
  - Wealth Advisory
  - Outsourcing
  - Audit, Tax, and Consulting
- 3,600 employees
- Offices coast to coast
- Serve more than 1,100 financial institutions



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# Speaker Introduction

## John Misgen, CPA

- Director of Compliance with CliftonLarsonAllen LLP (CLA) for more than nine years
- Has provided regulatory compliance assistance to financial institutions ranging from less than \$5 million in assets to more than a billion in assets.
- John is part of the regulatory compliance group within CLA. The group focuses 100% of its time and resources performing compliance testing and providing regulatory compliance assistance to financial institutions
- John holds a bachelor of science degree in finance from Winona State University and earned his CPA certificate in 2008.
- John has conducted compliance training nationwide targeted to Board members and compliance experts



# Learning Objectives

- At the end of this session, you will be able to:
  - Recognize the new requirements and their impact
  - Identify when the rule changes will become effective
  - Implement changes in your lending and loan servicing functions to be compliant with the new rules



# Joint Final Rule

- Issued June 22, 2015 and affects virtually all Financial Institutions (FIs)
- Department of the Treasury (OCC), Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, National Credit Union Administration
- Only impacts those loans in areas having special flood hazards





# Comparison of Old vs. New Escrow Rules

## Old Rules

- 11/1/96
  - If FI required an escrow for T&I, needed to include flood insurance in escrow

## New Rules

- 1/1/16
  - Need to establish escrow for flood insurance if in a flood zone (not T&I)
  - Need to offer and make available option to escrow for flood insurance for all loans currently serviced if in a flood zone
  - Certain FIs and trans exempt
- Additional rules effective 10/1/15



# Rules Effective October 1, 2015

- Certain detached structures are now exempt from flood coverage requirement
  - FI still has option to require flood insurance on detached structures
- Clarifies when FIs may begin coverage of force placed flood insurance (FPFI)
- Details circumstances in which FPFI must be terminated and premiums refunded to borrower

# Exemption for Detached Structures

- Rule previously required insurance coverage for overall value of property securing the loan
- Now includes only the building or mobile home and any personal property securing the loan.
  - Exempts any “**structure that is part of any residential property**” but is detached from the primary residential structure of such property and does not serve as a residence
  - Can still require coverage at FI’s option as a matter of safety and soundness, may be in borrower’s best interest



# Exempt Structures

- A “structure that is a part of a residential property” is a structure used primarily for personal, family, or household purposes
- Those structures used primarily for agricultural, commercial, industrial, or other business purposes are not exempt from insurance coverage requirements



## Exempt Structures (Continued)

- A structure is “detached” from the primary residential structure if it is not joined by any structural connection to that structure
- “Serve as a residence” shall be based upon the good faith determination of the FI that the structure is intended for use or actually used as a residence, which generally includes sleeping, bathroom, or kitchen facilities.



# Rules for Force-Placing Flood Insurance

- Still need to notify borrower of lapse in, or insufficient, coverage and wait 45 days prior to purchasing FPMI coverage
- Can still bill the borrower for premiums and fees incurred for placing coverage
- Put detail into regulation that the coverage can begin on the date in which flood insurance coverage lapsed or was insufficient



# Terminating Force-Placed Flood Insurance

- FI (or servicer) must w/in 30 days of receipt of confirmation of borrower coverage:
  - Notify FPMI provider to terminate coverage
  - Refund all FPMI premiums and fees paid by or charged to borrower for period of dual coverage
- Confirmation is an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent



# Rules Effective January 1, 2016

- New Escrow Requirements
  - Requires escrow of flood insurance for residential real-estate secured loans originated on or after 1/1/16
  - Must offer and make available option to escrow for flood insurance premiums and fees for any loan secured by residential improved real estate or a mobile home that is in a flood zone and outstanding on January 1, 2016
  - Exempt transactions and FIs





# Escrow Requirement

- FI (or servicer) must require escrow of all premiums and fees for any required flood insurance (not T&I)
  - Covers any loan made, increased, extended, or renewed on or after January 1, 2016 that is secured by real estate upon which a home or other residential building is located or to be located
  - Must be payable with same frequency as loan payments
  - Must cover the duration of the loan
  - Escrow account subject to RESPA's escrow requirements unless the loan is not otherwise subject to RESPA



# Exempt Transactions

- Credit primarily for business, commercial, or ag purposes
- Subordinate lien position loans with adequate coverage
- Properties with adequate flood insurance coverage provided by and paid by association/coop as a common expense
- HELOCs
- A nonperforming loan
- Loan with a term of 12 months or less

For new loans on or after 1/1/16, if FI determines an exemption does not apply, must require escrow as soon as reasonably practicable and provide RESPA escrow disclosures, if applicable



## Exempt Institutions – Small Lenders

- Total assets < \$1 billion as of 12/31 for either of the two prior calendar years (don't need to consolidate)

AND

- On or before 7/6/12 (date of enactment of B-W)
  - Was not required by law to escrow T&I for loan term
  - Did not have a policy of uniformly and consistently escrowing T&I (borrower's requests OK, reason irrelevant)
- 6 month time period to comply if change in status
- State specific laws still enforced



## Option To Escrow

- If not an exempt institution, must offer and make available option to escrow for flood insurance for all outstanding ***non-exempt*** loans requiring flood insurance as of effective date of rule.
- Must be mailed or delivered by June 30, 2016, or September 30 of the first calendar year in which the FI has had a change in status
  - In writing or electronically if agreed to by borrower
- Must begin escrowing “as soon as reasonably practicable” if requested by borrower



# Appendix Changes

- Revised - Appendix A effective 1/1/16
  - “Sample Form of Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance”
- New - Appendix B effective 1/1/16
  - “Sample Clause for Option to Escrow for Outstanding Loans”



# Review of Changes

## 10/1/15

- Certain detached structures are now exempt from flood coverage requirement
- Details when FIs may begin coverage of FPFI and circumstances in which FPFI must be terminated and premiums refunded to borrower

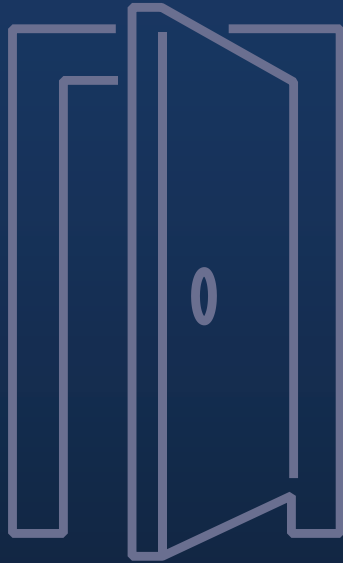
## 1/1/16

- Requires escrow of flood insurance
- Must offer option to escrow for flood insurance
  - Certain institutions and transactions exempt



# Questions?





## Thank you!

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