




FEMA

W-13044

August 8, 2013

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the National Flood Insurance Program (NFIP) Servicing Agent



FROM: Dennis L. Kuhns
Director, Risk Insurance Division
Federal Insurance and Mitigation Administration (FIMA)

SUBJECT: Revised Cash Management Procedure over Restricted Accounts in the event of WYO Company Insolvency, Creditor Demand or Court Order

This bulletin clarifies and revises the Cash Management Procedures in Part C of the WYO Accounting Procedures Manual.

WYO companies, as fiscal agents of the Federal government, collect, retain, and distribute NFIP funds. See 42 U.S.C. § 4017; see also 44 C.F.R §62.23(g). WYO companies are required to maintain separate accounting of these Federal funds. See 44 C.F.R Pt. 62, App. A, Art. II. E. Also, in the event of the insolvency of a WYO company, it must return any federal NFIP funds through FEMA to the National Flood Insurance Fund. See 44 C.F.R Pt. 62, App. A, Article V(E).

This bulletin reiterates the requirements in the event of a WYO company insolvency. The major revision in the Program is designed to ensure the orderly transfer of Federal funds to FEMA from the WYO company, as follows:

NAMING THE RESTRICTED ACCOUNT

All existing restricted and disbursement account titles/names established in the FDIC-regulated bank separate from all other WYO Company business must be titled "account name FOR THE BENEFIT OF FEMA NFIP." All new restricted and disbursement account titles/names must be established as "account name FOR THE BENEFIT OF FEMA NFIP."

The remaining elements of this bulletin reiterate existing requirements:

WYO PROGRAM FINANCIAL CONTROL PLAN REQUIREMENTS AND PROCEDURES (FCPRP)

Incorporated by reference at 44 C.F.R Pt. 62, App. B, the WYO PROGRAM FINANCIAL CONTROL PLAN REQUIREMENTS AND PROCEDURES (FCPRP) is a Plan to maintain financial control for business written under the WYO Program. It states:

In general, under the Write Your Own (WYO) Program, we (the Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA)) may enter into an arrangement with individual private sector insurance companies licensed to engage in the business of property insurance. The arrangement allows these companies—using their customary business practices—to offer flood insurance coverage to eligible property owners. To assist companies in marketing flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO policies issued under the WYO Arrangement. To account for and ensure appropriate spending of any taxpayer funds, the WYO companies and we will implement this Financial Control Plan (Plan). Only the FIA Administrator (Administrator) may approve any departures from the requirements of this Plan.

In addition, Page 2, Section C.3.c of the FCPRP states:

A WYO Company must meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing (TRRP) Plan and the WYO Accounting Procedures Manual.

SOLVENT, GOING CONCERN

The WYO Accounting Procedures Manual states that the FCPRP “requires WYO Companies to submit a monthly financial statement reporting package to the National Flood Insurance Program (NFIP) Bureau and Statistical Agent. The components of the reporting package are financial statements, reconciliation statements, certification statements, and statistical transactions.” The underlying principle within the reference is that the WYO Company is an “active, solvent, Going Concern”, whose continuing operations are subject to industry standards, independent audits and regulatory reviews.

DEPOSIT OF NFIP FUNDS

PART C, Section I, Deposit of NFIP Funds, states:

All premiums (net of expense allowances), Federal Policy Fees, and interest income relating to the WYO flood insurance program shall be deposited in a special account in an FDIC-regulated bank separate from all other WYO Company business. For purposes of clarification, premiums collected will also include all "suspense" items, not only

posted policies. In addition, all premiums, Federal Policy Fees, and Reserve Fund assessments collected for policies with a future effective date must be deposited into the WYO Company's restricted account as soon as processing allows.

TRANSFER OF EXCESS FUNDS

PART C, Section II, Transfer of Excess Funds, states:

Transfer of excess funds from the Restricted Flood Insurance Account to the U.S. Treasury is mandatory and should be performed at least once a week. Excess funds are defined as those funds in the restricted account less \$5,000 and established payables (Exhibit III, Line 310). Funds in the premium suspense account are to be included in the excess funds calculation. In addition, premiums, Federal Policy Fees, and Reserve Fund assessments collected for policies with future effective dates should be included in the excess funds calculation. Established reserves for claim payments and claim loss adjustment expenses are not included when calculating the excess funds amount.

WYO COMPANY INSOLVENCY, CREDITOR DEMAND OR COURT ORDER

To assist companies in marketing flood insurance coverage, the Federal Government is a guarantor of flood insurance coverage for WYO policies issued under the WYO Arrangement. In addition, to account for and ensure appropriate spending of any taxpayer funds by the WYO Companies all premiums (net of expense allowances), Federal Policy Fees, Reserve Fund assessments, and interest income relating to the WYO flood insurance program shall be deposited in a special account in an FDIC-regulated bank separate from all other WYO Company business.

The total value of all account balances, including all premiums (net of expense allowances), Federal Policy Fees, Reserve Fund assessments, interest income, claims and loss disbursement accounts relating to the WYO flood insurance program and all funds held and not yet deposited or transferred to the United States Treasury, are Federal NFIP funds administered by FEMA. In the event of a WYO Company insolvency, creditor demand or Court Order, all funds in all FEMA NFIP related accounts are FEMA NFIP funds and do not attach to the insolvency, creditor demand or Court Order of the WYO Company. As such, restricted, claim loss disbursement and any other related FEMA NFIP account funds remain FEMA NFIP funds and independent of the WYO Company operations. See 44 C.F.R Pt. 62, App. A, Article V(E).

Within thirty (30) days of this memorandum please forward to Jackie Taylor, Jackie.Taylor@fema.dhs.gov, a list of each (all) restricted account titles as revised to reflect the new cash management procedure. If you have questions or need additional information, please contact Jackie at (202) 646-2772.

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Accounting, Claims, Data Processing, Marketing, Underwriting