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TESTIMONY OF

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ON

THE NATIONAL FLOOD INSURANCE PROGRAM

BEFORE THE

House SUBCOMMITTEE ON POLICY RESEARCH AND INSURANCE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

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Room 2222, Rayburn House Office Building

Good morning, Mr. Chairman and members of the Subcommittee. I am pleased to be here today to present the views of the Federal Deposit Insurance Corporation on the compliance examination procedures for enforcement of the Flood Disaster Protection Act of 1973 ("FDPA").

The FDIC's Responsibility Under the FDPA

Under the FDPA, the FDIC is required to ensure that FDIC-supervised institutions do not make loans secured by real estate or mobile homes situated in a flood-prone area of a community participating in the National Flood Insurance Program ("NFIP") unless such property is covered by flood insurance. The FDIC also must require FDIC-supervised institutions, as a condition to making such loans, to notify the purchaser or lessee of the availability of federal disaster relief assistance and of the flood hazard possibility.

In order to enforce compliance with the FDPA, the FDIC has adopted flood insurance regulations (Attachment A) and specific and detailed examination procedures (Attachment B). The examination procedures have the primary objectives of determining whether an FDIC-supervised institution:

- Has established an effective system for ascertaining whether property that secures a loan requires flood insurance;

- Provides the required flood insurance disclosures; and

- Maintains sufficient records to evidence compliance with flood insurance requirements.

FDIC Compliance Examination Procedures

The FDIC administers a comprehensive consumer compliance examination program of which monitoring and enforcing adherence with the requirements of the FDPA is an integral part. FDIC-supervised institutions, numbering about 9,000, are regularly examined, evaluated and rated as to compliance with all pertinent consumer compliance laws. The FDIC completed 1,228 compliance examinations in 1986, 2,242 in 1987 and 3,041 in 1988.

It is noteworthy that the trend of FDIC consumer compliance examinations over the past three years is upward, even though the FDIC has had to devote significant resources to safety and soundness banking problems and, beginning in February 1989, to its interim supervisory role under President Bush's savings-and-loan rescue plan. As the number of bank failures begins to abate, the FDIC's savings-and-loan conservatorship role diminishes, and more FDIC examiners are hired and trained, we anticipate further progress in our compliance examination program.

In the flood insurance examination process, FDIC examiners review and assess an institution's applicable policies, procedures, and internal controls -- particularly the methods used by the institution to make the flood hazard determination -- provide proper notification, and ensure that sufficient insurance coverage remains in effect for the term of the loan. Examiners discuss their findings with bank management and determine the action necessary for the institution to correct any noted violations and deficiencies.

Examiners also may offer appropriate information and technical assistance, thereby helping institutions to understand their obligations under the flood insurance regulations and the FDIC's enforcement role. After the examination is completed, the appropriate FDIC Regional Office follows up on the examination findings to assure that necessary corrective actions are taken by the institution.

The FDIC normally takes progressively stringent administrative actions until banks comply with the applicable corrective actions. The FDIC's available enforcement tools include assigning unsatisfactory ratings, issuing memoranda of understanding, and, ultimately, issuing cease-and-desist orders and imposing civil money penalties.

Bank Compliance With the FDPA

We have found that FDIC-supervised institutions generally comply with consumer protection and civil rights laws and regulations, including flood insurance. Of the 3,041 institutions examined for all applicable consumer compliance laws and regulations in 1988, 422 (or 14 percent) were assigned less than satisfactory ratings. Moreover, violations found at examinations are generally of a technical nature and correctable in the normal course of business. Our overall experience has been that when a compliance problem is brought to an institution's attention steps are taken to correct it.

For the last three years, from 34 to 38 percent of the institutions examined by the FDIC for consumer compliance were found to be in violation of flood insurance regulations. These violations, however, were largely technical and correctable in the normal course of business. In most cases, banks were cited for lacking the appropriate records to indicate the method used to determine whether applicable properties are located in a designated flood area. In addition, from four percent to five percent of the examined institutions had violated the regulations pertaining to granting, increasing, extending, or renewing loans secured by properties located in a designated flood area when the underlying security is not covered by flood insurance. The FDIC's previously described follow-up steps were taken to ensure that these violations were corrected and that the institutions complied in the future with the flood insurance requirements.

Consumer Complaints and Inquiries

In addition to our examination efforts, the FDIC's Office of Consumer Affairs ("OCA") coordinates the processing of consumer-type complaints filed against banks. Such complaints are either investigated by the FDIC or, if other than a FDIC-supervised institution is involved, referred to the appropriate regulator.

From the beginning of 1987 until mid-May of this year, OCA processed over 8,400 written consumer-related complaints and inquiries, only four of which involved flood insurance-related issues. Three of these matters were outside the FDIC's jurisdiction. The one complaint within the FDIC's jurisdiction involved a bank customer who was not informed of the flood insurance requirement. At the FDIC's direction, the bank instituted procedures to ensure future compliance with the FDIC's flood insurance regulations.

During the same time frame, OCA -- via its toll-free hotline -- and our Regional Offices received approximately 81,000 telephone calls for information and assistance. Of this number, less than 1,700 (2 percent) were calls involving flood insurance. Most of these calls were inquiries posed by bankers and involved whether the purchase of flood insurance is mandatory in a specific circumstance and general questions on the flood insurance requirements for home equity loans and mobile homes.

FDIC Education and Training

We recognize the importance of keeping FDIC-supervised institutions informed about flood insurance. For example, the FDIC recently issued two "Bank Letters" concerning the mandatory purchase of flood insurance and changes in the NFIP. One deals with several issues, including the application of the FDPA to the increasingly popular home equity loans (Attachment C), and the other with new flood insurance policies (Attachment D). Examiners also are available during the course of compliance examinations for guidance as to the requirements of flood insurance and the implementation of procedures designed to ensure compliance.

For the past few years, OCA and other FDIC employees, especially Regional Office personnel, have participated in several banker compliance seminars sponsored by the industry and the FDIC in which flood insurance has been discussed. These programs are generally designed to help bankers better understand and fulfill their responsibilities under the consumer protection and civil rights laws and regulations.

The FDIC also has a program to keep examiners updated on consumer-related issues, including flood insurance. The FDIC's Division of Bank Supervision

Training Center administers the Corporation's Consumer Protection School ("CPS"). Most CPS attendees are examiners with a minimum of two years' bank supervision experience.

In addition, OCA conducts an annual compliance seminar for Regional Office Consumer Affairs and Civil Rights examiners and their assistants and field examiners. Many of these examiners then provide training for their respective regional examination staffs. Flood insurance has been addressed at many of these training sessions. Our active interest and support in the NFIP has been shown in part by the participation of representatives from the Federal Insurance Administration ("FIA") in various regional training seminars for field examiners and the participation of FDIC staff in the annual NFIP meetings.

Comments and Conclusion

We would like to make the following comments on the "NFIP."

First, the FIA has reported that a significant number of flood insurance policies originally required are not being renewed in subsequent years. The FDIC has requested detailed information from the FIA on this issue so we can contact the banks in question to determine what is taking place with these mortgage loans.

It is likely that many of these mortgage loans have been sold in the secondary market. In other cases, the loans may have been refinanced. In either case, neither the bank nor the FDIC may have any control over third party purchasers.

If these loans continue to be held by FDIC-supervised institutions, however, the FDIC will take the necessary steps to ensure that coverage is renewed and maintained for the life of the loan.

On a different issue, we believe it would be beneficial for both examiners and bankers if an improved flood analysis system were developed to determine whether a property is located in a special flood hazard area. Compliance with the FDPA is often difficult and often involves extremely technical requirements. For example, flood maps are confusing, but they must be used to determine whether a property is within a special flood hazard area. If the FIA could develop a flood analysis system keyed to the property's address, description or location, both compliance with and supervision of the requirements of the FDPA would be greatly simplified.

Finally, because of the importance of the flood insurance purchase requirements, we believe that the existing law should be expanded to cover <u>all</u> mortgage lenders. The inconsistent treatment between mortgage companies and depository institutions is unfair and anti-competitive. We would prefer more uniform treatment within the mortgage lending industry. Such uniformity would be consistent with the purposes of the FDPA.

Thank you, Mr. Chairman and members of the Subcommittee, for giving the FDIC an opportunity to express its views on this important consumer issue. We will be pleased to respond to any questions.

Attachments