BOARD OF GOVERNORS

OF THE

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DIVISION OF BANKING
SUPERVISION AND REGULATION

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

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TO THE OFFICERS IN CHARGE OF SUPERVISION AT EACH FEDERAL RESERVE BANK AND BANKING ORGANIZATIONS SUPERVISED BY THE FEDERAL RESERVE

SUBJECT: Supervisory Practices Regarding Banking Organizations and their Borrowers and Other Customers Affected by a Major Disaster or Emergency

Applicability to Community Banking Organizations: This letter applies to all state member banks, bank holding companies, savings and loan holding companies, and U.S. offices of foreign banking organizations, including those with $10 billion or less in consolidated assets.

The purpose of this letter is to highlight the supervisory practices that the Federal Reserve can employ when banking organizations and their borrowers and other customers are affected by a major disaster or emergency. Major disasters include hurricanes, tornadoes, floods, earthquakes, blizzards, and other natural catastrophes, as well as fires and explosions.[1] An emergency is an instance in which federal assistance is necessary to save lives and protect property, public health, or safety.[2]

In general, the provisions of this letter are triggered when the President of the United States makes a major disaster or emergency declaration.[3] A catastrophe that results in such a declaration can hinder affected banking organizations from effectively serving their borrowers

[1] *See* 42 U.S.C. 5122(2).

[2] *See* 42 U.S.C. 5122(1).

[3] *See* 42 U.S.C. 5170 and 5191.

and other customers.[4] It also may present challenges for such organizations in complying in a complete and timely manner with their regulatory obligations.

In this context, the Federal Reserve is reaffirming its long-standing policy of using available flexibility, consistent with statutory and regulatory requirements, following a major disaster or emergency to facilitate the recovery efforts of affected banking organizations. When a major disaster or emergency is declared, the Federal Reserve Banks should promptly communicate the availability of regulatory relief to banking organizations with operations in the designated area. In addition to using normal communications channels following a disaster or emergency, Federal Reserve Banks should consider using the System's Emergency Communications System, which allows banking organizations to receive important messages from their respective regulatory agencies.[5] Banking organizations supervised by the Federal Reserve are encouraged to work with responsible Federal Reserve Bank supervisory and operations staff to resolve any issues related to operating problems resulting from a major disaster or emergency.

In addition, Federal Reserve Banks may become aware of localized emergencies which disrupt banking services to a limited area or affect a few banking organizations but do not result in a Presidential declaration. In these situations, Federal Reserve Banks should rely on this letter for guidance on an appropriate response and consult with Federal Reserve Board staff as necessary.

Working with Borrowers and Other Customers

In the event of a major disaster or emergency, the Federal Reserve encourages banking organizations to work with affected borrowers and other customers. Banking organizations' efforts to work with customers in communities under stress may contribute to the health and recovery of these communities. Such efforts serve the long-term interests of the affected banking organizations, provided such efforts are conducted in a reasonable manner with proper controls and management oversight, and are consistent with safe and sound banking practices. These efforts may include:

- Waiving automated teller machine (ATM) fees for customers and non-customers
- Increasing ATM daily cash withdrawal limits
- Waiving overdraft fees

[4] This letter applies to any banking organization or bank borrower or other customer adversely affected by an event that is designated as a major disaster or emergency, even if the organization, borrower, or other customer is not located within the geographic area covered by the Presidential declaration.

[5] Federal Reserve Banks are encouraged to work with their state regulatory counterparts to promote the use of the Emergency Communication System (ECS). ECS provides an automated means to contact supervised institutions in the event of an emergency, allowing bank supervisors to concentrate their attention on the most critical situations. This system enables the Federal Reserve Banks to send messages and respond to inquiries. The Federal Reserve Bank of St. Louis operates and maintains the ECS. See https://bsr.stlouisfed.org/ecs.

- Waiving early withdrawal penalties on time deposits[6]
- Waiving availability restrictions on insurance checks
- Easing restrictions on cashing out-of-state and non-customer checks
- Easing credit terms for new loans
- Increasing credit card limits for creditworthy customers
- Waiving late fees for credit card and other loan balances
- Offering payment accommodations, such as allowing loan customers to defer or skip some payments or extending the payment due dates, which would avoid delinquencies and negative credit bureau reporting caused by disaster-related disruptions

The Federal Reserve realizes that the effects of a disaster on local businesses and individuals are often transitory, and prudent efforts to adjust or alter terms on existing loans in affected areas should not be subject to examiner criticism. Banking organizations should perform a comprehensive review of an affected borrower's financial condition in an effort to implement a prudent loan workout arrangement. When conducting examinations and other supervisory activities, examiners will consider the unusual circumstances that banking organizations are facing in the affected areas. A banking organization that implements prudent loan workout arrangements will not be subject to criticism for engaging in these efforts even if the restructured loans have weaknesses that result in adverse classifications or credit risk grade downgrades.

For example, a banking organization may work with a borrower to extend the terms of repayment or otherwise restructure the borrower's debt obligations.[7] Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt and strengthen the banking organization's ability to collect on its loans. During the declared disaster or emergency and immediate recovery period, banking organizations may also ease documentation requirements or credit-extension terms for new loans to affected bank customers, consistent with prudent banking practices. Such easing may help borrowers to recover their financial strength and place them in a better position to service their debt.

Financial Condition Review, Supervisory Response, and Regulatory Relief

Banking organizations in the affected areas may find that their levels of delinquent and nonperforming loans will increase. Consistent with long-standing practices, the Federal Reserve will consider the unusual circumstances these organizations face in reviewing their financial conditions and determining any supervisory response. Several types of regulatory relief are also available to facilitate recovery in areas that have been declared a major disaster by the President.

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[6] Note, however, that if a withdrawal is permitted within six days after the date of deposit without an early withdrawal penalty, that deposit should not be reported as a time deposit, but as either a savings deposit, if it meets the requirements for such deposits, or a transaction account deposit.

[7] Banking organizations should refer to the instructions for the Consolidated Reports of Condition and Income (Call Report) and the Accounting Standards Codification Subtopic 310-40, "Receivables – Troubled Debt Restructurings by Creditors," concerning the accounting of troubled debt restructurings.

The Federal Reserve Board and the other federal banking agencies have the authority to waive real estate-related appraisal regulations in certain instances. More specifically, the Depository Institutions Disaster Relief Act of 1992 (DIDRA)[8] provides the agencies with the authority to waive their real estate appraisal regulations for real estate-related financial transactions involving property affected by a major disaster.[9] Consistent with the DIDRA, the Federal Reserve Board will consider issuing such a waiver if regulated institutions encounter difficulty in obtaining appraisals for transactions that would aid reconstruction and rehabilitation in designated areas. Banking organizations are encouraged to notify the responsible Federal Reserve Bank if they encounter difficulties in complying with the Federal Reserve Board's appraisal regulations as a result of damage caused by a major disaster. If applicable, Federal Reserve Board staff, in consultation with the responsible Federal Reserve Bank, will take the steps necessary for the Federal Reserve Board to grant appraisal waivers under the DIDRA, including meeting *Federal Register* notice requirements.

In accordance with Regulation BB, which implements the Community Reinvestment Act (CRA) and related guidance, the Federal Reserve will consider activities that revitalize or stabilize a designated disaster area in evaluating a bank's record of helping to meet the credit needs of its community, even if the loans, investments, or services provided are to middle- or upper-income individuals. Examiners will consider bank activities related to disaster recovery in a designated area for 36 months following the date of designation or longer if a demonstrable community need in a particular disaster area requires an extension of the period.[10] However, examiners will give greater weight to activities designed to benefit low- or moderate-income individuals or areas.

With regard to the conduct of safety and soundness or consumer compliance supervision, the Federal Reserve will work with affected banking organizations in scheduling on-site examinations or inspections to minimize disruption and burden. Moreover, the Federal Reserve will use appropriate discretion in establishing the scope and frequency of examinations and inspections, consistent with principles of safety and soundness and applicable legal and regulatory requirements.

Submission of Regulatory Reports

The Federal Reserve recognizes that a major disaster or emergency may adversely affect the ability of some affected banking organizations to submit accurate and timely regulatory reports to the Federal Reserve, including, for example, the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C), Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y-11), and Call Reports. A banking organization having

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[8] *See* 12 U.S.C. 3357.

[9] Pursuant to section 2 of the DIDRA, 12 U.S.C. 3352, the agencies have the authority to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in areas that the President has determined, pursuant to 42 U.S.C. 5170, that a major disaster exists, provided that the exception would facilitate recovery from the major disaster and is consistent with safe and sound banking practices.

[10] *See* 12 CFR 228.12(g)(4)(ii) and "Interagency Questions and Answers Regarding Community Reinvestment," 75 *Federal Register* 11642, 11647 (March 11, 2010).

difficulty submitting accurate or timely data because of a major disaster or emergency should contact the responsible Federal Reserve Bank. The Federal Reserve does not expect to take supervisory action against a banking organization that takes reasonable and prudent steps to comply with the Federal Reserve Board's reporting requirements but is unable to make timely filings due to a major disaster or emergency.

Temporary Changes to Branch Operations or Facilities

A major disaster or emergency may lead an affected state member bank or U.S. branch of a foreign banking organization to temporarily curtail or cease the operations of a branch or temporarily move some or all of a branch's operations to alternate locations.[11] In such instances, banking organizations should advise the responsible Federal Reserve Bank of these temporary changes. The Federal Reserve will not require an application for such temporary closings or relocations. However, once the bank or U.S. branch of a foreign banking organization determines its ultimate plans for the operations of a displaced branch it should consult further with the responsible Federal Reserve Bank concerning any application or notice requirements.[12]

Customer Identification

The Federal Reserve recognizes that many persons displaced or adversely affected by a major disaster or emergency may not have access to their normal identification and personal records. Banking organizations rely on such identification to comply with Bank Secrecy Act (BSA) Customer Identification Program (CIP) requirements when opening a new account[13] and with other anti-money laundering requirements. For this reason, the Federal Reserve reminds banking organizations that the CIP requirements of the BSA provide the flexibility to use documents, non-documentary methods, or a combination with which to verify a customer's identity. Applicable regulations do not require a banking organization to verify a customer's identity prior to opening an account, so long as the organization does so within a reasonable time after the account is opened.

The Federal Reserve encourages depository institutions to use non-documentary verification methods for new affected customers that may not be able to provide standard identification documents, as permitted under the regulation. Non-documentary methods may include comparison of information provided by the customer with information obtained from a consumer reporting agency, public database, or other source, or by checking references with another financial institution.

[11] For more information regarding changes to banking facilities and other issues pertaining to business continuity planning, refer to the *Business Continuity Planning Booklet* on the Federal Financial Institutions Examination Council Information Technology Handbook InfoBase at http://ithandbook.ffiec.gov/it-booklets/business-continuity-planning.aspx.

[12] So long as a state member bank is actively planning or working to restore operations at an affected branch, the branch closing provisions of section 42 of the Federal Deposit Insurance Act would not apply. However, if a state member bank ultimately determines to permanently close a branch as a result of the major disaster or emergency, the bank should notify customers of the branch and the responsible Federal Reserve Bank in the manner specified by section 42 and as soon as possible after the branch closure decision has been made.

[13] 31 U.S.C. 5318(l) requires depository institutions and certain other financial institutions to identify and verify customers in connection with the opening of an account.

To help protect the interests of customers and communities in the affected areas, banking organizations should continue to be alert to indications of fraud or other criminal activities and to report suspicious activity in accordance with existing protocols. Banking organizations may also refer to the Financial Crimes Enforcement Network's Advisory FIN-2006-A001, "Guidance to Financial Institutions Regarding Hurricane-Related Benefit Fraud," which provides information about potential fraudulent schemes during natural disasters.

Coordination of Regulatory Relief Efforts

The Federal Reserve Banks should coordinate their regulatory relief efforts with the appropriate state offices, including state bank supervisors. Moreover, Federal Reserve Banks should coordinate, as appropriate, with other Federal Reserve Banks in cases where a declaration of a disaster or emergency covers areas in more than one Federal Reserve District. For example, this would occur when flooding along the Mississippi River or a hurricane affects several states.

If banking organizations have questions about the guidance set forth in this letter, they are encouraged to contact the responsible Federal Reserve Bank. For additional information regarding general supervisory issues please contact Kevin Bertsch, Associate Director, Supervisory Oversight, at (202) 452-5265, in the Division of Banking Supervision and Regulation. For consumer compliance-related issues please contact Phyllis Harwell, Assistant Director, at (202) 452-3658, in the Division of Consumer and Community Affairs. In addition, questions may be sent via the Board's public website.[14]

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Supersedes:

- SR letter 08-6/CA letter 08-8, "2008 Hurricane Season and Supervisory Practices Regarding Affected Banking Organizations"
- SR letter 05-16/CA letter 05-6, "Supervisory Practices Regarding Banking Organizations and Consumers Affected by Hurricane Katrina"

[14] See http://www.federalreserve.gov/apps/contactus/feedback.aspx.