

### § 391.30

#### *Unusual Use of, or Suspicious Activity Related to, the Covered Account*

19. Shortly following the notice of a change of address for a covered account, the institution or creditor receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.

20. A new revolving credit account is used in a manner commonly associated with known patterns of fraud. For example:

a. The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (*e.g.*, electronics equipment or jewelry); or

b. The customer fails to make the first payment or makes an initial payment but no subsequent payments.

21. A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

a. Nonpayment when there is no history of late or missed payments;

b. A material increase in the use of available credit;

c. A material change in purchasing or spending patterns;

d. A material change in electronic fund transfer patterns in connection with a deposit account; or

e. A material change in telephone call patterns in connection with a cellular phone account.

22. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

23. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

24. The financial institution or creditor is notified that the customer is not receiving paper account statements.

25. The financial institution or creditor is notified of unauthorized charges or transactions in connection with a customer's covered account.

#### *Notice from Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection With Covered Accounts Held by the Financial Institution or Creditor*

26. The financial institution or creditor is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

### 12 CFR Ch. III (1–1–14 Edition)

## Subpart D—Loans in Areas Having Special Flood Hazards

### § 391.30 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to 12 U.S.C. 1462, 1462a, 1463, 1464, 1819 (Tenth) and 42 U.S.C. 4012a, 4104a, 4104b, 4106, 4128.

(b) *Purpose.* The purpose of this subpart is to implement the requirements of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4129).

(c) *Scope.* This subpart, except for §§ 391.35 and 391.37, applies to loans secured by buildings or mobile homes located or to be located in areas determined by the Director of the Federal Emergency Management Agency to have special flood hazards. Sections 391.35 and 391.37 apply to loans secured by buildings or mobile homes, regardless of location.

### § 391.31 Definitions.

(a) *Act* means the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001–4129).

(b) *State savings association* means, for purposes of this subpart, a State savings association as that term is defined in 12 U.S.C. 1813(b)(3) and any subsidiaries thereof.

(c) *Building* means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, and a walled and roofed structure while in the course of construction, alteration, or repair.

(d) *Community* means a State or a political subdivision of a State that has zoning and building code jurisdiction over a particular area having special flood hazards.

(e) *Designated loan* means a loan secured by a building or mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the Act.

(f) *Director of FEMA* means the Director of the Federal Emergency Management Agency.

(g) *Mobile home* means a structure, transportable in one or more sections, that is built on a permanent chassis and designed for use with or without a

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permanent foundation when attached to the required utilities. The term *mobile home* does not include a recreational vehicle. For purposes of this subpart, the term *mobile home* means a mobile home on a permanent foundation. The term *mobile home* includes a manufactured home as that term is used in the NFIP.

(h) *NFIP* means the National Flood Insurance Program authorized under the Act.

(i) *Residential improved real estate* means real estate upon which a home or other residential building is located or to be located.

(j) *Servicer* means the person responsible for:

(1) Receiving any scheduled, periodic payments from a borrower under the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan; and

(2) Making payments of principal and interest and any other payments from the amounts received from the borrower as may be required under the terms of the loan.

(k) *Special flood hazard area* means the land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of FEMA.

(l) *Table funding* means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

### § 391.32 Requirement to purchase flood insurance where available.

(a) *In general.* A State savings association shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. Flood insurance coverage under the Act is limited to the overall value of the property securing the des-

ignated loan minus the value of the land on which the property is located.

(b) *Table funded loans.* A State savings association that acquires a loan from a mortgage broker or other entity through table funding shall be considered to be making a loan for the purposes of this subpart.

### § 391.33 Exemptions.

The flood insurance requirement prescribed by § 391.32 does not apply with respect to:

(a) Any State-owned property covered under a policy of self-insurance satisfactory to the Director of FEMA, who publishes and periodically revises the list of States falling within this exemption; or

(b) Property securing any loan with an original principal balance of \$5,000 or less and a repayment term of one year or less.

### § 391.34 Escrow requirement.

If a State savings association requires the escrow of taxes, insurance premiums, fees, or any other charges for a loan secured by *residential improved real estate* or a mobile home that is made, increased, extended, or renewed on or after October 1, 1996, the State savings association shall also require the escrow of all premiums and fees for any flood insurance required under § 391.32. The State savings association, or a servicer acting on behalf of the State savings association, shall deposit the flood insurance premiums on behalf of the borrower in an escrow account. This escrow account will be subject to escrow requirements adopted pursuant to section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) (RESPA), which generally limits the amount that may be maintained in escrow accounts for certain types of loans and requires escrow account statements for those accounts, only if the loan is otherwise subject to RESPA. Following receipt of a notice from the Director of FEMA or other provider of flood insurance that premiums are due, the State savings association, or a servicer acting on behalf of the State savings association, shall pay the amount owed to the insurance provider from the escrow account by the date when such premiums are due.