[Bond Case Briefs]

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[Agencies Announce Hurricanes Fiona and Ian Disaster Relief Guidance: Buckley]

On September 29, the FDIC, Federal Reserve Board, NCUA, OCC, and the Conference of State Bank Supervisors [issued] a joint interagency statement covering supervisory practices for financial institutions affected by Hurricanes Fiona and Ian. Among other things, the agencies informed institutions facing operational challenges that the regulators will expedite requests for temporary facilities, noting that in most cases, "a telephone notice to the primary federal and/or state regulator will suffice initially to start the approval process, with necessary written notification being submitted shortly thereafter." The agencies also called on financial institutions to "work constructively" with affected borrowers, noting that "prudent efforts" to adjust or alter loan terms in affected areas "should not be subject to examiner criticism." Institutions facing difficulties in complying with any publishing and reporting requirements should contact their primary federal and/or state regulator. Additionally, the agencies noted that institutions may receive Community Reinvestment Act consideration for community development loans, investments, or services that revitalize or stabilize federally designated disaster areas. Institutions are also encouraged to monitor municipal securities and loans impacted by Hurricanes Fiona and Ian.

HUD also [announced] disaster assistance for areas in Puerto Rico affected by Hurricane Fiona. The disaster assistance follows President Biden's major disaster declaration on September 21. According to the announcement, effective immediately, HUD is issuing 29 regulatory and administrative waivers intended to provide flexibility and relief to impacted communities. The waivers cover the following HUD programs: The Community Development Block Grant Program, HOME Investment Partnerships Program, Housing Opportunities for Persons with AIDS Program, Continuum of Care Program, and Emergency Solutions Grant Program. HUD is also providing an automatic 90-day moratorium on foreclosures of FHA-insured home mortgages for covered properties effective September 21, as well as for mortgages to Native American borrowers guaranteed under Section 184 Indian Home Loan Guarantee program and home equity conversion mortgages. HUD is also making various FHA insurance options available to victims whose homes require repairs or were destroyed or severely damaged. HUD's Section 203(h) program allows borrowers from participating FHA-approved lenders to obtain 100 percent financing, including closing costs, for homes in which "reconstruction or replacement is necessary." Additionally, HUD's Section 203(k) loan program will allow individuals to finance the purchase of a house, or refinance an existing house and the costs of repair, through a single mortgage. The program also allows homeowners with damaged property to finance the repair of their existing single-family homes. HUD will also share information on housing providers and HUD programs with FEMA and the state, and will provide flexibility to public housing agencies. Similar disaster assistance measures were also announced (see here and here) for areas of Alaska affected by severe storms, flooding, and landslides from September 15-20, and areas in Florida impacted by Hurricane Ian.

The FDIC also [issued] FIL-42-2022 to provide regulatory relief to financial institutions and help facilitate recovery in areas of Puerto Rico affected by Hurricane Fiona from September 17 and later. The FDIC acknowledged the unusual circumstances faced by institutions affected by the storms and suggested that institutions work with impacted borrowers to, among other things: (i) extend repayment terms; (ii) restructure existing loans; or (iii) ease terms for new loans to those affected by the severe weather, provided the measures are done "in a manner consistent with sound banking practices." Additionally, the FDIC noted that institutions "may receive favorable Community Reinvestment Act consideration for community development loans, investments, and services in support of disaster recovery." The FDIC will also consider regulatory relief from certain filing and publishing requirements.

Additionally, the OCC issued a proclamation permitting OCC-regulated institutions, at their discretion, to close offices affected by Hurricane Ian in Florida "for as long as deemed necessary for bank operation or public safety." The proclamation directed institutions to OCC Bulletin 2012-28 for further guidance on actions they should take in response to natural disasters and other emergency conditions. According to the 2012 Bulletin, only bank offices directly affected by potentially unsafe conditions should close, and institutions should make every effort to reopen as quickly as possible to address customers' banking needs.

NYDFS also issued an industry letter advising state-regulated financial institutions to take reasonable and prudent measures to assist consumers and businesses affected by Hurricane Fiona in Puerto Rico. The guidance recommends that financial institutions (i) waive ATM and overdraft fees; (ii) increase ATM withdrawal limits; (iii) ease restrictions on cashing out-of-state and non-customer checks; (iv) ease credit terms for new loans; (v) increase credit card limits for creditworthy customers; (vi) waive late fees on credit card and other loan balances; (vii) work with customers to defer payments or extend payment due dates on loans to help prevent delinquencies and negative credit reporting caused by disaster-related disruptions; and (viii) work with money transmitters and money services businesses to facilitate and expedite the transmission of funds. The actions are intended to help ease financial burdens for New Yorkers seeking to support individuals located in Puerto Rico, as well as consumers in Puerto Rico who hold New York bank accounts.

September 30 2022

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