

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 34

## FEDERAL RESERVE SYSTEM

#### 12 CFR Part 225

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 323

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 564

## NATIONAL CREDIT UNION ADMINISTRATION

#### 12 CFR Part 722

### Real Estate Appraisal Exceptions in Major Disaster Areas

**AGENCIES:** Office of the Comptroller of the Currency, Treasury Department (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury Department (OTS); and National Credit Union Administration (NCUA), collectively referred to as “the Agencies.”

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

**SUMMARY:** Section 2 of the Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the Agencies to make exceptions to statutory and regulatory requirements relating to appraisals for certain transactions. The exceptions are available for transactions that involve real property in major

disaster areas when the exceptions would facilitate recovery from the disaster and would be consistent with safety and soundness. In this notice, the Agencies grant exceptions for certain real estate-related transactions in areas affected by Hurricanes Katrina and Rita. The expiration dates for the exceptions are set out in the **SUPPLEMENTARY INFORMATION** section.

**DATES:** This order is effective on October 14, 2005 and expires for specific areas on the dates indicated in the **SUPPLEMENTARY INFORMATION** section.

#### FOR FURTHER INFORMATION CONTACT:

#### OCC

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#### Board

Virginia M. Gibbs, Senior Supervisory Financial Analyst, (202) 452-2521, Division of Banking Supervision and Regulation; or April Snyder, Attorney, (202) 452-3099, Legal Division. Mail: Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC, 20551.

#### FDIC

James D. Leitner, Examination Specialist, (202) 898-6790, Division of Supervision and Consumer Protection; or Mark G. Flanigan, Counsel, (202) 898-7426, Legal Division, 550 17th Street, NW., Washington, DC 20429.

#### OTS

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#### NCUA

Regina Metz, Staff Attorney, Office of General Counsel, (703) 518-6540; or Anthony LaCreta, Deputy Director, Office of Examination and Insurance, (703) 518-6360, 1775 Duke Street, Alexandria, VA 22314.

#### SUPPLEMENTARY INFORMATION:

## Statement

Section 2 of DIDRA, 12 U.S.C. 3352, authorizes the Agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for 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 safety and soundness.<sup>1</sup> Such exceptions expire not later than three years after the date of the President's determination that a major disaster exists in the area.

On August 29, and September 24, 2005, the President declared several areas in certain Alabama, Mississippi, and Texas counties and Louisiana parishes as Major Disaster Areas and individual assistance was authorized by the Federal Emergency Management Agency (“FEMA”) as a result of the extensive damage caused by Hurricanes Katrina and Rita. The Agencies believe that granting relief from the appraisal requirements for real estate transactions in certain designated disaster areas is consistent with the provisions of DIDRA.<sup>2</sup>

The Agencies have determined that the disruption of real estate markets in those FEMA-designated disaster areas interferes with the ability of depository institutions to obtain appraisals that comply with statutory and regulatory requirements. Therefore, 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 areas. Accordingly, the Agencies have determined that recovery from these two major disasters would be facilitated by excepting certain transactions involving real estate located in the areas directly affected by the hurricanes from the real estate appraisal requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), as amended, and the regulations promulgated thereunder.

<sup>1</sup> The agencies must make the exception no later than 30 months after the date on which the President determines that a major disaster exists in the area.

<sup>2</sup> Those counties and parishes designated by FEMA as receiving “Individual and Public Assistance (all categories)” and “Individual and Public Assistance (Categories A and B).”

This order has the effect of excepting the transactions specified below from the definition of "federally related transactions" in Title XI of FIRREA and the agencies' appraisal regulations, and thereby from the statutory and regulatory real estate appraisal requirements for such transactions.

The Agencies also have determined that the exceptions are consistent with safety and soundness, subject to the requirement that the depository institution's records relating to any excepted transaction appropriately document the following: (1) The property involved was directly affected by the major disaster or the transaction would facilitate recovery from the disaster; (2) there is a binding commitment to fund the transaction that is made within three years after the date the major disaster was declared; 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 Dates

Exceptions provided under this order expire not later than three years after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170 (DREAA), that a major disaster exists in the area. Accordingly, exceptions for the major disasters declared due to Hurricane Katrina expire on August 29, 2008, in Alabama, Mississippi and Louisiana; and exceptions for the major disasters declared due to Hurricane Rita expire on September 24, 2008, in Louisiana and Texas.

#### 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:

(1) The transaction involves real property located in an area that the President has determined, pursuant to section 401 of DREAA, is a major disaster area as a result of Hurricane Katrina (August 2005) in Alabama, Louisiana, and Mississippi; or as a result of Hurricane Rita (September 2005) in Louisiana and Texas, and has been designated eligible for federal assistance by FEMA;<sup>3</sup>

(2)(a) The real property involved was directly affected by the major disaster; or

(2)(b) The real property involved was not directly affected by the major disaster but the transaction would facilitate recovery from the disaster;

(3) There is a binding commitment to fund a transaction that is made within three years after the date the major disaster was declared by the President; and

(4) The institution retains in its files, for examiner review, appropriate documentation indicating that the requirements of Items (1)–(3) above are met and supporting the valuation of the real property involved in the transaction.

#### Appendix

Counties and parishes designated by FEMA as receiving "Individual and Public Assistance (all categories)" and "Individual and Public Assistance (Categories A and B)"

##### Hurricane Katrina

*Alabama:* Baldwin, Choctaw, Clarke, Greene, Hale, Mobile, Pickens, Sumter, Tuscaloosa and Washington

*Louisiana:* Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana

*Mississippi:* Adams, Amite, Attala, Choctaw, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Lowndes, Madison, Marion, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, Winston, and Yazoo.

##### Hurricane Rita

*Louisiana:* Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Lafourche, St. Mary, Terrebonne, and Vermilion

*Texas:* Chambers, Galveston, Hardin, Jasper, Jefferson, Liberty, Newton, Orange, and Tyler

Dated: October 5, 2005.

##### John C. Dugan,

*Comptroller of the Currency.*

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

Dated: October 4, 2005.

##### Jennifer J. Johnson,

*Secretary of the Board.*

By order of the Board of Directors.

Dated at Washington, DC, this 4th day of October, 2005.

Federal Deposit Insurance Corporation.

##### Robert E. Feldman,

*Executive Secretary.*

Dated: October 6, 2005.

By the Office of Thrift Supervision.

##### John M. Reich,

*Director.*

By order of the National Credit Union Administration.

Dated: October 4, 2005.

##### Mary F. Rupp,

*Secretary of the Board.*

[FR Doc. 05–20583 Filed 10–13–05; 8:45 am]

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<sup>3</sup> Those areas designated by FEMA as receiving "Individual and Public Assistance (all categories)"

and "Individual and Public Assistance (Categories A and B)" in Alabama, Mississippi, and Texas counties and Louisiana parishes, as listed in the appendix to this order.