

Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration. *See, e.g.*, 12 U.S.C. 5516(d), 5581(c)(2) (exclusive enforcement authority for banks and credit unions with \$10 billion or less in assets). Some Federal consumer financial laws are also enforceable by other Federal agencies, including the Department of Justice and the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

*Consumer Financial Protection Circulars* are intended to promote consistency in approach across the various enforcement agencies and parties, pursuant to the CFPB's statutory objective to ensure Federal consumer financial law is enforced consistently. 12 U.S.C. 5511(b)(4).

*Consumer Financial Protection Circulars* are also intended to provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions. *See, e.g.*, 12 U.S.C. 5552(b) (consultation with CFPB by State attorneys general and regulators); 12 U.S.C. 5562(a) (joint investigatory work between CFPB and other agencies).

*Consumer Financial Protection Circulars* are general statements of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). They provide background information about applicable law, articulate considerations relevant to the Bureau's exercise of its authorities, and, in the interest of maintaining consistency, advise other parties with authority to enforce Federal consumer financial law. They do not restrict the Bureau's exercise of its authorities, impose any legal requirements on external parties, or create or confer any rights on external parties that could be enforceable in any administrative or civil proceeding. The CFPB Director is instructing CFPB staff as described herein, and the CFPB will then make final decisions on individual matters based on an assessment of the factual record, applicable law, and factors relevant to prosecutorial discretion.

**Rohit Chopra,**

*Director, Consumer Financial Protection Bureau.*

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 34

[Docket ID OCC-2024-0002]

## FEDERAL RESERVE SYSTEM

#### 12 CFR Part 225

[Docket No. OP-1829]

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 323

RIN 3064-ZA41

## NATIONAL CREDIT UNION ADMINISTRATION

#### 12 CFR Part 722 and 741

### Temporary Exceptions to FIRREA Appraisal Requirements in Maui County as Affected by Hawaii Wildfires

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and National Credit Union Administration (NCUA), collectively referred to as the agencies.

**ACTION:** Statement and order; temporary exceptions.

**SUMMARY:** The Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) relating to transactions involving real property located within an area in a state or territory declared to be a major disaster by the President. In this statement and order, the agencies exercise their authority to grant temporary exceptions to the FIRREA appraisal requirements for real estate-related financial transactions, provided certain criteria are met, in an area in the State of Hawaii following the major disaster declared by President Biden as a result of wildfires. The expiration date for the exceptions is August 10, 2026, which is three years after the date the President declared the major disaster.

**DATES:** This order is effective on March 12, 2024 and expires three years after the date the President declared the relevant area a major disaster, which is August 10, 2026.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Kevin Lawton, Appraiser, Real Estate Specialist, Bank Supervision Policy, at (202) 649-7152; or Mitchell Plave, Special Counsel, Chief Counsel's Office, at (202) 649-6285. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

*Board:* Devyn Jeffereis, Senior Financial Institution Policy Analyst II, Division of Supervision and Regulation at (202) 452-2729; Matthew Suntag, Senior Counsel, Legal Division, at (202) 452-3694; or David Imhoff, Senior Attorney, Legal Division, at (202) 452-2249; For users of TTY-TRS, please call 711 from any telephone, anywhere in the United States.

*FDIC:* Patrick J. Mancoske, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898-7032, [PMancoske@FDIC.gov](mailto:PMancoske@FDIC.gov); Mark Mellon, Counsel, Legal Division, at (202) 898-3884, [MMellon@FDIC.gov](mailto:MMellon@FDIC.gov); Lauren Whitaker, Counsel, Legal Division at (202) 898-3872, [lwhitaker@fdic.gov](mailto:lwhitaker@fdic.gov); Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

*NCUA:* Simon Hermann, Senior Credit Specialist, Office of Examination and Insurance, at (703) 518-6360; Robert Leonard, Compliance Officer, Office of General Counsel, (703) 518-1143; Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, at (703) 548-2601; National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

#### SUPPLEMENTARY INFORMATION:

##### Statement

Section 2 of DIDRA, which added section 1123 to Title XI of FIRREA,<sup>1</sup> authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in an area in which the President has determined a major disaster exists, pursuant to 42 U.S.C. 5170, provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness.

On August 10, 2023, the President declared that a major disaster existed in the State of Hawaii<sup>2</sup> due to damage resulting from wildfires beginning on August 8, 2023. The agencies have determined that granting relief from the appraisal requirements set forth in Title

<sup>1</sup> 12 U.S.C. 3352.

<sup>2</sup> Press Release, The White House (August 10, 2023), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/>.

XI of FIRREA, and in the agencies' appraisal regulations, for real estate-related financial transactions in an area designated as adversely affected by the major disaster is consistent with the provisions of DIDRA.

### Facilitation of Recovery From the Major Disaster

The agencies have determined that the disruption of real estate markets in the area designated as adversely affected by the major disaster interferes with the ability of depository institutions<sup>3</sup> to obtain appraisals that comply with Title XI statutory and regulatory requirements. Further, the agencies have determined that the disruption may impede institutions in making loans and engaging in other transactions that would aid in the reconstruction and rehabilitation of the affected area. Accordingly, the agencies have determined that recovery from this major disaster would be facilitated by exempting certain transactions involving real estate located in the area designated as adversely affected by the wildfires from the real estate appraisal requirements of Title XI of FIRREA and its implementing regulations.<sup>4</sup>

### Consistency With Safety and Soundness

The agencies also have determined that the exceptions are consistent with safety and soundness, provided that the depository institution determines the following: (1) the transaction involves real property located in the area designated as adversely affected by the major disaster; (2) there is a binding commitment to fund the transaction<sup>5</sup> that was entered into on or after August 10, 2023, but no later than August 10, 2026; and (3) the value of the real property supports the institution's decision to enter into the transaction. In addition, the transaction must continue to be subject to review by management and by the agencies in the course of examinations of the institution.

### Expiration Date

Exceptions made under section 1123 of FIRREA may be provided for no more than three years after the President determines a major disaster exists in an area.<sup>6</sup> Accordingly, the exceptions provided for by this order shall expire three years after the date the President

declared a major disaster existed in the State of Hawaii, which is August 10, 2026.

### Order

In accordance with section 2 of DIDRA, relief is hereby granted from the provisions of Title XI of FIRREA and the agencies' appraisal regulations for any real estate-related financial transaction that requires the services of an appraiser under those provisions, provided that the institution determines each of the following:

(1) The transaction involves real property located in Maui County,<sup>7</sup> which has been designated as adversely affected by a major disaster by the President as a result of the wildfires beginning on August 8, 2023.

(2) There is a binding commitment to fund the transaction<sup>8</sup> that was entered into on or after August 10, 2023, but no later than August 10, 2026.

(3) The value of the real property supports the institution's decision to enter into the transaction.

**Michael J. Hsu,**

*Acting Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System.

**Ann E. Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 5, 2024.

**James P. Sheesley,**

*Assistant Executive Secretary.*

By order of the National Credit Union Administration Board.

Dated at Alexandria, VA, this 28th day of February, 2024.

**Melane Conyers-Ausbrooks,**

*Secretary of the Board.*

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## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1228

RIN 2590-AB30

### Exception to Restrictions on Private Transfer Fee Covenants for Loans Meeting Certain Duty To Serve Shared Equity Loan Program Requirements

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is adopting as final, without substantive change, a proposed rule amending its regulation that restricts its regulated entities—the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), and the Federal Home Loan Banks (Banks)—from purchasing, investing in, accepting as collateral, or otherwise dealing in mortgages on properties encumbered by certain types of private transfer fee covenants (PTFCs), or related securities, subject to certain exceptions (PTFC Regulation). As proposed, the final rule establishes an additional exception that authorizes the Enterprises and Banks to engage in such transactions if the loans meet the shared equity loan program requirements for Resale Restriction Programs in FHFA's Duty to Serve Underserved Markets Regulation (Duty to Serve Regulation), without regard to any household income limit.

**DATES:** The final rule is effective May 13, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ted Wartell, Associate Director, Office of Housing and Community Investment (OHCI), 202-649-3157, [ted.wartell@fhfa.gov](mailto:ted.wartell@fhfa.gov); or Sara L. Todd, Assistant General Counsel, Office of General Counsel (OGC), 202-649-3527, [sara.todd@fhfa.gov](mailto:sara.todd@fhfa.gov); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. These are not toll-free numbers. The mailing address for each contact is: Federal Housing Finance Agency, Fourth Floor, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

### SUPPLEMENTARY INFORMATION:

#### I. Background

##### A. Proposed PTFC Rule

On September 26, 2023, FHFA published a Notice of Proposed Rulemaking (proposed PTFC rule) in the

<sup>3</sup> Depository institutions include federally insured credit unions.

<sup>4</sup> 12 U.S.C. 3331-3355; 12 CFR 34.41-34.47 (OCC); 12 CFR part 225, subpart G (Board); 12 CFR part 323, subpart A (FDIC); 12 CFR part 722 (NCUA).

<sup>5</sup> This relief also includes loans modified during the effective period of this order.

<sup>6</sup> 12 U.S.C. 3352(b).

<sup>7</sup> Press Release, The White House (August 10, 2023), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/>.

<sup>8</sup> This relief also includes loans modified during the effective period of this order.