THE NFIP'S FUNDING AUTHORIZATION EXPIRES DECEMBER 20

The NFIP's funding authorization is expected to expire today December 20, 2024, at midnight. The risk of the potential for a lapse in funding the NFIP is high due to the current political landscape around budget negotiations among lawmakers in Washington.

The U.S. House is negotiating and holding talks about a final deal to fund the government, but such a deal is facing significant challenges. Lenders should be prepared for a potential temporary lapse of the NFIP.

What to Do Before a Lapse

Lenders should be prepared and have a plan to avoid the potential disruption to loans scheduled to close during a lapse. Loans that require flood insurance can still close during a lapse in the NFIP, either by following certain NFIP and regulatory guidelines and ensuring that a system is in place to obtain policies as soon as the NFIP is reauthorized, or by obtaining private flood insurance.

The prudential regulators—the FDIC, OCC and Federal Reserve—have each released guidance on what to do if the NFIP lapses. This guidance was originally issued in 2010, but remains applicable in the event of any lapse. It is well worth the time to review the appropriate guidance and consult with counsel to apply it to the bank's specific business operations. Additionally, FEMA has issued guidance that can be found here.

Fannie Mae and Freddie Mac (GSEs) have stated they will purchase loans secured by property located in special flood hazard areas that does not have an active flood insurance policy as long as certain conditions are met. Fannie Mae's 2018 guidance can be found here. The GSEs have stated they plan to issue guidance that is similar or identical to the 2018 guidance linked above in light of the possible upcoming government shutdown.

What to Do After a Lapse

Lenders should first determine whether the reauthorization is retroactive. Retroactivity determines the effective date of coverage for any NFIP policies applied for during the lapse. Any policy applied for during the lapse will have its effective date determined by retroactivity. For example, if reauthorization is retroactive, flood policies applied for during the lapse will be effective retroactive to the date of the lapse. If reauthorization is not retroactive, flood policies applied for will be effective the date of the reauthorization which may include a gap in flood coverage where any losses during that gap will not be covered by the NFIP.

OSC/SUI remains committed to implementing risk management program practices that have been vetted and adopted by our lending clients during any NFIP lapse, including the acceptance of private flood insurance in the interim to meet lenders' mandatory purchase requirements. In the interim, OSC/SUI will continue normal operations with regards to tracking and the placement of lender-placed insurance in accordance with federal law.

As indicated in bank supervisory guidance, lenders should consider safety and soundness risk management obligations

when deciding on any immediate loan closing/funding secured by properties in a special flood hazard area and where the borrower has not secured flood insurance due to the lapse of the NFIP. This would especially be true if loan funding volume during the lapse is considerable to a lender's overall capital level. Delay in closing and/or alternative measures for flood insurance, such as through the private flood market, would be necessary to mitigate such risk.

Historically, lapses of the NFIP have been rare and short term. A re-authorization is usually retroactive to the lapse, but should a re-authorization not be retroactive to the NFIP lapse date, borrowers may have a gap in flood coverage for any renewal after such re-authorization and/or when new loans were funded during the lapse where flood coverage was not available. Lenders should communicate to potential borrowers of these risks when funding loans during a lapse of the NFIP.

We are hoping for a quick resolution to the government funding as Congress works towards a compromise. In the interim, please contact your Client Services Manager with any special risk management requests.

We will keep you posted for any changes in status.