

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. **8334**  
April 28, 1978 ]

AMENDMENT TO REGULATION H  
To Conform to Changes in the National Flood Insurance Program

*To All Member Banks, and Others Concerned,  
in the Second Federal Reserve District:*

The Board of Governors of the Federal Reserve System has amended its Regulation H, "Membership of State Banking Institutions in the Federal Reserve System," to reflect changes in the National Flood Insurance Program. Following is the text of a statement issued by the Board of Governors on April 20 regarding the amendment:

The Board of Governors of the Federal Reserve System today amended its Regulation H (Membership in the Federal Reserve System) to conform to new provisions of the National Flood Insurance Program.

The regulatory amendment revokes those provisions that prohibit State member banks from making any loan secured by improved real estate, or a mobile home, in a flood-hazardous area of a community that does not participate in the National Flood Insurance Program. It is effective immediately.

Instead, in accordance with recent amendments to the Flood Disaster Protection Act of 1973 the Board will require State member banks, as a condition of such loans, to notify the purchaser or lessee of the property whether, in the event of a flood disaster, Federal disaster relief would be available.

The prohibition against making such loans in communities that do participate in the program, unless the property is covered by Federal flood insurance, remains in force.

Enclosed is a copy of the amendment, effective April 20, 1978. Questions on the amendment may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,  
*President.*

Board of Governors of the Federal Reserve System

MEMBERSHIP OF STATE BANKING INSTITUTIONS  
IN THE FEDERAL RESERVE SYSTEM

AMENDMENT TO REGULATION H

(effective April 20, 1978)

*AGENCY:* Board of Governors of the Federal Reserve System.

*ACTION:* Final Rule.

*SUMMARY:* This action amends Section 208.8(e) of Regulation H, 12 C.F.R. §208.8(e) (1977), to conform its treatment of State member bank loans secured by improved real estate or a mobile home located or to be located in a special flood-hazardous area in a community that does not participate in the National Flood Insurance Program with recent statutory changes contained in the Housing and Community Development Act of 1977 that remove the prohibitions against such loans and include a notice requirement for loans made in special flood-hazardous areas.

*EFFECTIVE DATE:* Immediately

*FOR FURTHER INFORMATION CONTACT:* Allen L. Raiken, Associate General Counsel, or John Walker, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3000).

*SUPPLEMENTARY INFORMATION:* Section 703(a) of the Housing and Community Development Act of 1977 (the "1977 Act") changes the National Flood Insurance Program by amending Section 202(b) of the Flood Disaster Protection Act of 1973. Prior to its amendment by the 1977 Act, Section 202(b) required that the Federal Reserve Board shall by regulation prohibit State member banks from making any loan secured by improved real estate or a mobile home located or to be located in a special flood-hazardous area unless the community in which the area is situated was then participating in the National Flood Insurance Program. Exceptions to such prohibitions were provided for in Section 202(b) prior to its amendment by the 1977 Act. The Board has issued regulations to reflect these provisions of Section 202(b). (See Regu-

lation H, §§ 208.8(e)(2), (5), 12 C.F.R. §§ 208(e)(2), (5) (1977).) Under Section 202(b) prior to its amendment by the 1977 Act and under existing Board regulations, if Federal flood insurance is not available in a community in which a special flood-hazardous area has been designated, *i.e.*, the community does not participate in the National Flood Insurance Program, then State member banks cannot make any loan secured by improved real estate or a mobile home located or to be located in the special flood-hazardous area.

Section 703(a) of the 1977 Act removes the prohibition against a bank making loans to finance improved real estate or mobile homes located or to be located in a special flood-hazardous area in a community that does not participate in the National Flood Insurance Program. Section 703(a) of the 1977 Act provides that the Federal Reserve Board shall by regulation require State member banks, as a condition of making, increasing, extending or renewing any loan secured by property located or to be located in a special flood-hazardous area, to notify the purchaser or lessee of such property whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available for such property.

The 1977 Act does not affect Section 102(b) of the Flood Disaster Protection Act of 1973 which requires that the Federal Reserve Board shall by regulation direct State member banks not to make any loan secured by improved real estate or a mobile home located or to be located in a special flood-hazardous area "in which [Federal] flood insurance has been made available under [the National Flood Insurance Act of 1968]" unless the building or mobile home or personal property securing such loan is covered by Federal flood insurance. The Board has issued a regulation to reflect the provisions of Section 102(b). (See Regulation H, § 209.8(e)(1), 12 C.F.R. § 208.8(e)(1)

For this Regulation to be complete, retain:

- 1) Regulation H pamphlet, as amended effective March 18, 1969.
- 2) Amendments effective December 21, 1973; March 2, 1974; September 16, 1974; September 22, 1974; December 1, 1975; February 26, 1976; April 13, 1977; October 3, 1977; October 31, 1977; and December 31, 1977.
- 3) This slip sheet.

(1977).) Under Section 102(b) and Board regulation, if Federal flood insurance is available in a community in which a special flood-hazardous area has been designated, *i.e.*, the community participates in the National Flood Insurance Program, then State member banks cannot make any loan secured by improved real estate or a mobile home located or to be located in that area unless the property securing such loan is covered by Federal flood insurance.

In summary, as a result of Section 703(a) of the 1977 Act, if a community does not participate in the National Flood Insurance Program, then a bank can make loans to finance improved real estate or mobile homes located or to be located in a special flood-hazardous area in that community even though the property securing such loans is not covered by Federal flood insurance. However, if a community participates in the National Flood Insurance Program, then a bank cannot make loans to finance improved real estate or mobile homes located or to be located in a special flood-hazardous area in that community unless the property securing such loans is covered by Federal flood insurance.

The change made by this amendment is a technical one designed to conform Regulation H with existing statutory authority. Therefore, the Board for good cause finds that the procedures prescribed by the provisions of 5 U.S.C. § 553 relating to notice, public procedure, and deferred effective date are unnecessary and would serve no useful purpose. Effective immediately, Section 208.8(e) is amended by revoking Sections 208.8(e) (2), (5), renumbering Section 208.8(e) (3) as Section 208.8(e) (2) and Section 208.8(e) (4) as Section 208.8(e) (3), amending the renumbered Section 208.8(e) (3) to include the provision of notice to borrowers of the availability of Federal disaster relief assistance, and adding Appendix A. Section 208.8 is amended to read as follows:

#### SECTION 208.8—BANKING PRACTICES

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(e) *Loans by State member banks in special flood-hazardous areas.*

(1) *Property securing loan must be insured against flood.\*\*\**

(2) *Records of compliance. \*\*\**

(3) (a) *Notice of special flood hazards and availability of Federal disaster relief assistance.* Each State member bank shall, as a condition of making, increasing, extending or renewing any loan secured by improved real estate or a mobile home located or to be lo-

cated in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, mail or deliver as soon as feasible but not less than 10 days in advance of closing of the transaction (or not later than the bank's commitment, if any, if the period between commitment and closing is less than 10 days) a written notice to the borrower stating (1) that the property securing the loan is or will be located in an area so identified, or in lieu of such notification a State member bank may obtain satisfactory written assurances from a seller or lessor stating that such seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is or will be located in an area so identified, and (2) whether, in the event of damage to the property caused by flooding in a federally-declared disaster, Federal disaster relief assistance will be available for such property. Each State member bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgment that the property securing the loan is or will be located in an area so identified and that the borrower has received the above-required notice regarding Federal disaster relief assistance.

(b) *Sample notices.* A State member bank providing written notice containing the language presented in Appendix A within the time limits prescribed in paragraph (a) will be considered to be in compliance with the notice requirements of paragraph (a).

#### APPENDIX A—SAMPLE NOTICES

(1) *Notice to Borrower of Special Flood-Hazards*—Notice is hereby given to \_\_\_\_\_ that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. This area is delineated on \_\_\_\_\_'s Flood Insurance Rate Map ("FIRM") or, if the FIRM is unavailable, on the community's Flood Hazard Boundary Map ("FHBM"). This area has a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood-hazardous area has a 2 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance*—(a) *Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now

participating in the National Flood Insurance Program. In the event such property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance may be available. However, such assistance will be unavailable if your community has been identified as a special flood-hazardous area for one year or longer and is not participating in the National Flood Insurance Program at the time assistance would be approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(b) *Notice in non-participating communities.* The improved real estate or mobile

home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that such property is not eligible for Federal flood insurance. In the event such property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance will be unavailable if your community has been identified as a special flood-hazardous area for one year or longer. Such assistance may be available only if at the time assistance would be approved your community is participating in the National Flood Insurance Program or has been identified as a special flood-hazardous area for less than one year.