

Department of the Treasury
Office of Thrift Supervision

RESCINDED

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The attached interagency Order implements the Depository Institutions Disaster Relief Act of 1992. The Order exempts from existing statutory and regulatory requirements relating to appraisals those transactions involving real estate in major disaster areas resulting from extensive flooding in the Midwest. The exemption applies to real estate related transactions which would facilitate recovery from the dis-

aster and would not be inconsistent with safety and soundness. The exemption will expire no later than three years after the disaster was declared by the President.

The order is published in the *Federal Register*, Vol. 58, No. 153, pp. 42640-42642.

Jonathan L. Fiechter
Acting Director
Office of Thrift Supervision

Attachment

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; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision, Treasury; and National Credit Union Administration.

ACTION: Statement and order; temporary exceptions.

SUMMARY: Section 2 of the Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the Federal financial institutions regulatory 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. Expiration dates for certain transactions are set out in the SUPPLEMENTARY INFORMATION section.

DATES: This order is effective on August 11, 1993, and expires for specific areas on the dates indicated in the SUPPLEMENTARY INFORMATION section.

FOR FURTHER INFORMATION CONTACT:

Office of the Comptroller of the Currency (OCC)

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Board of Governors of the Federal Reserve System (Board)

Roger T. Cole, Deputy Associate Director, (202) 452-2618, Roger H. Pugh, Assistant Director (202) 728-5883, Stanley B. Rediger, Supervisory Financial Analyst, (202) 452-2629, Virginia M. Gibbs, Supervisory Financial Analyst, (202) 452-2521, Division of Banking Supervision and Regulation; or Christopher J. Bellini, Attorney, (202) 452-3269, Legal Division. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551.

Federal Deposit Insurance Corporation (FDIC)

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Office of Thrift Supervision (OTS)

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National Credit Union Administration (NCUA)

Michael J. McKenna, Office of General Counsel, (202) 682-9630, or Alonzo Swann, Office of Examination and Insurance, (202) 682-9640; 1776 G Street NW., Washington, DC 20456.

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 transactions with respect to real property located in areas that the President has determined, pursuant to section 5170 of title 42, that a major disaster exists, provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness.¹ Such exceptions

¹ The agencies must make the exception no later than 30 months after the date on which the

expire not later than three years after the date of the President's determination that a major disaster exists in the area.

During the summer of 1993, the President determined that major disasters existed in several Midwestern states because of the extensive flooding that had occurred and is continuing in those areas in April through July of 1993. The agencies believe that granting relief from the appraisal requirements for certain real estate transactions in all such areas affected by this summer's flooding is consistent with the provisions of the DIDRA.

The agencies have determined that the disruption of real estate markets in all such affected areas interferes with the ability of depository institutions to obtain appraisals that comply with statutory and regulatory requirements and, therefore, would 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 the major disasters would be facilitated by excepting transactions involving real estate located in those areas directly affected by this summer's flooding from the real estate appraisal requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and regulations promulgated thereto. This has the effect of excluding transactions to which the exceptions apply from the definition of "federally related transactions."

The agencies have also determined safety and soundness would not be adversely affected by such exceptions so long as the depository institution's records relating to any such excepted transaction clearly indicate either that the property involved was directly affected by the major disaster or that the transaction would facilitate recovery from the disaster and there is a binding commitment to fund the transaction within three years after the date the major disaster was declared. In addition, the transaction must continue to be subject to review by management and by the agencies in the course of examination of the institution under normal supervisory standards relating to safety and soundness, though the transactions need not comply with the specific requirements of title XI of FIRREA and the agencies' appraisal regulations.

President determines that a major disaster exists in the area.

Expiration Dates

Any exceptions provided under the order shall expire not later than 3 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, that a major disaster exists in the area. Accordingly, exceptions for the major disasters declared due to the flooding in Minnesota and Wisconsin counties expire on June 11, 1996 and July 2, 1996, respectively; in Missouri, Iowa, and Illinois counties on July 9, 1996; and in Nebraska and South Dakota counties on July 19, 1996. Exceptions for any other areas that have been declared major disasters by the President expire 3 years after the date of such declaration.

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 an appraiser under those provisions, provided that:

- (1) The transaction involves real estate located in an area that the President has determined, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170, is a major disaster area as a result of the extensive flooding in the Midwest and has been designated eligible for Federal assistance by the Federal Emergency Management Agency (FEMA);²
- (2)(a) The real property involved was directly affected by the major disaster; or
- (b) The real property involved was not directly affected by the major disaster but the institution's records explain how 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 supporting the property's valuation.

Appendix

Minnesota: Brown, Cottonwood, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood,

² These areas include counties in Minnesota, Wisconsin, Missouri, Iowa, Illinois, Nebraska, and South Dakota which have been declared major disaster areas and are listed in the attached Appendix. The exception would also include any other such areas that the President declares are major disaster areas as a result of this summer's flooding in the Midwest.

Rock, Blue Earth, Nicollet, Renville, Sibley, Watonwan, Yellow Medicine, Carver, Chippewa, Faribault, Jackson, Le Sueur, Martin, McLeod, Scott, Goodhue, Washington, Dakota, Houston, Ramsey, Big Stone, Clay, Stevens, Swift, Traverse.

Wisconsin: Calumet, Clark, Columbia, Dunn, Eau Claire, Fond du Lac, Green Lake, Jackson, Marquette, Outagamie, Portage, Sauk, Trempealeau, Waupaca, Waushara, Winnebago, Wood, Adams, Buffalo, Chippewa, Crawford, Dane, Green, Grant, Iowa, Juneau, LaCrosse, Lafayette, Lincoln, Marathon, Pepin, Pierce, Price, Rock, Rusk, St. Croix, Vernon.

Missouri: Lewis, Lincoln, Marion, Pike, St. Charles, Andrew, Atchison, Barry, Bates, Boone, Buchanan, Callaway, Camden, Carroll, Cape Girardeau, Chariton, Clark, Clay, Cole, Cooper, Daviess, Franklin, Gasconade, Gentry, Harrison, Holt, Howard, Jackson, Jefferson, Lafayette, McDonald, Miller, Moniteau, Montgomery, Newton, Nodaway, Osage, Perry, Platte, Pulaski, Ralls, Ray, Saline, Shelby, St. Louis, St. Louis City, St. Genevieve, Stone, Warren, Worth.

Iowa: Clayton, Clinton, Des Moines, Dickinson, Humboldt, Jackson, Louisa, Muscaine, Scott, Wapello, Polk, Lyon, Osceola, Emmet, Kossuth, Winnebago, Worth, Mitchell, Howard, Winneshiek, Allamakee, Fayette, Chickasaw, Floyd, Cerro Gordo, Hancock, Palo Alto, Clay, O'Brien, Sioux, Plymouth, Cherokee, Buena Vista, Pocahontas, Wright, Franklin, Butler, Bremer, Dubuque, Delaware, Buchanan, Black Hawk, Grundy, Hardin, Hamilton, Webster, Calhoun, Sac, Ida, Woodbury, Monona, Crawford, Carroll, Greene, Boone, Story, Marshall, Tama, Benton, Linn, Jones, Cedar, Iowa, Poweshiek, Jasper, Dallas, Guthrie, Audubon, Shelby, Jersey, Pottawattamie, Cass, Adair, Madison, Warren, Marion, Mahaska, Keokuk, Washington, Henry, Jefferson, Monroe, Lucas, Clarke, Union, Adams, Montgomery, Mills, Fremont, Page, Taylor, Ringgold, Decatur, Wayne, Appanoosa, Davis, Van Buren, Lee.

Illinois: Adams, Calhoun, Carroll, Hancock, Henderson, Henry, Jersey, Jo Daviess, Mercer, Pike, Rock Island, Whiteside, Madison, Monroe, St. Clair, Boone, Lake, McHenry, Stephenson, Winnebago, Alexander, Jackson, Randolph, Union.

Nebraska: Buffalo, Cass, Lancaster, Sarpy, Seward, Washington, Adams, Hall, Kearney, Phelps.

South Dakota: Bon Homme, Brookings, Clay, Davison, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, Yankton.

Dated: July 27, 1993.

Office of the Comptroller of the Currency,
Department of the Treasury.

Eugene A. Ludwig,
Comptroller of the Currency.

Dated: July 30, 1993.

Board of Governors of the Federal Reserve System.

William W. Wiles,
Secretary of the Board.

July 29, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Deputy Executive Secretary.

Dated: July 29, 1993.

Office of Thrift Supervision, Department of the Treasury.

Jonathan L. Flechter,
Acting Director.

Dated: August 2, 1993.

National Credit Union Administration.

Becky Baker,
Secretary of the Board.

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