

### **Special Relief Following Flooding In Colorado**

1. Purpose. This Circular expresses concern about Department of Veterans Affairs (VA) home loan borrowers affected by flooding in Colorado, and describes measures mortgagees may employ to provide relief.

2. Direct and Indirect Impact on Borrowers. Directly affected by flooding in Colorado were those whose homes were severely damaged or destroyed, the families of those killed during the flooding, and those who suffered considerable personal injury. Also directly affected were those whose work environments were destroyed or severely damaged as a result of the flooding. Many others have been indirectly affected, including business partners of those in the federally-declared disaster areas announced by the Federal Emergency Management Agency (FEMA). The impact may continue to ripple throughout the country, as evacuees travel nationwide to seek the support and shelter of family members.

3. Forbearance Request. VA encourages holders of guaranteed loans to extend every possible forbearance to borrowers in distress as a result of the Colorado flooding. Careful counseling with borrowers should help determine whether their difficulties are directly or indirectly related to the flooding, or whether they stem from other sources that must be addressed. The proper use of authorities granted in VA regulations may be of assistance in appropriate cases. For example, Title 38, Code of Federal Regulations (CFR), section 36.4311 (Prepayments) allows the reapplication of prepayments to cure or prevent a default. This means that if a borrower has been making additional principal payments over a period of years, the principal balance may be increased up to the scheduled balance and the increase applied toward regular installments. Also, 38 CFR 36.4315 (Loan modifications) allows the terms of any guaranteed loan to be modified without the prior approval of VA, provided certain conditions in the regulation are satisfied.

4. Moratorium on Foreclosure. Although the loan holder is ultimately responsible for determining when to initiate foreclosure, and for completing termination action, VA has requested on its website (<http://www.benefits.va.gov/homeloans>) that holders establish a 90-day moratorium from the date of a disaster on initiating new foreclosures on loans affected by major disasters. VA regulation 38 CFR 36.4324(a)(3)(ii) allows additional interest on a guaranty claim when eventual termination has been delayed due to circumstances beyond the control of the holder, such as VA-requested forbearance. The initial request applies to loans in the federally declared disaster areas, which VA believes should include areas declared by FEMA as eligible for public assistance, as well as those areas eligible for individual assistance. Because of the widespread impact of flooding in Colorado, holders should ensure that all foreclosure referrals nationwide during the moratorium are reviewed prior to initiation

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to ensure that borrowers have not been affected significantly enough to justify delay in referral. Any questions about impact should be discussed with the VA Regional Loan Center (RLC) of jurisdiction.

5. Late Charge Waivers. VA believes that many servicers plan to waive late charges on loans in the disaster areas, and VA encourages all servicers to adopt such a policy for any loans that may have been affected due to the ripple effect of the flooding as mentioned in paragraph 2.

6. Credit and VA Reporting. In order to avoid damaging credit records of Veteran borrowers in the affected areas, many servicers may suspend credit bureau reporting on loans in those areas. At this time, VA would encourage servicers to consider suspension of credit reporting on Veteran borrowers nationwide who have been affected by the flooding. Similarly, VA will not penalize servicers for any late default reporting to VA as a result of the flooding. This may include direct damage to servicer facilities located in the disaster areas or their operations elsewhere which may have been impacted by business partners within the disaster areas. Please contact the appropriate RLC with any questions.

7. Activation of the National Guard. Some members of the National Guard have already been called to active duty to assist in recovery efforts. Those individuals may experience financial difficulties of their own due to what could be extended tours of duty during the disaster recovery efforts. VA encourages servicers to extend special forbearance to National Guard members in this situation.

8. Rescission: This circular is rescinded October 1, 2014.

By Direction of the Under Secretary for Benefits

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