

Bank Related Questions Regarding Biggert-Waters Act
OCC Answers
September 13, 2013

1. Does the Biggert-Waters Act require a bank to escrow flood insurance premiums for all of their existing loans for which there is no escrow, or just those originated after its effective date? **The Bank does not have to escrow flood premiums unless (1). It is greater than \$1 billion in assets, and (2). As of July 6, 2012, the bank was required by federal or state law to escrow taxes or insurance for the term of the loans and has a policy to require escrow of taxes and insurance.**
2. What exemptions, if any, are provided to banks from having to escrow for flood insurance? **A lender is exempt from the escrow requirements if it is less than \$1 billion in assets and as of July 6, 2012 was not required by federal or state law to escrow taxes or insurance for the term of the loan, and it did not have a policy to require escrow of taxes and insurance.**
3. Are there any situations where a lender with a subordinate mortgage would have to escrow for flood insurance? **The OCC compliance bulletin board (from Andrew Stone, dated 4-25-12) gave an answer, saying a subordinate mortgage can be escrowed; however, it is our understanding that a borrower can only purchase one NFIP policy per covered parcel regardless if first mortgage lienholder is escrowing.**
4. What is the effective date for the flood insurance escrow requirements? **7-7-2014, only if two requirements listed in # 1 exist.**
5. Are first lien HELOC's included under the escrow requirement? **Same as # 4.**
6. Can a bank assume paying flood insurance premiums for a borrower before the borrower's policy lapses? Or, must the bank allow the borrower's policy to lapse and then force place insurance on a separate policy? **Generally, the bank must allow the borrower's policy to lapse and then force place insurance on a separate policy.**
7. If a bank force places flood insurance after the borrower's policy has lapsed will coverage on the bank's force placed policy revert back to the day when the borrower's policy lapsed? **Generally, yes.**
8. If a bank customer increases their flood insurance coverage amount, could that somehow be considered a new policy that would trigger a loss of subsidized rates and

an increase to the full-risk premium. **The bank's insurance professionals should address this question.**

9. When force placing flood insurance can, we add the premium to the borrower's loan on the date of force-placement or must we wait the 45 days after force-placing to add the premium to the loan? **The premium can be added on the date of force-placement; however, if the borrower shows proof of coverage when the insurance was force-placed, he/she has to be refunded the entire amount of the force-placed premium that was added.**
10. I would like clarification on the 45-Day Notice. The Act states that the 45-day period cannot begin until the Lender or servicer has sent notice to the Borrower. The Act does not allow a Lender to shorten the 45-day force-placement notice period by sending notice to the borrower prior to the actual expiration date of the flood insurance policy. Is force-placed insurance an exception? Can a Lender begin the 45-day period any sooner than the expiration date when the policy is a force-placed policy? **Biggert Waters does not address a 45-day period. We do not have an answer.**
11. Does the force place flood insurance letters apply to loans that our institution has already force placed flood insurance on. For example, the annual renewal is coming due for an existing force place flood customer. Are we required to notify the customer with the 3 step letter notification process? **Yes, required to notify the customer with the 3-step process.**
12. What happens to a primary residence home flood policy that has been in existence prior to Biggert Waters, if the individual wishes to INCREASE coverage on a current policy? Will the request to increase cause them to be moved into the new rates or will the old rates continue on the increase? **FEMA question.**

From FEMA on September 17, 2013:

Under 205, an increase in coverage is not a trigger, so the homeowner will be able to keep their subsidized policy. They will only lose it if they sell their home, let their policy lapse, or they are substantially damage/improved.

13. Do Letters of Map Amendments hold through new flood maps? **FEMA question.**

From FEMA on September 17, 2013:

Letters of Map Amendments (LOMA) will have to be re-validated after a FIRM change. This should be done automatically, but once in a while the homeowner will have to contact the FEMA Map Service Center to ensure their case is looked at.

14. If a flood violation pre-dates the changes, would the penalty be under the old fine because the violation occurred prior to the changes? **As of 7-6-2012, CMPs were \$2,000 per violation.**
15. Will the regulators require new appraisals if mortgaged properties receive a large increase in flood insurance premiums, and, that increase may impact the value of the property. If so, when would the new appraisal be required? **External appraisals will be inclusive of all environmental factors. We cannot determine if the property values will be affected due to increases in flood insurance premiums.**