Flood Insurance Compliance – Examiner Insights

Outlook Live Webinar - November 19, 2025

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Agenda

- Introduction and Overview
- Discussion Topics:
 - Standard Flood Hazard Determination Form
 - Notice of Special Hazards
 - Flood Insurance Coverage
 - Private Flood Insurance
 - Loan Modifications
 - Force Placement
 - Third Party Risk Management



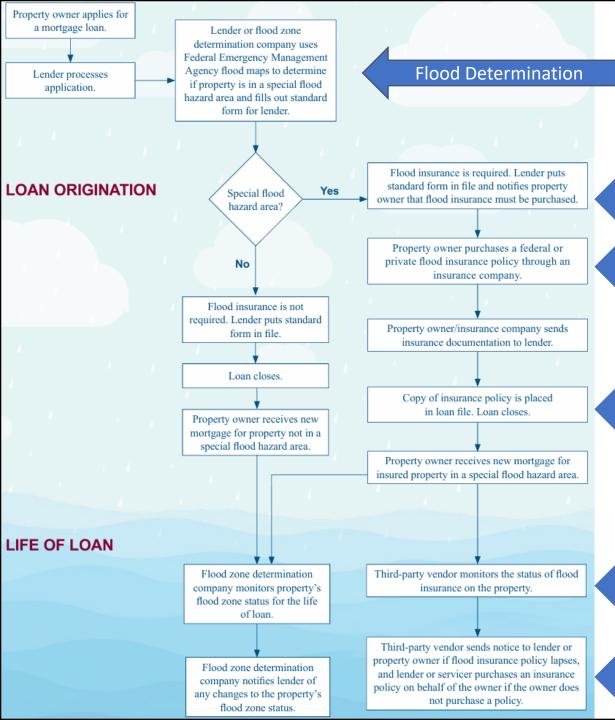
Overview

- The flood insurance regulations implement the National Flood Insurance Act (NFIA), as amended by the Flood Disaster Protection Act (FDPA).
- The regulations are promulgated by the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Farm Credit Administration (FCA), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA), and apply to financial institutions under their supervision.
 - Regulation H, <u>12 C.F.R. 208.25</u> (§ 208.25), is the Federal Reserve's FDPA implementing regulation for the institutions it supervises. Refer to each Agency's respective regulations: OCC (<u>12 C.F.R. Part 22</u>), FDIC (<u>12 C.F.R. Part 339</u>), FCA (<u>12 C.F.R. Part 614 Subpart S</u>), NCUA (<u>12 C.F.R. Part 760</u>).

Overview (continued)

Flood Insurance Purchase Requirement (§ 208.25(c)(1))

- Flood insurance is required for the term of the loan on buildings or mobile homes, and any personal property, if:
 - The lender makes, increases, extends, or renews (MIRE or triggering event) any loan secured by improved real estate or a mobile home that is affixed to a permanent foundation;
 - The property securing the loan is located or will be located in a Special Flood Hazard Area (SFHA) as identified by the Federal Emergency Management Agency (FEMA); and
 - The community participates in the National Flood Insurance Program (NFIP).



Overview – Flood Insurance Processes

Notice of Special Flood Hazards

Adequacy of Insurance

Escrow, if applicable

**This Flood Insurance
Flowchart was included in the
Consumer Compliance
Outlook (CCO) article, Top
Federal Reserve System
Compliance Violations in 2023
Under the FDPA (3rd Issue
2024) and was sourced
through the Government
Accountability Office Report
21-578 at p. 15.

Monitoring (map changes/policies)

Force Placement

Standard Flood Hazard Determination Form

- Standard Flood Hazard Determination Form (SFHDF) (§ 208.25(f)(1))
 - The SFHDF is required when determining whether the building or mobile home securing a loan is or will be located in a SFHA in which flood insurance is available under the Act.
- According to Interagency Q&A <u>SFHDF 4</u>, lenders may rely on <u>their own</u> prior determinations when increasing, extending, or renewing* a loan if:
 - the prior determination was made within seven years of the date of the transaction,
 - the SFHDF reflects the basis of the determination, and
 - FEMA has not revised or updated the map affecting the property since the original determination was made (<u>FEMA Flood Map Service Center | Welcome!</u>).

*The "making" of a loan is not listed as a permissible event that permits the lender to rely on a previous determination.



Standard Flood Hazard Determination Form

(continued)

- Lenders must retain a copy of the completed SFHDF, in either hard copy or electronic form, for as long as they own the loan (§ 208.25(f)(2)).
- If using an electronic SFHDF, the format and layout may differ, but all the fields and elements listed on the form are still required. Lenders must be able to reproduce the electronic SFHDF upon request by their Federal supervisory agency (SFHDF 3).
- Lenders may provide a copy of the SFHDF to the customer, but the SFHDF does not fulfill the Notice requirements under the regulations (<u>SFHDF 1</u>).
- Examiner Insight: SFHDF violations have been cited for institutions not completing a SFHDF prior to loan origination and/or relying on a SFHDF that was older than seven years.

Notice of Special Flood Hazards

- When a bank makes, increases, extends, or renews a loan secured by a building or mobile home located in a SFHA, the bank shall mail or deliver a written notice to the borrower and to the servicer in all cases whether or not flood insurance is available under the act.
 - Notice Contents The information required in the written notice is listed in § 208.25(i)(1).
 - Appendix A includes sample "Notice of Special Flood Hazards and Availability of Federal
 Disaster Relief Assistance" (Notice), which may be sent to one borrower, if there are multiple
 borrowers (Notice 1).
 - Notice required even if NFIP is not available (<u>Applicability 1</u>).
 - Notice Required for Triggering Events Notice is required for each triggering event where a loan
 is secured by improved real estate or a mobile home located (or to be located) in a SFHA even if
 relying on prior determination (Notice 6).
 - Notice Timeliness Notice shall be provided "within a reasonable time before the completion of the transaction..." What constitutes "reasonable" can vary with the circumstances; however, 10 days is considered reasonable (i.e., it acts as a safe harbor) (Notice 2).
 - Record of Receipt Lender must maintain the record of receipt (e.g., signed acknowledgement) for as long as lender owns the loan (<u>Notice 5</u>).



Common Notice Violations

Failing to Provide the Notice

- Lenders were cited for failing to provide the required flood insurance notice under § 208.25(i).
- Examiners noted instances where the Notice was not consistently provided for triggering events.
 - The Notice must be provided for each triggering event, even if the bank is relying on a prior determination.
 - As a result, it is important to know when a loan restructure or modification is considered a triggering event.
 Applicability 6 addresses when a loan being restructured or modified constitutes a triggering event under the Regulation.

Failing to Provide the Notice in a Timely Manner

- Lenders were cited for failing to provide the required notice in a reasonable time.
- Examiners noted delays in providing the notice at institutions with separate and/or decentralized processes for pulling determinations and sending the Notices. In these instances, examiners often could not determine when the Notice was mailed or provided.
- Examiners have also noted delays in providing the Notice where the institution calls the borrower to advise the borrower of the flood insurance requirement rather than send a Notice.
- In these instances, without a process to mail or deliver the Notice to the borrower, examiners will generally rely on the record of receipt (e.g., signed acknowledgement) to determine timeliness.



Flood Insurance Coverage

- When flood insurance is required, the policy must be in place at the time of loan origination as detailed in § 208.25(c)(1) (Applicability 15). The "closing date" should be used for determining when flood insurance must be in place, which FEMA deems as when ownership transfers to the new owner based on State law:
 - Wet Funding Document signing/transfer of title is on same day.
 - Dry Funding Document signing/title transfer are on different days; "closing date" is date of property transfer.
- Required flood insurance must at least be equal to the lessor of the outstanding principal balance of the loan or the maximum amount of insurance available under the NFIP.
 - The latter consists of two components to determine this value; the lessor of the maximum amount available for the type of structure or the insurable value of the property.



Flood Limit Coverages

Determining the maximum amount of flood insurance available under the NFIP.

Maximum Coverage Limits Under the NFIP	
Residential – NFIP Dwelling Form (Amount 3 – examples of residential buildings)	
 Single-family dwellings, two-to-four family dwellings, and individually owned condo units – Detached structures may be exempt (<u>Exemptions 1</u>) 	\$250,000
Contents coverage (Other Security Interests)*	\$100,000
Residential Condos – NFIP Residential Condo Building Association Policy (RCBAP) Form	
 Residential condominium building (<u>Condo and Co-Op 3</u>) Contents coverage* 	\$250,000 x #units \$100,000 total
Non-Residential – General Property Form (Amount 4 – example of non-residential buildings)	
 Other Buildings (non-residential, mixed-use condo not eligible for RCBAP, and other-residential / multifamily) 	\$500,000
Contents coverage*	\$500,000

^{*}Contents coverage only required if the building where contents are stored is also taken as collateral (Other Security Interest 6).



Insurable Value

- Determining insurable value for properties securing the loan can be done in a variety of ways including (Amount 2):
 - an appraisal on the cost value, not the market value;
 - a construction-cost calculation;
 - the insurable value used in a hazard insurance policy (recognizing that adjustments may be necessary, as this value does not include the value of the foundation); or
 - any other reasonable approach that is supportable.

Calculating Coverage for a Residential Building

Example: A residential 1-4 family home secures a loan: a residential house located in a SFHA and in a participating community with no additional structures. Contents were not taken as collateral for the loan. The loan's outstanding principal balance is \$225,000. The replacement cost value of the 1-4 family home is \$260,000 as determined by an appraisal using a cost-approach.

Structure	Maximum Amount of NFIP	Insurable Value	Insurable Value	
	\$250,000	\$260,000		
Principal Loan Outstanding		\$225,000		

Answer: The minimum required amount of flood insurance coverage is the outstanding principal balance of \$225,000. The lowest value between the loan's outstanding balance (\$225,000), the Maximum Amount available (\$250,000), and the Insurable Value (\$260,000) is the loan's outstanding balance of \$225,000 and is the minimum amount of required flood insurance that should be obtained.



Calculating Coverage for Multiple Buildings

<u>Commercial Flood Insurance</u> <u>Compliance – Washing Away</u> <u>Common Pitfalls</u>

 This CCO article contains eight examples that cover calculating coverage for multiple buildings, mixeduse properties, and contents coverage. **Example 4:** Three buildings secure a loan: a residential farmhouse with a commercial barn and a commercial silo. All buildings are in an SFHA and in a participating community. The loan's outstanding principal balance is \$1,000,000. The insurable value of the farmhouse is \$150,000, the barn is \$100,000, and the silo is \$600,000.

Structure	Maximum Amount of NFIP		Insurable Value	
	\$250,000		\$150,000	
*	\$500,000		\$100,000	
	\$500,000		\$600,000	
Aggregate Maximum Amount Available Under the NFIP Principal Loan Outstanding		\$750,000 (\$150,0	000 + \$100,000 + \$500,000)	
		\$1,000,000		

Answer: The minimum required amount of flood insurance coverage is the aggregate maximum National Insurance Flood Program coverage of \$750,000, which is less than the loan's outstanding balance of \$1,000,000.

Note: The aggregate maximum National Flood Insurance Program coverage reflects that the silo's insurable value of \$600,000 exceeds the program's maximum nonresidential coverage of \$500,000. The farm is also a residential property; therefore, the maximum residential coverage under the program is \$250,000.



Contents Coverage

- When a loan is secured by a building and its contents, and the building is in a participating community, flood insurance coverage is required for both the building and the contents (Other Security Interests 7).
- The security instrument controls whether contents are securing the loan (<u>Other</u> <u>Security Interests 9</u>).

Example 7: A loan is secured by a restaurant that contains commercial equipment. The loan agreement indicates that the restaurant and all equipment are taken as collateral. The outstanding principal loan amount is \$650,000. The insurable value of the restaurant is \$700,000 and the equipment is valued at \$50,000.

Structure	Maximum Amount of NFIP	Insurable Value	
Building	\$500,000	\$700,000	
Contents	\$500,000	\$50,000	
Aggregate Maximum NFIP Coverage	\$550,000 (\$500,000 building +\$50,000 contents)		
Outstanding Loan Balance	\$650,000		

Answer: The maximum amount of insurance available under the NFIP is the lesser of the NFIP max for the structure (\$500,000) and the RCV of the structure (\$750,000), which is \$500,000 plus the lesser of the NFIP max for the contents (\$500,000) and value of the contents (\$50,000), which is \$50,000. The required amount of flood insurance is the lesser of the outstanding loan balance (\$650,000) and the maximum amount of insurance available under the NFIP (\$500,000) building +\$50,000 contents =\$550,000). Therefore, the minimum required amount of flood insurance is \$550,000.



Mixed-Use Properties

- A property can be used for both residential and nonresidential purposes. Other residential buildings that are not eligible for RCBAP coverage have maximum available coverage of \$500,000 through the NFIP.
- Amount 3 provides the NFIP definitions of a "single-family" dwelling, a "2-4 family residential building," and an "other residential building."

Example 6: A loan is secured by an apartment building that contains a convenience store and 15 apartment units. Normal occupancy is 6 months or more. The building is in an SFHA in a participating community.



- The principal loan outstanding is \$2,000,000.
- The insurable value is \$1,500,000.
- The store is 2,100 square feet; each apartment is 700 square feet.
- Total floor area for the building is 2,100 + (700 square feet x 15) = 12,600 square feet.
- The store is 16.7% of the total floor area (2,100 ÷ 12,600 x 100).
- Therefore, this is an example of an Other Residential Building. This is a
 mixed-use building in which the total floor area devoted to nonresidential
 uses is less than 25% of the buildings total floor area.
- The maximum amount of coverage available under the National Flood Insurance Program is \$500,000 for the structure.

The Minimum Required Amount of Coverage Is the Lesser of These 3 Values:

	Principal Loan Outstanding	\$2,000,000
NOON A TON	Maximum Amount Available Under the NFIP	\$500,000 (noncondominium, other residential building)
	Insurable Value	\$1,500,000

Answer: The 15-unit apartment building is considered a residential building because it is a mixed-use building in which the total floor area devoted to nonresidential use is less than 25% of the building's total floor area. The maximum amount of coverage under the National Flood Insurance Program for residential buildings is \$250,000. See 61 C.F.R. §61.6. However, as of June 1, 2014, the Biggert–Waters Act increased the maximum amount of coverage for a noncondominium residential building designed for use of five or more families from \$250,000 to \$500,000. This is a 15-unit apartment building with normal occupancy of 6 months or more. Therefore, the maximum amount of flood insurance coverage under the program for this property is \$500,000, which is also the minimum required flood insurance coverage for this loan because it is less than outstanding principal loan balance and the insurable value.



Flood Insurance Coverage Violations

- Insurance Not in Place at Loan Closing (§ 208.25(c)(1) and Applicability 15)
 - A sound practice for ensuring flood insurance is in place at the time of loan closing include a preclose review of the flood insurance coverage amount and type of insurance (NFIP or Non-NFIP).
 - Understanding timing requirements as previously discussed (wet versus dry funding).
- Insufficient Coverage at Origination
 - Sound practices for ensuring flood insurance amount at origination is sufficient include a preclose review of the flood insurance coverage amount and timing. In addition, ensure the institution is determining the minimum amount of required flood insurance is accurate.
 - Consider "Per Occurrence" or other limits of the policy (<u>Discretionary 4</u>). For example, a \$2 million loan secured by three commercial buildings in a SFHA where each building requires \$500,000 in flood insurance coverage (total required coverage of \$1.5 million), would not be in compliance if there was an "Occurrence Limit" or a "Zone Aggregate Limit" of \$1.0 million, even if the overall policy is for \$2 million.

Flood Insurance Coverage Violations

(continued)

- Failing to Obtain Insurance for All Buildings
 - Each building located in a SFHA in a participating community that secures a loan must be insured (<u>Amount 6</u>).
- Failing to obtain insurance for contents coverage (personal property)
 - Forgetting to account for contents coverage and/or using blanket security agreements that take, for example, all furniture, fixtures, and equipment as collateral.
 - Banks should maintain appropriate oversight of security instruments and third parties, e.g., attorneys, responsible for drafting security instruments.



Flood Insurance Options

- Flood Insurance can be purchased in the following ways:
 - The NFIP is managed by FEMA and provides policies to the public through a network of insurance companies and through <u>NFIP Direct</u>.
 - <u>Applicability 12</u> addresses the flood insurance requirements during an NFIP lapse in authorization (e.g., during a government shutdown).
 - Non-NFIP flood insurance can also be purchased through private insurance companies or offered through a Mutual Aid Society.
 - The Overview of Private Flood Insurance Compliance Requirements article produced by Consumer Compliance Outlook is a resource that can be used to understand a lenders mandatory and discretionary acceptance of private flood insurance and mutual aid policies.

Private Flood Insurance Mandatory Acceptance

- Mandatory Acceptance (§ 208.25(c)(3)(i)) A lender must accept "private flood insurance," as defined by regulation (§ 208.25(b)(9)), in satisfaction of the flood insurance purchase requirement if the policy meets the requirements for coverage (Mandatory 4).
- Compliance Aid for Mandatory Acceptance (§ 208.25(c)(3)(ii))
 - A lender may determine that a policy meets the definition of private flood insurance, without further review of the policy, if the following statement is included within the policy or as an endorsement to the policy (Mandatory 5):

"This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation."

 Note: A lender cannot reject a private policy solely because it is not accompanied by this statement (Mandatory 4).



Private Flood Insurance Discretionary Acceptance

- **Discretionary Acceptance** (§ 208.25(c)(3)(iii)) Lender 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 satisfaction of the flood insurance purchase requirement if the policy (**Discretionary 1**):
 - Provides coverage in the amount required (<u>Amount 1</u>);
 - Is issued by 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 (Private Flood Compliance 9);
 - Covers both lender(s) and borrower(s) as loss payees, except when policy is provided by and premium is paid by a condo association, cooperative, HOA, or other applicable group as a common expense.
 - Provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the lender documents its conclusion regarding sufficiency of protection in writing (<u>Discretionary 2</u> and <u>Discretionary 4</u>).



Private Flood Insurance Examiner Insights

- When lenders are accepting flood insurance, the lender should review the policy to identify if it is private flood insurance and determine if the policy qualifies under the mandatory or discretionary acceptance standards.
- If a flood insurance policy issued by a private insurer is accepted under the discretionary acceptance provisions, the lender's determination regarding the sufficiency of the protection of the loan must be documented in writing. See previous slide for discretionary acceptance considerations.
 - The current <u>Interagency Flood Examination Procedures</u> contains factors for evaluating private flood insurance policies (see pages 5-8, and 23).
- A lender cannot reject a private policy solely because it is not accompanied by the compliance aid statement.

Flood Insurance at Loan Modification

- Loan modifications may trigger the flood insurance requirements (Applicability 6). Examples include:
 - Increasing the principal balance
 - Extending the loan maturity date
 - Capitalizing flood insurance premiums and fees into the outstanding principal balance, unless loan contract includes provision permitting the lender or servicer to advance funds to pay for flood insurance premiums (<u>Force Placement 10</u>).
- If a loan modification is a triggering event, the lender must comply with the regulation as applicable (Applicability 13), including:
 - Conducting a new flood hazard determination, unless a prior determination may be used
 - Providing the Notice of Special Flood Hazards
 - Requiring flood insurance in the amount required
 - Escrowing flood payments, if applicable.



Force Placement of Flood Insurance

- Force Placement of Flood Insurance (§ 208.25(g)) When a lender determines at any time during the term of a designated loan, that the building or mobile home and any personal property securing the designated loan is uninsured or underinsured, it must begin the force placement process (Force Placement 1).
- Borrower Notification (45-day Notice) The lender must send the force placement notice that advises that the borrower should obtain flood insurance, at the borrower's expense, in an amount at least equal to the amount required under § 208.25(c)(1).
 - Lender must send notice upon determining no or insufficient coverage (<u>Force Placement 2</u>).
 - Notice sent prior to expiration does not satisfy notice requirement (<u>Force Placement 4</u>).
 - Renewing an existing force placed policy does not require notice to the customer (<u>Force Placement 14</u>).



Force Placement of Flood Insurance (continued)

- Force Placement of Insurance If borrower fails to obtain flood insurance w/in 45 days of notification, lender must force place flood insurance at that time
 - Lender may purchase insurance beginning on the date of the lapse (<u>Force</u> <u>Placement 7</u>).
 - Lender may charge borrower for premiums beginning on the date of the lapse (<u>Force Placement 9</u>).
 - However, lender may not require borrower to pay for double coverage (must refund premiums for overlapping coverage) (<u>Force Placement 7</u>).
 - Force Placement 10 addresses when capitalizing force placed premiums is a triggering event.

Force Placement Examples

Property Type	# of Units	RCV	Required Flood Coverage*	Current Flood Coverage	Forced Placed Insurance Needed?	Forced Placed Coverage Amount
House	1	\$600,000	\$250,000	\$175,000	Yes	\$75,000
Condo Unit	10	\$10,000,000	\$250,000/unit	\$2,500,000 (RCBAP Policy) = \$250,000 per unit	No	\$0
Condo Unit	10	\$10,000,000	\$250,000/unit	\$1,000,000 (RCBAP Policy) = \$100,000 per unit	Yes	\$150,000

^{*}For the examples above, assume a principal balance of \$300,000 secured by the house or a condo unit.



Force Placement of Insurance Issues

- Ineffective Monitoring for Life-of-Loan Coverage Although lenders are not explicitly required to monitor flood insurance over the life of the loan, monitoring continuous coverage of flood insurance helps to ensure that lenders complete the force placement of flood insurance in a timely manner upon lapse of a policy, that there is continuous coverage to protect both the borrower and the lender, and that lenders are promptly made aware of FEMA flood map changes (Force Placement 15).
- Failing to Follow Force Placement Process for Remapped Loans If a lender receives a notice of remapping that states that a property has been or will be remapped into a SFHA, the lender must determine whether the property securing the loan is covered by sufficient flood insurance coverage. Lenders are expected to follow the force placement procedures if it is made aware of loans that are remapped into a SFHA (Force Placement 16).
- Failing to Ensure Adequacy of Flood Insurance at Renewal / During Life-of-Loan (e.g., failing to obtain renewal policies for all buildings or ensuring that each building/contents continues to be adequately insured).
- Inadequate Evidence of Insurance Lenders should ensure that adequate evidence of insurance is obtained. Examiners have observed lenders accepting renewal notice as acceptable proof of coverage.
- Lapse Not a Violation Under Limited Circumstances A lapse in coverage during the force placement process is not a flood insurance regulatory violation if the lender waits to force place insurance until 45 days after the lender's notification to the borrower (Force Placement 1).



Force Placement Sound Practices

- Banks should maintain appropriate oversight and processes surrounding force placement, including ensuring that appropriate notices are provided to customers.
- Appropriate monitoring for policy expirations helps ensure that notices are sent when policies expire and that the bank complies with the force placement provisions of the regulations.
- Banks should maintain appropriate oversight and processes to ensure they take appropriate action when becoming aware that properties securing their loans are mapped into or out of SFHAs.

Third-Party Considerations

- Lenders often outsource essential functions of flood insurance responsibilities to third-party vendors, including for life-of-loan insurance and flood map monitoring, as well as force placement of flood insurance. It is important for banks to carefully manage their third-party vendors.
- Sound practices include:
 - Performing a risk assessment of the activity that will be outsourced to determine if the outsourcing is consistent with the business strategy of the organization.
 - Conducting due diligence to ensure that a qualified vendor is selected.
 - Establishing performance expectations.
 - Conducting oversight and monitoring of third-party vendors to ensure they are operating
 effectively and in accordance with bank policies and regulatory requirements. The oversight
 process, including the level and frequency of management reporting, should be risk focused.
 - Maintaining appropriate oversight of security instruments and third parties, e.g., attorneys, responsible for drafting security instruments.



Resources

- NFIP Flood Insurance Manual
- Interagency Q&As Regarding Flood Insurance (May 31, 2022)
- CCO Articles and Outlook Live (OL) Webinars
 - Compliance Violations Flood Disaster Protection Act (CCO, 3rd Issue 2024)
 - Overview of Private Flood Insurance Compliance Requirements (CCO, 1st Issue 2024)
 - Commercial Flood Insurance Compliance (CCO, 2nd Issue 2022)
 - Vendor Management Considerations for Flood Insurance Requirements (CCO, 2nd Issue 2019)
 - 2022 Interagency Flood Insurance Q&As Webinar (OL, July 2022)
 - Interagency Update on Private Flood Insurance Rule (OL, June 2019)
 - Interagency Flood Insurance Regulation Update: Q&As (CCO, 1st Issue 2016)
 - Interagency Flood Insurance Regulation Update (detached structures, escrow, and force placement provisions) (slides/transcript) (OL, October 2015)
 - Flood Insurance Compliance Requirements (CCO, 3rd/4th Issue 2015)



Questions?

Survey

Provide us your feedback and suggestions for future topics

- Please take a moment to complete the post-event survey, which may be accessed via the <u>Survey Link</u> or the QR code.
- Compete the survey within 5 days to request a CRCM CE Certificate of Completion.
- The survey includes a section to suggest topics for future <u>Consumer</u> <u>Compliance Outlook</u> articles and <u>Outlook Live</u> webinars.

Survey QR Code:



