

Authorization for National Flood Insurance Program Expires*

The National Flood Insurance Program (NFIP) authorization has been caught up in the federal government shut down fight, and it expired at 11:59 p.m. ET on September 30, 2025. As a result, FEMA will stop selling and renewing NFIP flood insurance policies until the program is reauthorized. According to FEMA's website, the agency would still have the authority to ensure the payment of valid claims with available funds for existing policies.

Regulators have provided guidance on an institution's continuing responsibilities in the event of an NFIP lapse. In the updated Interagency Questions and Answers Regarding Flood Insurance, the regulators added Q&A Applicability 12 (based on guidance previously issued by the agencies), which is reproduced in full below.

"What is the applicability of the mandatory purchase requirement during a period of time when coverage under the NFIP is not available?"

During a period when coverage under the NFIP is not available, such as due to a lapse in authorization or in appropriations, lenders may continue to make loans subject to the Regulation without requiring flood insurance coverage. However, lenders must continue to make flood determinations, provide timely, complete, and accurate notices to borrowers, and comply with other applicable parts of the Regulation. In addition, lenders should evaluate safety and soundness and legal risks and prudently manage those risks during a period when coverage under the NFIP is not available. Lenders should take appropriate measures or consider possible options in consultation with the borrower to mitigate loss exposures in the event of a flood during such periods. For example,

- Lenders may determine the risk of loss is sufficient to justify a postponement in closing the loan until the NFIP coverage is available again.
- Lenders may require the borrower to obtain private flood insurance if available, as a condition of closing the loan. However, after considering the cost of the private flood policy, a lender or the borrower may decide to postpone closing rather than incur a long-term obligation to address a possible short-term lapse.

* Janet Bonnefin has retired from the firm.

- Lenders may make the loan without requiring the borrower to apply for flood insurance and pay the premium while NFIP coverage is unavailable. However, this option poses a number of risks that should be carefully evaluated. Moreover, once NFIP coverage becomes available again, the Agencies expect that flood insurance will be obtained for these loans, including, if necessary, by force placement. Before making such loans, lenders should make borrowers aware of the flood insurance requirements and that force-placed insurance is typically more costly than borrower obtained insurance. Lenders also should have a process to identify these loans to ensure that insurance is promptly purchased when NFIP coverage becomes available subsequent to their closing.”

BCG will continue to monitor the status of the NFIP authorization and provide further updates. In the interim, Members with any questions may contact Harry Khalsa at **HKhalsa@ABLawyers.com** or Joel Cook at **JCook@ABLawyers.com**.