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January 22, 2021

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Acceptance of Private Flood Insurance for FHA-Insured Mortgages

Dear Ladies and Gentlemen:

The undersigned organizations respectfully submit these comments in response to the above-captioned notice of proposed rulemaking.¹ We strongly support this action to enable FHA borrowers to satisfy the mandatory flood insurance purchase requirements under the National Flood Insurance Act, where applicable, by purchasing private flood insurance.²

¹ 85 Fed. Reg. 74630 (Nov. 23, 2020); available at [2020-25105.pdf \(govinfo.gov\)](https://www.govinfo.gov/2020-25105.pdf).

² See 42 U.S.C. § 4012a(b).

I. EXECUTIVE SUMMARY

We strongly support HUD's proposal to allow FHA borrowers to purchase private flood insurance in a manner consistent with federal statutes and in alignment with industry standards and federal agency regulations.³ As HUD notes, this will provide substantial benefit to FHA borrowers.⁴ To enable FHA borrowers to realize that intended benefit, we urge HUD to move forward with a final regulation as soon as possible.

In addition, to allow FHA borrowers to realize fully the benefits afforded by the private flood insurance market, we recommend aligning FHA with other federal agency regulations that govern the acceptance of private flood insurance. These recommendations include: (1) adopting identical compliance aid language; (2) adopting the federal regulators' discretionary acceptance and mutual aid society provisions; and (3) aligning the definitions of "private flood insurance."

Alignment of the two sets of regulations will enable FHA borrowers and lenders to leverage immediately the body of policies, documentation, and business operations that the lenders, private flood insurance companies, service providers, and others have already adopted under the federal regulators' private flood insurance acceptance rules. That alignment also will reduce the risk that lenders could misapply the FHA regulation.

We also express our support for HUD's decision to permit, but not require, lenders to accept private flood insurance policies under its proposed regulations.

II. BACKGROUND

FHA's current flood insurance rules, issued in 1999, do not permit private flood insurance as an option to satisfy the mandatory purchase requirement. In contrast, on February 20, 2019, the federal regulators issued final regulations requiring acceptance of private flood insurance.

This means that FHA borrowers do not yet have access to the same flood insurance options that are available to other borrowers, including access to coverage that may be less costly and that may provide better financial support for rebuilding after suffering the devastation of a flood event. In addition, the current non-uniformity of private flood insurance acceptance regulations places FHA lenders in the uncomfortable position of having to reject a private flood insurance policy for FHA lending that they are otherwise required by their primary federal regulator to accept, which may

³ See 84 Fed. Reg. 4953 (Feb. 20, 2019); available at [2019-02650.pdf \(govinfo.gov\)](https://www.govinfo.gov/procurement/2019-02650.pdf) (final private flood insurance acceptance regulations issued the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the National Credit Union Administration (NCUA), and the Farm Credit Administration (FCA) (hereinafter "federal regulators")).

⁴ See 85 Fed. Reg. at 74632 ("In the event of a lapse in the NFIP, the option of private flood insurance may reduce the likelihood of delays in the processing of new originations. Acceptance of private flood insurance policies would additionally benefit borrowers who want FHA-insured mortgages, by providing them consumer choice, including the opportunity to obtain private flood insurance policies that may be more affordable than NFIP policies.").

explain the apparent confusion highlighted in a recent HUD OIG report.⁵ The current proposal to modernize FHA rules can address these issues.

III. COMMENTS

The first set of comments focuses on maximizing FHA borrower benefits by aligning FHA regulations with the federal regulators' final regulations. Specifically, we respectfully recommend: (A) conforming the FHA compliance aid language to the compliance aid in the federal regulators' final regulations; (B) adding a discretionary acceptance provision; (C) adding a provision on acceptance of coverage by mutual aid societies; and (D) harmonizing FHA's regulatory language with that of the federal regulatory agencies.

In subsection (E), we express our support for HUD's approach of optional lender acceptance of private flood insurance policies.

A. Conform Compliance Aid Language to Federal Regulator Compliance Aid

HUD's proposal includes a compliance aid. As HUD notes, the proposed FHA compliance aid language is similar but not identical to the federal regulators' compliance aid, as shown in the table below.

Proposed FHA Rule	Federal Regulators' Final Rule
This policy meets the definition of private flood insurance contained in <i>paragraph (e) of this section for FHA-insured mortgage</i> . ⁶	This policy meets the definition of private flood insurance contained in <i>42 U.S.C. 4012a(b)(7) and the corresponding regulation</i> . ⁷

HUD is seeking public comment on (1) the use of a compliance aid and (2) the language used in the proposed aid.⁸

1. Including a compliance aid.

We strongly support including a compliance aid in the FHA rule. As HUD correctly describes, a compliance aid can address concerns that a mortgagee, especially small and medium-sized mortgagees who may lack technical expertise regarding flood insurance policies, could have

⁵ See HUD OIG Report (Jan. 5, 2021) (including finding that some loans had private flood insurance instead of required national flood insurance program coverage); available at [Microsoft Word - 2021-KC-0002 FHA FLOOD INS 12052021 \(hudoig.gov\)](#).

⁶ Proposed 24 C.F.R. § 203.16a(c).

⁷ See, e.g., 12 C.F.R. § 22.3(c)(2).

⁸ 85 Fed. Reg. at 74633.

difficulty evaluating whether a flood insurance policy meets the definition of “private flood insurance.”⁹ The compliance aid included in the federal regulators’ final regulation has proven beneficial in achieving this intended purpose.

2. Conforming all compliance aid language.

The proposed compliance aid could be more beneficial to FHA lenders and borrowers, however, if it were identical to the federal regulators’ compliance aid, which is already in place. That change would enable FHA borrowers to directly and immediately benefit from the work that has been done by industry since February 2019 to adapt to the federal regulators’ compliance aid.

Specifically, over the period of almost two years since that time, the precise language of the federal regulators’ compliance aid has been broadly included in private flood insurance policies through a long and complex process, including notice and comment with state insurance regulators.

At this point, the specific language of the federal regulators’ compliance aid has already been incorporated into the state insurance legislative and regulatory infrastructure. For example, South Carolina enacted S. 882 in September 2020, adding Chapter 101 “South Carolina Private Flood Insurance Act” to Title 38 of the 1976 Insurance Code. Section 38-101-110 incorporates a requirement that a private flood policy “must contain a provision stating that it meets the private flood insurance requirements specified in 42 U.S.C. Section 4012a(b) and may not contain provisions that, when taken as a whole, are not in compliance with 42 U.S.C. Section 4012a(b).”¹⁰ Subsequently, the federal regulators’ compliance aid language has also been incorporated into the Private Primary Residential Flood Insurance Model Act developed by the National Council of Insurance Legislators (NCOIL).¹¹

If HUD finalizes FHA regulations with compliance aid language that is not identical to the federal regulators’ compliance aid, this previously developed infrastructure will not be available to FHA borrowers or lenders. While the notice suggests that including two sets of compliance aid language would be a relatively simple process,¹² the experience of implementing the federal regulators’

⁹ See Id.

¹⁰ The codification of that bill is available here: <https://www.scstatehouse.gov/code/t38c101.php#38-101-10>.

¹¹ See Model Act, section 10(d). The Model Act is available here: [Flood-Model-Final-9-28-20.pdf \(ncoil.org\)](https://www.ncoil.org/sites/default/files/2020-09/Flood-Model-Final-9-28-20.pdf). NCOIL is a legislative organization comprised principally of legislators serving on state insurance and financial institutions committees around the nation. NCOIL writes Model Laws in insurance, works to both preserve the state jurisdiction over insurance as established by the McCarran-Ferguson Act seventy-four years ago and to serve as an educational forum for public policy makers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making state policy when it comes to insurance and educate state legislators on current and perennial insurance issues.

¹² See 85 Fed. Reg. at 74633 (“A private flood insurance provider can include both the Federal regulators’ compliance aid and the HUD/FHA compliance aid on a policy to assert that the policy meets the definition and fulfills the requirements of both the Federal regulators and HUD. This would facilitate Mortgagees’ review of a private flood insurance policy, to ensure that it is in compliance with HUD’s regulations.”).

compliance aid demonstrates that this would not be the case. Also, using different language for an FHA compliance aid would require insurers and lenders to use different sets of insurance policies and other documentation for FHA loans, which would complicate the already complex process of lending in properties located within special flood hazard areas.

Given the lengthy process of obtaining state insurance regulators' approval of policy language, some insurers may elect not to incorporate the FHA compliance aid, which would narrow the pool of available private flood insurance coverage the proposal is intended to provide to FHA borrowers. Conforming the FHA compliance aid language to the existing federal regulator compliance aid language would avoid such an outcome.

Adopting identical language in the FHA regulation would be consistent with HUD's proposed approach to the acceptance of private flood insurance. The definitions of "private flood insurance" in the proposed FHA regulation and the federal regulators' final regulations both explicitly incorporate the definition at 42 U.S.C. 4012a(b)(7). The proposed definition of "private flood insurance" is not materially different from the definitions of "private flood insurance" in the federal agencies' final regulations, and the proposed FHA private flood insurance acceptance regulation could fairly be characterized as a "corresponding regulation."

For these reasons, we recommend that HUD adopt compliance aid language identical to the language used in the federal regulators' final regulations.

B. Add Discretionary Acceptance Provision

The federal lending regulators allow lenders to accept private flood insurance policies that meet certain criteria, even where those policies do not fall within the statutory definition of "private flood insurance."¹³ In contrast, the proposed FHA regulations expressly exclude comparable provisions.¹⁴ We urge HUD to reconsider that approach and permit FHA lenders to accept private flood insurance policies that meet certain criteria, even where those policies may not necessarily

¹³ See 84 Fed. Reg. 4953, 4959-4960 (Feb. 20, 2019) (The federal regulators described the legal interpretation underlying the discretionary acceptance provisions as follows: "[T]he Biggert-Waters Act is silent about whether a regulated lending institution may accept a flood insurance policy issued by a private insurer that does not meet the statutory definition of 'private flood insurance.' Furthermore, the Agencies observe that the Biggert-Waters Act did not disturb the 'flood insurance' purchase requirement in section 102(b) of the FDPA and that the term 'flood insurance' in the FDPA remains undefined after the passage of the Biggert-Waters Act. Accordingly, consistent with the Congressional intent of the Biggert-Waters Act to stimulate the private flood insurance market, the Agencies are construing the term 'flood insurance' in the flood insurance purchase requirement in section 102(b) of the FDPA to continue to permit regulated lending institutions to exercise their discretion to accept certain policies issued by private insurers that do not contain all of the criteria in the statutory definition of 'private flood insurance.'" (footnotes omitted)).

¹⁴ See 85 Fed. Reg. at 74633) ("[U]nlike the Federal regulators, HUD will not permit Mortgagees to exercise their discretion to accept flood insurance policies, provided by private insurers or mutual aid societies, that do not meet the definition and requirements for a private flood insurance policy as laid out in this rule.").

satisfy the technical definition of “private flood insurance” in the Biggert-Waters Flood Insurance Reform Act (“Biggert-Waters”).

The federal regulators recognized that private flood insurance policies that may not strictly mirror the statutory requirements may nevertheless provide sufficient and appropriate coverage to meet the flood insurance mandatory-purchase requirements and that it is appropriate to allow for such policies in their final regulations. Significantly, the federal regulators’ discretionary acceptance provisions are not open-ended. Rather, those provisions establish a framework for lenders’ exercise of discretion. Specifically, the federal agencies’ final regulations require at least four criteria that must be satisfied before a lender can exercise its discretion to accept the private flood insurance policy.¹⁵

As the federal regulators noted, Biggert-Waters was not meant to create a floor for policies that *may* be accepted, but rather a floor for policies that *must* be accepted – or that could not be rejected.¹⁶ Congress has long recognized that what constitutes acceptable insurance remains the province of the states.¹⁷ Moreover, congressional intent under Biggert-Waters was to foster the creation of a private flood insurance market by increasing the adoption of private flood alternatives.¹⁸

By allowing the discretionary acceptance of private flood insurance coverage that meets the criteria established by state insurance departments, albeit not strictly conforming to the statutory definition of private flood insurance, the federal regulators’ final regulations allow borrowers and lenders to make reasonable decisions as to flood insurance coverage options.

For example, the Biggert-Waters definition of private flood insurance requires a 45-day notice to the lender (or its servicer) prior to cancellation or non-renewal of the policy.¹⁹ However, a lender may determine that a 30-day notice of cancellation or non-renewal (where permitted by a state’s cancellation or nonrenewal statutes) would provide sufficient notice to allow the lender to implement its force placement procedures. Under the discretionary acceptance provision of the federal regulators’ final rules and, where permitted by state insurance law, a lender has the discretion to accept a private flood insurance policy that contains a 30-day notice provision rather than a 45-day notice provision.

If HUD does not also provide FHA lenders with a discretionary acceptance provision, FHA borrowers effectively would be barred from the use of private insurance policies that may be

¹⁵ See, e.g., 12 C.F.R. § 22.3(c)(3)(i-iv).

¹⁶ See 84 Fed. Reg. at 4959-4960.

¹⁷ See 12 U.S.C. §§ 1011-1015 (since it was enacted in 1945, the McCarran-Ferguson Act has exempted the business of insurance from most federal regulation).

¹⁸ See 85 Fed. Reg. at 74632 (“The Biggert-Waters Insurance Reform Act of 2012 (Biggert-Waters Act) further amended the Federal flood insurance statutes to encourage private-sector participation.”).

¹⁹ 42 U.S.C. § 4012a(b)(7)(C)(i)

available to non-FHA borrowers. This would undermine HUD's objective of helping FHA borrowers by not affording FHA borrowers access to the same or better coverage at a lower cost that is available to other borrowers.

We recommend, therefore, that HUD add discretionary acceptance provisions to FHA regulations modeled after those included in the federal agencies' final regulations, including the acceptance criteria.²⁰ We provide specific suggestions in Appendix A to this letter.

C. Add Acceptance of Coverage by Mutual Aid Societies

We recommend that HUD also permit lenders to accept coverage provided by mutual aid societies by including a provision comparable to federal regulators' mutual aid society provisions.

A mutual aid society is an organization whose members agree to cooperate to help one another with certain needs, such as, food, housing, medical care, and disaster relief. Typically, borrowers that rely on assurances from mutual aid societies seek to comply with religious or other strictures on the purchase of traditional flood insurance, which otherwise create challenges for a lender trying to both serve the customer and comply with the mandatory purchase obligation.

Meeting the borrower's special needs and the mandatory-purchase requirement can be challenging at the time of loan origination. That same challenge can become virtually unsolvable when it arises in cases where FEMA publishes new flood maps, requiring an FHA lender to lender-place insurance on properties newly mapped into a special flood hazard area. If the placement of traditional flood insurance may violate the borrower's religious beliefs or other strictures, an FHA lender has no good option.

The federal regulators' regulations recognize the need for lenders to have reasonable options available to meet insurance purchase requirements under such circumstances. Accordingly, the federal agencies' final regulations permit lenders to accept coverage by mutual aid societies as satisfaction of the flood insurance purchase requirements, where the appropriate federal regulator has determined that such plans qualify as flood insurance for purposes of the Act, so long as the coverage also meets certain other requirements in the regulation.

This acceptance of mutual aid society coverage is consistent with OCC policy prior to the federal regulators' final regulations. The OCC had already adopted a policy of permitting banks to accept flood coverage provided by certain mutual aid societies, such as Amish Aid Plans, in satisfaction

²⁰ To incorporate FHA's core principles into such a provision, we suggest that HUD substitute "serving FHA borrowers and protecting FHA's Mutual Mortgage Insurance Fund" for the federal regulators' use of the phrase "general safety and soundness principles."

of NFIP requirements on a discretionary basis if the bank determines that the insurance adequately protects its security for a loan.²¹

We believe it is critical for the FHA regulations similarly to permit the acceptance of coverage provided by mutual aid societies. Otherwise, HUD will effectively and unintentionally exclude individuals and families whose religious beliefs or other strictures conflict with the purchase of traditional NFIP or private flood insurance policies.

Operationally, we recommend that the FHA regulations permit the acceptance of coverage by mutual aid societies by adopting the federal regulators' definition of "mutual aid society" and adapting the language of the criteria for acceptance of coverage provided by mutual aid societies.²² We provide specific suggestions in Appendix A to this letter.

D. Harmonize Definitions of Private Flood Insurance

The proposed FHA definition of private flood insurance is similar but not identical to the definition in the federal regulators' final regulations. While some differences between the specific language in the two regulations are necessary and appropriate (e.g., using "FHA" rather than "regulated lending institution"), other differences create risk that a reader could make an incorrect inference that differences are intended to have substantive impact, which appears not to be the case.

To reduce that risk, we recommend that HUD depart from the language of the federal regulators' definition of private flood insurance only to the extent necessary to apply it in the context of FHA-assisted lending. For HUD's convenience, we attach a table at Appendix B showing a side-by-side comparison of the definitions of private flood insurance in the statute, a federal regulator final regulation, and the proposed FHA regulation.

E. Acceptance of Private Flood Insurance

Under the proposed FHA regulations, an FHA lender *may* accept private flood insurance that falls within the definition of "private flood insurance" and otherwise meets regulatory requirements.²³ HUD describes the balance underlying this decision as follows:

²¹ See OCC Bulletin 2019-8, Loans in Areas Having Special Flood Hazards—Private Flood Insurance: Final Rule (Feb. 21, 2019).

²² For example, we recommend that HUD adapt the language in federal regulators' final regulation provided by a mutual aid society is acceptable if FHA or any of the federal regulators "has determined that such plans qualify as flood insurance for purposes of the Federal flood insurance statute." Also, HUD might appropriately substitute "serving FHA borrowers and protecting FHA's Mutual Mortgage Insurance Fund" for the federal regulators' use of the phrase "general safety and soundness principles," to conform the rule to FHA's mission.

²³ See proposed 24 C.F.R. § 203.16a(c) ("*Insurance policy*. A mortgagee may accept a flood insurance policy in the form of the standard policy issued under the National Flood Insurance Program (NFIP) or a private flood insurance policy as defined in this section, and the mortgagee shall be named as the loss payee for flood insurance benefits.").

HUD recognizes the value of consistency across the housing market with respect to flood insurance and of allowing FHA borrowers to select their preferred flood insurance policy, where required. However, HUD also recognizes that mortgagees have industry experience with different insurance providers and a responsibility for ensuring adequate insurance coverage is maintained.²⁴

HUD is seeking public comment on whether the FHA regulations should provide, instead, that a lender *must* accept such a policy.

We agree that HUD's decision to make acceptance of private flood insurance policies optional is supported by a balancing of the public policy interests. As HUD recognizes, lenders have greater expertise and have a shared interest with borrowers in ensuring that the property is adequately covered by flood insurance. In our view, the balancing of these interests favors HUD's approach of making acceptance of private flood insurance policies optional, not mandatory. Directing mandatory acceptance could be warranted only in the presence of overwhelming policy reasons to do so, which are not present here.

IV. CONCLUSION

We strongly support HUD's determination to amend FHA regulations to permit lenders to accept private flood insurance policies, but we also encourage HUD to harmonize the FHA regulations to the final private flood insurance acceptance regulations issued by the federal regulators as described above. We further recommend that HUD finalize these FHA rules as soon as possible. We appreciate this opportunity to participate in this process.

Respectfully submitted,

Mortgage Bankers Association

American Bankers Association

American Property Casualty Insurance Association

Consumer Credit Insurance Association

Independent Insurance Agents & Brokers of America

National Association of Mutual Insurance Companies

National Association of REALTORS®

National Flood Association

Reinsurance Association of America

²⁴ 85 Fed. Reg. at 74632.

Appendix A:

Possible FHA adaptation of OCC private flood insurance discretionary and mutual aid society provisions

(TBD3) Discretionary acceptance. A mortgagee national bank or Federal savings association may accept a flood insurance policy issued by a private insurer that is not issued under the NFIP and that does not meet the definition of private flood insurance in § 203.16a(e) ~~§ 22.2(k)~~ in satisfaction of the flood insurance purchase requirement in paragraph (a) of this section if the policy:

- (i) Provides coverage in the amount required by paragraph (c) ~~(a)~~ of this section;
- (ii) Is issued by an insurer that is licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located; or in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is issued by a surplus lines insurer recognized, or not disapproved, by the insurance regulator of the State or jurisdiction where the property to be insured is located;
- (iii) Covers both the mortgagor(s) and the mortgagee(s) as loss payees, except in the case of a policy that is provided by a condominium association, cooperative, homeowners association, or other applicable group and for which the premium is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense; and
- (iv) Provides sufficient protection of the designated loan, consistent with servicing FHA borrowers and protecting FHA's Mutual Mortgage Insurance Fund ~~general safety and soundness principles~~, and the mortgagee national bank or Federal savings association documents its conclusion regarding sufficiency of the protection of the loan in writing.

(TBD4) Mutual aid societies. Notwithstanding the requirements of paragraph (c)(3) of this section, a mortgagee national bank or Federal savings association may accept a plan issued by a mutual aid society, as defined in § 203.16a ~~TBD~~ § 22.2(h), in satisfaction of the flood insurance purchase requirement in paragraph (a) of this section if:

- (i) The Secretary or any federal entity for lender regulation as defined in 42 U.S.C. § 4003(a)(5) (i.e., the FRB, the FDIC, the OCC, the NCUA or the FCA) has determined that such plans qualify as flood insurance for purposes of the Act;
- (ii) The plan provides coverage in the amount required by paragraph (a) of this section;
- (iii) The plan covers both the mortgagor(s) and the mortgagee(s) as loss payees; and
- (iv) The plan provides sufficient protection of the designated loan, consistent with servicing FHA borrowers and protecting FHA's Mutual Mortgage Insurance Fund ~~general safety and soundness principles~~, and the mortgagee national bank or Federal savings association documents its conclusion regarding sufficiency of the protection of the loan in writing.

Appendix B: Side-by-side

Statute	Federal regulator rule	FHA proposal
42 U.S.C. 4012a(b)(7). Private flood insurance defined. In this subsection, the term “private flood insurance” means an insurance policy that—	12 C.F.R. 22.2. (k) Private flood insurance means an insurance policy that:	24 C.F.R. 203.16a. (e) Private flood insurance defined. The term “private flood insurance” means an insurance policy that:
(A) is issued by an insurance company that is—	(1) Is issued by an insurance company that is:	(1) Is issued by an insurance company that is:
(i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or	(i) Licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located; or	(i) Licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or
(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;	(ii) Recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction in which the property to be insured is located in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property;	(ii) In the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located
(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program,	(2) Provides flood insurance coverage that is at least as broad as the coverage provided under an SFIP for the same type of property, including when considering deductibles, exclusions, and	(2) Provides flood insurance coverage that is at least as broad as the coverage provided under a standard flood insurance policy under the National Flood Insurance Program for the same type of

Statute	Federal regulator rule	FHA proposal
including when considering deductibles, exclusions, and conditions offered by the insurer;	conditions offered by the insurer.	property, including when considering deductibles, exclusions, and conditions offered by the insurer.
	To be at least as broad as the coverage provided under an SFIP, the policy must, at a minimum:	To be at least as broad as the coverage provided under a standard flood insurance policy under the National Flood Insurance Program, the policy must, at a minimum:
	(i) Define the term “ flood” to include the events defined as a “ flood” in an SFIP;	(i) Define the term “flood” to include the events defined as a “flood” in a standard flood insurance policy under the National Flood Insurance Program;
	(ii) Contain the coverage specified in an SFIP, including that relating to building property coverage; personal property coverage, if purchased by the insured mortgagor(s); other coverages; and increased cost of compliance coverage;	(ii) Contain the coverage specified in a standard flood insurance policy under the National Flood Insurance Program, including that relating to building property coverage; personal property coverage, if purchased by the insured mortgagor(s); other coverages; and increased cost of compliance coverage;
	(iii) Contain deductibles no higher than the specified maximum, and include similar non-applicability provisions, as under an SFIP, for any total policy coverage amount up to the maximum available under the NFIP at the time the policy is provided to the lender;	(iii) Contain deductibles no higher than the specified maximum, and include similar non-applicability provisions, as under a standard flood insurance policy under the National Flood Insurance Program, for any total policy coverage amount up to the maximum available under the NFIP at

Statute	Federal regulator rule	FHA proposal
	(iv) Provide coverage for direct physical loss caused by a flood and may only exclude other causes of loss that are excluded in an SFIP. Any exclusions other than those in an SFIP may pertain only to coverage that is in addition to the amount and type of coverage that could be provided by an SFIP or have the effect of providing broader coverage to the policyholder; and	the time the policy is provided to the lender; (iv) Provide coverage for direct physical loss caused by a flood and may only exclude other causes of loss that are excluded in a standard flood insurance policy under the National Flood Insurance Program. Any exclusions other than those in a standard flood insurance policy under the National Flood Insurance Program may pertain only to coverage that is in addition to the amount and type of coverage that could be provided by a standard flood insurance policy under the National Flood Insurance Program or have the effect of providing broader coverage to the policyholder; and
	(v) Not contain conditions that narrow the coverage provided in an SFIP;	(v) Not contain conditions that narrow the coverage provided in a standard flood insurance policy under the National Flood Insurance Program;
(C) includes—	(3) Includes all of the following:	(3) Includes all of the following:
(i) a requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to—	(i) A requirement for the insurer to give written notice 45 days before cancellation or non-renewal of flood insurance coverage to:	(i) A requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to:

Statute	Federal regulator rule	FHA proposal
(I) the insured; and	(A) The insured; and	(A) The insured;
(II) the regulated lending institution or Federal agency lender;	(B) The national bank or Federal savings association that made the designated loan secured by the property covered by the flood insurance, or the servicer acting on its behalf;	(B) The mortgagee, if any; and (C) FHA, in cases where the mortgagee has assigned the loan to FHA in exchange for claim payment.
(ii) information about the availability of flood insurance coverage under the national flood insurance program;	(ii) Information about the availability of flood insurance coverage under the NFIP;	(ii) Information about the availability of flood insurance coverage under the National Flood Insurance Program;
(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and	(iii) A mortgage interest clause similar to the clause contained in an SFIP; and	(iii) A mortgage interest clause similar to the clause contained in a standard flood insurance policy under the National Flood Insurance Program; and
(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and	(iv) A provision requiring an insured to file suit not later than one year after the date of a written denial of all or part of a claim under the policy; and	(iv) A provision requiring an insured to file suit not later than 1 year after the date of a written denial of all or part of a claim under the policy; and
(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.	(4) Contains cancellation provisions that are as restrictive as the provisions contained in an SFIP.	(4) Contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the National Flood Insurance Program.