



Flood Insurance Compliance

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Ariane M. Smith
Manager, Compliance Risk Coordination



A Brief History

- Flood Disaster Protection Act of 1973
 - Imposed the Mandatory Flood Insurance Purchase Requirement
- National Flood Insurance Reform Act (1994)
 - Amended the 1973 Act and created additional requirements



Regulation Recap



Scope of the Regulation

- Generally, covers loans secured by buildings or mobile homes located in special flood hazard areas (flood zone)
- All loans secured by buildings or mobile homes (even if not located in a flood zone) must use the special flood hazard determination form



Key Definitions

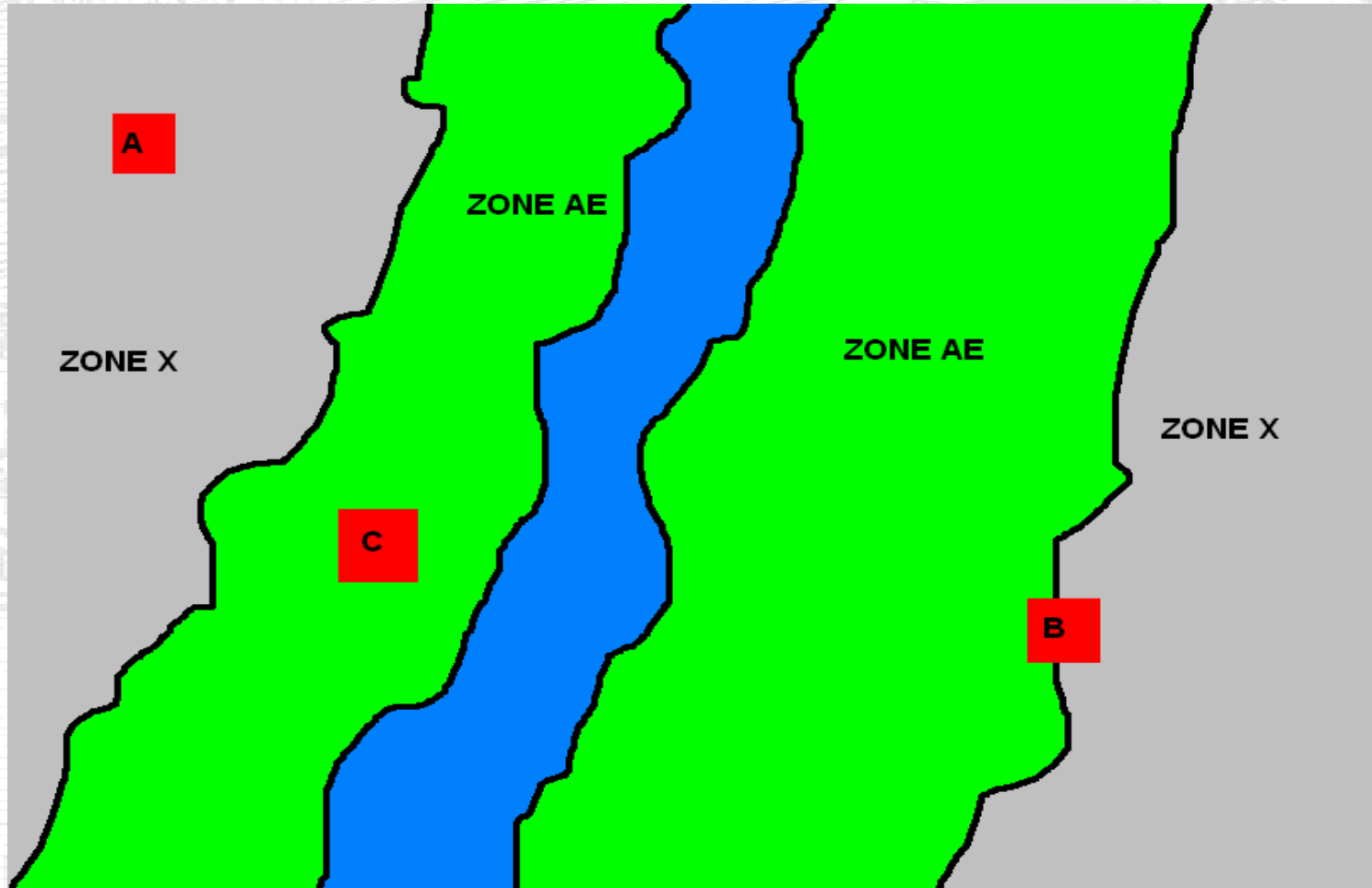
- Building
 - A walled and roofed structure that is principally above ground and affixed to a permanent site
 - Includes mobile homes if they are on a permanent foundation
- Special Flood Hazard Area
 - Land in a flood plain having at least a 1% chance of flooding in any given year, as designated by FEMA
 - Types of flood zones
 - High Risk: A_ & V_
 - Low-Moderate risk: B, C & X



General Requirement - §208.25(c)

- Banks shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan.

Which Property Requires Insurance?





Amount of Insurance Required

- Lesser of outstanding principal of the loan or the maximum coverage available under the Act
 - Residential
 - \$250,000 Building
 - \$100,000 Contents
 - Commercial
 - \$500,000 Building
 - \$500,000 Contents
- Limited to the overall value of the property securing the loan minus the value of the land



Additional Requirements

- Required to use the standard flood hazard determination form developed by FEMA
 - Also required to retain a copy of the form while the bank owns the loan



Notice Requirements

- Notice to borrower for all loans secured by buildings in a flood zone
- Notice Contents
 - Warning – building(s) in flood zone
 - Description of flood insurance purchase requirements
 - Flood insurance available through NFIP and/or private insurers
 - Whether Federal disaster relief may be available in the event of a flood
- Deliver within a reasonable time



Notice Requirements (continued)

- Must maintain record of receipt of notices by borrower
- May obtain written assurance from a seller or lessor that notice was provided to the borrower
- Use of model language in Appendix A satisfies the notice requirement



Additional Requirements

- Required to escrow flood insurance premiums if escrow is required for other taxes, charges, or fees
- Required to force place insurance if it is determined at any time that the loan is no longer covered



Notice to FEMA

- Lender required to notify the Director of FEMA (or designee) in writing, of the identity of the servicer of the loan
- Also required to notify of any change in servicer within 60 days of the effective date of the change



Common Violations

- Failure to have insurance in place at closing
- Don't Forget! You cannot:
 - Waive flood insurance
 - Take the borrower's word that they will obtain insurance at a later date
- Blanket policies may protect the bank from financial loss, but they don't satisfy the rule



Common Violations

- Failure to obtain the proper amount of insurance
- Failure to ensure that insurance is maintained for the life of the loan and/or to force place insurance in the event of a lapse



Civil Money Penalties Required

- Regulators are required to assess civil money penalties for a pattern or practice of violations of:
 - Requirement to purchase flood insurance
 - Requirement to escrow premiums
 - Force placement requirement
 - Failure to provide notice to borrowers
 - Failure to notify FEMA of servicer or transfer of servicing rights



What's a Pattern or Practice?

- Isolated, unrelated, or accidental occurrences generally **NOT** a pattern or practice
- Repeated, intentional, regular, usual, deliberate, or institutionalized practices generally **WILL** be considered a pattern or practice



Factors Considered

- Conduct grounded in written or unwritten policy or established practice
- Evidence of similar conduct toward multiple applicants
- Common source or cause of the problem
- Relationship of instances to one another
- Relationship of instances to total lending activity



Costs

- Civil money penalties of up to \$385 per violation
- Ceiling of \$125,000 during any calendar year
- Other costs
 - Legal counsel
 - File searches
 - Notifying borrowers
 - Force placing insurance
 - Reputational risk
 - Time



What Should You Do?

- Review your policies and procedures for flood hazard insurance
- Ensure that you have adequate monitoring systems in place to ensure that you will be aware of lapses in coverage
- Sample loans to ensure adequate and timely coverage
- Train staff
- Manage your vendors
- Keep senior management and the Board of Directors informed with periodic MIS



Resources

- FEMA website - www.fema.gov
- National Flood Insurance Program website
 - www.floodsmart.gov
- Examination Procedures
 - www.occ.treas.gov/handbook/flood.pdf
- For hurricane-related flooding:
 - FDIC Hurricane Recovery Information - www.fdic.gov/hurricane/index.html
 - OCC's Hurricane Central - www.occ.treas.gov/hurricane.htm



Questions?



THANK YOU

Ariane M. Smith

Federal Reserve Bank of San Francisco

E-mail: ariane.smith@sf.frb.org

Phone: 415-974-3028