

Subject: Responding to a Declaration of a Legal Holiday or a Natural Disaster

Date: September 21, 2012

To: Chief Executive Officers, Chief Operations Officers, and Compliance Officers of All National Banks, Federal Savings Associations, and Federal Branches and Agencies of Foreign Banks; Department and Division Heads; all Examining Personnel; and other interested parties

Description: Supervisory Guidance on Natural Disasters and Other Emergency Conditions

The Office of the Comptroller of the Currency (OCC) in this bulletin sets out supervisory guidance for national banks, federal savings associations, and any federal branch or agency of a foreign bank (collectively, banks) in the event of a declaration of a legal holiday pursuant to 12 USC 95(b)(1) and 12 CFR 7.3000(b) for national banks, 12 USC 1463(a)(1)(A) for federal savings associations, and 12 USC 3102(b) for federal branches or agencies of a foreign bank, or a disaster that may affect a bank's operations or customers. The bulletin rescinds and replaces

- OCC Bulletin 2008-26, "Responding to Disasters: Supervisory Guidance," October 3, 2008;
- Office of Thrift Supervision Chief Executive Officer Memorandum 278, "Natural Disaster Preparedness," September 9, 2008;
- Office of Thrift Supervision Chief Executive Officer Memorandum 384, "Natural Disaster Preparedness," April 28, 2011; and
- Office of Thrift Supervision Thrift Bulletin 71, "Serving Communities Affected by Natural Disasters," August 8, 1997.

The Comptroller of the Currency, or an appointed designee, has the authority to declare a legal holiday for banks in the event of natural calamity, riot, insurrection, war, or other emergency conditions whether caused by acts of nature or man (hereinafter referred to as "events").

A written proclamation of a legal holiday, unless otherwise directed, provides bank management the discretion to make individual decisions to remain open, or close, for the duration of the event. It is anticipated that only those banks or offices directly affected by the event will close, and those banks or offices that close will make every effort to reopen as quickly as possible to address the banking needs of their customers and communities.

Regardless of whether a legal holiday has been declared through a written proclamation, bank management has the discretion in the case of any emergency or event, to act prudently and responsibly to ensure the safety of human life and to safeguard banking assets (tangible and intangible).

If a disaster or other event is expected to result in long-term or widespread disruption of critical services, and banks operate or have customers in areas that are affected by the event, the OCC encourages banks to consider

- waiving or reducing ATM fees.
- temporarily waiving late payment fees or penalties for early withdrawal of savings for affected customers.
- working with borrowers who have been affected by the event by
 - restructuring borrowers' debt obligations, when appropriate, by altering or adjusting payment terms. Payment extensions should reflect individual borrower situations and generally should not exceed 90 days.
 - expediting lending decisions when possible, consistent with safety and soundness principles.
- reassessing the current credit needs of the community and helping meet those needs by originating or participating in sound loans to rebuild damaged property.
- contacting state and federal agencies, as well as other financial institutions, to help mitigate the effects of the event.

Examiners will not criticize these types of responses as long as the actions are taken in a manner consistent with sound banking practices. The OCC recognizes adjusting or modifying payment terms may be the most reasonable option for some borrowers when done prudently, and documentation deficiencies may occur because of bank staffing shortages and business disruptions during a recovery period. The OCC's *Bank Accounting Advisory Series* and the FFIEC instructions to the Reports of Condition and Income ("call reports") provide additional guidance on accounting and reporting issues that may arise in the event of a disaster. The OCC may also temporarily waive the Qualified Thrift Lender requirements for federal savings associations in order to help rebuild affected businesses. Lastly, the OCC will consider a bank's support of recovery-related activities in a disaster and help in revitalizing and stabilizing the affected area under provisions of the Community Reinvestment Act.

The OCC, as a member of the Financial and Banking Information Infrastructure Committee, can help expedite requests for assistance for critical issues such as cash availability or delivery and the restoration of telecommunication services. Additionally, the OCC will also be ready to approve temporary facilities that may be needed to replace facilities damaged or destroyed as a

result of an event. A bank should promptly notify its supervisory office if the bank expects a delay in filing Reports of Condition and Income or other reports. The OCC will evaluate any causes beyond the control of a reporting institution when considering the length of an acceptable delay.

Should an event occur in a bank's area, a good source of information is the Federal Emergency Management Agency Web site at www.fema.gov. The Federal Emergency Management Agency promptly provides disaster information, including major disaster declarations by the President of the United States. In addition, regional coalitions have been formed in several areas around the United States to facilitate the recovery of the financial services sector following a natural disaster or man-made attack. The coalitions facilitate information sharing with the government as well as with strategic partners during a crisis and are open to all members of the financial services sector. A list of regional coalitions is located at www.rpcfirst.org/partnerships/default.asp. For additional information, banks should contact their OCC supervisory office.

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