



Office of the Comptroller of the Currency

12 CFR Part 34

[Docket ID OCC-2024-0002]

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. OP-1829]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064-ZA41

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722 & 12 CFR Part 741

Temporary Exceptions to FIRREA Appraisal Requirements in Maui County as Affected by Hawaii Wildfires

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and National Credit Union Administration (NCUA), collectively referred to as the agencies.

ACTION: Statement and order; temporary exceptions.

SUMMARY: The Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) relating to transactions involving real property located within an area in a state or territory declared to be a major disaster by the President. In this statement and order, the agencies exercise their authority to grant temporary exceptions to the FIRREA appraisal requirements for real estate-related financial transactions, provided certain criteria are met, in an area in the State of Hawaii following the major disaster declared by President Biden as a result of wildfires. The expiration

date for the exceptions is August 10, 2026, which is three years after the date the President declared the major disaster.

DATES: This order is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and expires three years after the date the President declared the relevant area a major disaster, which is August 10, 2026.

FOR FURTHER INFORMATION CONTACT:

OCC: Kevin Lawton, Appraiser, Real Estate Specialist, Bank Supervision Policy, at (202) 649-7152; or Mitchell Plave, Special Counsel, Chief Counsel's Office, at (202) 649-6285. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Board: Devyn Jeffereis, Senior Financial Institution Policy Analyst II, Division of Supervision and Regulation at (202) 452-2729; Matthew Suntag, Senior Counsel, Legal Division, at (202) 452-3694; or David Imhoff, Senior Attorney, Legal Division, at (202) 452-2249; For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: Patrick J. Mancoske, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898-7032, PMancoske@FDIC.gov; Mark Mellon, Counsel, Legal Division, at (202) 898-3884, MMellon@FDIC.gov; Lauren Whitaker, Counsel, Legal Division at (202) 898-3872, lwhitaker@fdic.gov; Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

NCUA: Simon Hermann, Senior Credit Specialist, Office of Examination and Insurance, at (703) 518-6360; Robert Leonard, Compliance Officer, Office of General Counsel, (703) 518-1143; Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, at (703) 548-2601; National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

Statement

Section 2 of DIDRA, which added section 1123 to Title XI of FIRREA,¹ authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in an area in which the President has determined a major disaster exists, pursuant to 42 U.S.C. 5170, provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness.

On August 10, 2023, the President declared that a major disaster existed in the State of Hawaii² due to damage resulting from wildfires beginning on August 8, 2023. The agencies have determined that granting relief from the appraisal requirements set forth in Title XI of FIRREA, and in the agencies' appraisal regulations, for real estate-related financial transactions in an area designated as adversely affected by the major disaster is consistent with the provisions of DIDRA.

Facilitation of Recovery from the Major Disaster

The agencies have determined that the disruption of real estate markets in the area designated as adversely affected by the major disaster interferes with the ability of depository institutions³ to obtain appraisals that comply with Title XI statutory and regulatory requirements. Further, 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 area. Accordingly, the agencies have determined that recovery from this major disaster would be facilitated by exempting certain transactions involving real estate located in the area designated as adversely affected by the wildfires from the real estate appraisal requirements of Title XI of FIRREA and its implementing regulations.⁴

Consistency with Safety and Soundness

¹ 12 U.S.C. 3352.

² Press Release, The White House (August 10, 2023), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/>.

³ Depository institutions include federally insured credit unions.

⁴ 12 U.S.C. 3331-3355; 12 CFR 34.41 – 34.47 (OCC); 12 CFR part 225, Subpart G (Board); 12 CFR part 323, Subpart A (FDIC); 12 CFR part 722 (NCUA).

The agencies also have determined that the exceptions are consistent with safety and soundness, provided that the depository institution determines the following: (1) the transaction involves real property located in the area designated as adversely affected by the major disaster; (2) there is a binding commitment to fund the transaction⁵ that was entered into on or after August 10, 2023, but no later than August 10, 2026; 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 Date

Exceptions made under section 1123 of FIRREA may be provided for no more than three years after the President determines a major disaster exists in an area.⁶ Accordingly, the exceptions provided for by this order shall expire three years after the date the President declared a major disaster existed in the State of Hawaii, which is August 10, 2026.

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 the institution determines each of the following:

- (1) The transaction involves real property located in **Maui County**,⁷ which has been designated as adversely affected by a major disaster by the President as a result of the wildfires beginning on August 8, 2023.
- (2) There is a binding commitment to fund the transaction⁸ that was entered into on or after August 10, 2023, but no later than August 10, 2026.

⁵ This relief also includes loans modified during the effective period of this order.

⁶ 12 U.S.C. 3352(b).

⁷ Press Release, The White House (August 10, 2023), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/>.

⁸ This relief also includes loans modified during the effective period of this order.

- (3) The value of the real property supports the institution's decision to enter into the transaction.

Michael J. Hsu,

Acting Comptroller of the Currency.

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

Ann E. Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 5, 2024.

James P. Sheesley,

Assistant Executive Secretary.

By order of the National Credit Union Administration Board.

Dated at Alexandria, VA, this 28th day of February, 2024.

Melane Conyers-Ausbrooks,

Secretary of the Board.

BILLING CODES: 4810-33-P; 6210-01-P; 6714-01-P; 7535-01-P

[FR Doc. 2024-05159 Filed: 3/11/2024 8:45 am; Publication Date: 3/12/2024]