Testimony of Charles G. Cooper
Commissioner
Texas Department of Banking
House Committee on Investments and Financial Services
January 31, 2018

Good morning Chairman Parker and members of the committee. I am Charles G. Cooper, Commissioner for the Texas Department of Banking. I appreciate the opportunity to discuss the regulatory hurricane response.

Hurricane Harvey

Hurricane Harvey was one of the largest, most severe hurricanes in the history of Texas. According to the National Weather Service, Tropical Storm Harvey strengthened in the Gulf of Mexico and became a Category 4 hurricane on Thursday, August 24, 2017, heading straight for the Texas Coastline. In anticipation of the imminent disaster, Governor Greg Abbott declared a state of disaster for 30 Texas counties on August 23, 2017. On August 24, 2017, as Commissioner, I issued a proclamation (Exhibit A) allowing Texas state-chartered banks with offices in affected areas to temporarily close under Section 37.003 of the Texas Finance Code. When Hurricane Harvey (Harvey) made landfall on August 25th, it was the first Category 4 hurricane to make landfall along the Texas Coast since Hurricane Carla in 1961. Harvey initially made landfall near Rockport, Texas, threatening millions of Texans with 130-mph plus winds, heavy rains, and a massive storm surge that drenched coastal areas. Instead of moving inland, Harvey stalled around the shoreline of Texas for days producing catastrophic flash flooding throughout most of southeast and central Texas. According to the National Weather Service, Cedar Bayou, Texas, located just southeast of Houston, recorded over 51 inches of rain, setting the record for the most rainfall ever from a single storm in the continental United States.

Loss estimates for these counties are in the multi-billions, and recovery efforts will take years to complete. In many cases, roadways were completely impassable due to severe flood waters, which limited employee access to banking locations. However, many banks implemented their disaster recovery and business continuity plans, and their locations were quickly reopened and functioning to serve their respective communities. Within weeks, all state-chartered locations opened in some capacity except for two which remain temporarily closed. This is truly remarkable considering the magnitude of the devastation caused by Harvey.

Counties Declared a Disaster Area by Governor Greg Abbott	60
State-chartered Banks in Affected Areas	66
State Bank Branches in Affected Areas	670
Number of Branches Closed at Peak of Storm	260
Number of Branches Closed One Week After Storm	43
Number of Branches Closed One Month After Storm	2

Regulatory Response

After the August 24, 2017 proclamation was issued by the Texas Department of Banking, an updated proclamation and order were issued on August 28, 2017, authorizing state banks to establish temporary branches to serve their customers (Exhibit B).

Lessons taken from previous storms such as Hurricanes Katrina, Ike, and Rita proved to be invaluable not only for bankers, but also for regulators. Once Governor Abbott declared specific counties disaster areas, Department employees immediately developed a list of state-chartered banks domiciled or with branch locations in the affected counties. Subsequently, the Department contacted its federal counterparts at the Federal Deposit Insurance Corporation (FDIC) and Federal Reserve Bank of Dallas (FRB) to coordinate contacting each financial institution in the disaster areas to assess what, if any, damage had occurred, and if any regulatory assistance was needed. Employees immediately began contacting bankers to gather details on the impact Harvey had on their respective institutions. To ensure consistency, the Department and FDIC utilized the "Event Management Database Script" to assess the impact. See Exhibit C for a copy of the call script. The responses were inputted into the FDIC's "Event Monitoring System" database, prioritizing what banks needed a follow-up call or assistance. In addition, the FRB provided a daily report detailing the conditions of all Fed member banks. Each subsequent day, follow-up calls were made to state banks with significant damage to get a status update on when their location(s) would be operational. Accommodations were also made for state-chartered banks with upcoming examinations by extending the start dates to allow bank management time to recover.

Obviously, everyone's first concern was the protection of life and property. I was also concerned with the ability of the banking technology infrastructure to withstand water and wind damage, along with a prolonged power outage. In 2001, Tropical Storm Allison caused widespread flooding in Houston resulting in disruptions at several major data centers. Since then, these facilities have been relocated to more secure areas. There had not been a major test of these "fixes" until now. As our citizens evacuated the flood areas to seek shelter and buy goods, and first responders traveled to the damaged areas, uninterrupted access to their bank accounts via debit or credit cards was critical. By contacting state-chartered banks and personnel on the ground to monitor the situation, the Department learned of only a few short-term localized disruptions. Furthermore, we did not receive a single citizen complaint. I consider this a major accomplishment attributed to banks emergency preparedness programs.

The Department participated in daily conference calls the weeks of August 28th and September 4th to assess the impact of Harvey with other government and bank trade group officials. The calls were with the State of Texas Operations Center, Financial and Banking Information Infrastructure Committee, National Cybersecurity and Communications Integration Center, and National Infrastructure Coordinating Center. These calls were valuable in coordinating and communicating among financial regulators, local banking trade groups, and other federal government officials to ensure that consumers had access to financial services.

Recovery

The Department and federal regulatory agencies encouraged financial institutions to work with borrowers in communities affected by Harvey. According to the Consumer Federation of America, only an estimated 15% of damaged homes in Houston, Texas had flood insurance, as most of the homes affected were not originally in a designated flood zone. Expectations are that commercial borrowers will face challenges as their normal business operations were interrupted, and unless they had business interruption insurance, it is anticipated that revenue losses could hinder their ability to service debt without some assistance. As such, the Department fully anticipates that lenders will make new loans to assist in recovery efforts and may need to adjust terms or temporarily extend maturities of existing loans where circumstances warrant, and safety and soundness is not compromised. On October 2, 2017, the Department issued an industry notice providing support and guidance to state banks and borrowers about the options and potential problem areas of extending new loans and renewing or modifying existing consumer loans. See Exhibit D for a copy of the notice.

Real estate values in the affected areas are expected to experience significant fluctuations in value, affecting existing and new real estate loans. As recovery efforts continue, it is anticipated that loan demand will increase as consumers and businesses rebuild. It has been communicated to banks that policies and practices regarding estimating values on collateral in the real estate market should be prudent and reasonable for the current situation. Sufficient documentation should also be retained in each loan file to support valuations and credit decisions. Federal regulators also provided some regulatory appraisal relief to areas affected by Hurricane Harvey. On October 26, 2017, the FDIC issued Financial Institutions Letter (FIL) 56-2017, providing temporary exceptions to the appraisal requirements for real estate-related related transactions in areas affected by Harvey. See Exhibit E for a copy of FIL 56-2017.

The November 2017 edition of the Department's *Texas Bank Report*, included an article regarding Harvey and its impact on Texans and the state banking system (Exhibit F). The article focused on lessons learned by bankers and recovery efforts, noting that financial institutions with customers located in the disaster areas should consider performing risk assessments on a more frequent basis to identify loans and investments that are significantly affected and may show a higher potential for loss. This may necessitate an increase in the frequency of loan reviews and additional provisions for potential loan losses. Although it is still premature to fully access the overall impact Harvey has had on financial institutions, some state banks in the affected counties report that provisions to the allowance for loan and lease losses have increased. The Department continues to actively monitor the post-Harvey environment, but based on a small sample of examinations performed on state banks domiciled in the affected areas, the financial impact has been manageable thus far. Further analysis of financial data will take place in early March 2018 after the Call Report information for December 31, 2017 is made available.

On December 15, 2017, the FDIC, in consultation with the Conference of State Bank Supervisors, jointly issued FIL 62-2017. The FIL provides guidance outlining the supervisory practices to be followed in assessing the financial condition of insured depository institutions and branches affected by Harvey. This guidance applies to all FDIC-supervised banks under $1 billion in total assets. See Exhibit G for a copy of

FIL 62-2017. Examiners have been instructed to consider the extent to which weaknesses in an institution's financial condition are caused by external problems related to Harvey and its aftermath.

Lessons Learned

As part of the Department's examination process, examiners routinely review and validate the bank's disaster recovery and business continuity plans to ensure that banks are prepared for a potential disruption in business operations. Such plans identify critical business assets and prioritize recovery of processes, systems, and applications of reasonable threats, including natural events, technical events, pandemics, malicious activity, and cyber threats. Banks are required to review and test these written plans at least annually to ensure employees are familiar with the plans and their individual responsibilities during an event. Many times, plans must be used in a live scenario to accurately determine their effectiveness.

Financial institutions responded admirably to the unique challenges caused by Harvey. Disaster recovery and business continuity plans were activated and generally provided sound direction in restoring services in quick order. Many bankers indicated that their success in getting back up and operating was extensive pre-planning and ensuring that each employee understood their role during a catastrophic event. In hindsight, the information technology function is probably the biggest component to recovery.

Due to advancements in technology, the impact to some customers was less severe than with prior events as technology provided alternative means to conduct business. In areas that had continuous power, the large-scale adoption of mobile banking and remote deposit technologies allowed most customers access to their accounts, which bridged the gap until brick and mortar banking locations were fully functional and accessible. Below are a few takeaways made by financial institutions regarding their disaster recovery plans and lessons learned from the effects of Harvey.

- Discuss with key third party vendors their disaster recovery process and determine how a disruption in their operations would impact the execution of the institution's disaster recovery procedure. For example, there were instances of armored car services being unable to meet their specified routes. In some cases, they did not answer phones and were slow to return to their scheduled routes. In many cases, state banks relied on employees to transport cash. Correspondent banks did an excellent job in providing cash where possible.
- Focus on effective communication with customers and employees. Institutions reported difficulties communicating with their employees and customers in an efficient and timely manner to ensure they were safe and properly informed. As a result, several state banks have since engaged third party companies that specialize in mass notification systems to help with delivering and receiving important messages to both staff and customers.
- Utilize social media (Facebook, Twitter, Snapchat, etc.) before, during, and after any catastrophic event. Social media was key in delivering cost-effective, timely updates and solutions to affected communities.

- Some institutions deployed teams to other cities prior to Harvey's arrival, to operate the bank's information technology systems in the event of lost power or communications in the affected areas.
- Multiple facilities sustained considerable damage; however, bankers acted swiftly to obtain temporary mobile facilities to serve their communities.
- In areas that had no power for an extended period, the use of satellite service communications was vital in providing power and internet access to the bank's core operating systems.
- Ensure that payment systems business resumption plans consider the possibility that employees will be unable to access bank locations due to flooding.
- Ensure that ample cash is on hand and that ATMs are fully stocked prior to the arrival of a catastrophic hurricane.
- Establish a rapport with local law enforcement agencies so that in the event of a natural disaster or emergency, these first responders already know who they are communicating with.
- Develop an internal database application that has predetermined questions focused on the needs of employees impacted by an event. Creating a centralized process will make it easier to track and prioritize which employees need financial and/or other assistance.

Timeline of Event

Wednesday, August 23rd – Governor Abbott issues disaster proclamation for 30 Texas Counties in anticipation of Tropical Depression Harvey making landfall.

Thursday, August 24th – Tropical Storm Harvey turns into a Category 4 hurricane in the Gulf of Mexico. The Texas Department of Banking issues proclamation to Texas state-chartered banks allowing those banks with offices in affected areas to temporarily close. The Department starts contacting state banks in the projected landfall area.

Friday, August 25th – Hurricane Harvey makes landfall along the Texas Coastline.

Saturday, August 26th – Governor Abbott adds 20 counties to original disaster declaration proclamation.

Sunday, August 27th – Governor Abbott adds four additional counties to original disaster declaration proclamation.

Monday, August 28th – Governor Abbott adds four additional counties to original disaster declaration proclamation. The Texas Department of Banking issues an updated proclamation and order authorizing temporary branches due to Hurricane Harvey. The Department begins contacting banks in affected areas utilizing the "Event Management Database Script." The FDIC and FRB assisted in this process.

Monday, August 28th – The Department creates a Hurricane Harvey webpage to keep the public notified on emergency information. This includes the proclamations issued by the Governor and the Department, as well as information on temporary operating facilities

Tuesday, August 29th – The Department employees begin logging state bank responses into the FDICs "Event Monitoring System" database, prioritizing which banks need a follow up call or assistance.

Wednesday, August 30th – Regulator contact information is added to the Department's website for consumers with questions about financial services during the emergency.

Wednesday, August 30th – The Department sends an employee to the George R. Brown Convention Center, Houston, Texas to see if the ATMs were functioning as intended for evacuees.

Thursday, August 31st – Continued follow-up calls with bankers.

Friday, September 1st – Continued follow-up calls with bankers. The Department's emergency phone line is monitored over the weekend in the event of an emergency.

Monday, September 4th – Continued follow-up calls with bankers. Determined what banks with upcoming examinations scheduled needed to be accommodated or delayed.

Tuesday, September 5th – Continued follow-up calls with bankers. Executive management conducted a post-hurricane meeting with staff to brainstorm and discuss the Department's emergency reaction plan for future disasters.

Wednesday, September 6th – Monday, September 11th – Continued follow-up calls with bankers.

Thursday, September 14th – Governor Abbott adds 2 counties and extends disaster proclamation.

Wednesday, September 20th – Governor Abbott extends disaster declaration for 60 counties affected by Harvey.

Monday, October 2nd – The Texas Department of Banking issues an industry notice that provides support and guidance for financial intuitions and borrowers affected by Harvey – Home Equity Loans and Home Repairs.

Monday, October 9th – The Department adds a link to the consumer toolkit released by the Consumer Financial Protection Bureau that guides consumers through the necessary steps to secure their financial obligations after a natural disaster.

Friday, October 20th – Governor Abbott extends disaster declaration for 60 counties affected by Harvey

Sunday, November 19th – Governor Abbott extends the disaster declaration for 60 counties affected by Harvey.

Wednesday, November 22nd – Reports to determine if provision expense spiked at state banks in affected counties are developed.

Monday, November 27th – The Department releases the latest edition of the Texas Bank Report, which includes an article on Hurricane Harvey and the lessons learned from bankers and recovery efforts.

Monday, December 18th – Governor Abbott extends disaster declaration for 60 counties affected by Harvey.

Wednesday, January 17th – Governor Abbott extends disaster declaration for 60 counties affected by Harvey.

Exhibit A -

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

PRESS RELEASE
Date: August 24, 2017

Department Issues Proclamation to Texas State-Chartered Banks for Hurricane Harvey

Charles G. Cooper, Texas Banking Commissioner, today issued a proclamation allowing Texas state-chartered banks with offices in areas that may be affected by Hurricane Harvey to temporarily close under Section 37.003 of the Texas Finance Code.

In issuing the proclamation, Banking Commissioner Charles G. Cooper said he expects that only those bank offices directly affected by severe weather will close. Financial institutions needing additional information may contact the Department of Banking by email or toll-free at 877-893-6246.

Exhibit A -

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

Proclamation
By the Texas Banking Commissioner

In response to the declaration by Governor Greg Abbott of August 23, 2017, that Hurricane Harvey poses a threat of imminent disaster along the Texas Coast and in the counties of Aransas, Austin, Bee, Calhoun, Chambers, Colorado, Brazoria, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Harris, Jackson, Jefferson, Jim Wells, Karnes, Kleberg, Lavaca, Liberty, Live Oak, Matagorda, Nueces, Refugio, San Patricio, Victoria, Waller, Wharton, and Wilson, and pursuant to Section 37.003 of the Texas Finance Code, I find that an emergency is impending in the above areas of the state.

Accordingly, I, Charles G. Cooper, Banking Commissioner of Texas, do hereby authorize banks organized under the laws of the State of Texas, at their discretion, to close offices in the areas indicated above and other areas that may be impacted by Hurricane Harvey and related weather conditions until appropriate human resources, utilities and security can be restored to safely serve the financial service needs of the affected communities.

Dated this 24th day of August 2017

/s/
Charles G. Cooper
Banking Commissioner

Exhibit B -

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

PRESS RELEASE
Date: August 28, 2017

Department Issues Updated Proclamation and Order Authorizing Temporary Branches Due to Hurricane Harvey

Commissioner Charles G. Cooper issued a new proclamation updating the list of counties in which banks with offices in areas that may be affected by Hurricane Harvey to temporarily close under Section 37.003 of the Texas Finance Code. The total number of counties affected has increased to 54:

> Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Montgomery, Newton, Nueces, Polk, Refugio, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, Washington, Wharton, Willacy, and Wilson

In issuing the proclamation, Commissioner Cooper said he expects that only those bank offices directly affected by severe weather will close.

Commissioner Cooper also issued an Order authorizing Texas state-chartered banks to open temporary branch offices or other facilities required for banking operations for the purpose of prompt restoration of access by the public to banking services.

Banks seeking to open a temporary facility or needing additional information should notify the Department by email or toll-free phone at 877-893-6246.

Exhibit B -

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

Charles G. Cooper
Commissioner

Proclamation
By the Texas Banking Commissioner

In response to the continuing damage and threat of damage caused by Hurricane Harvey, and in recognition of the addition of several Texas counties to the disaster area declared by Governor Greg Abbott on August 23, 2017 and subsequent to that initial declaration, I find that an emergency exists in the counties of Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Montgomery, Newton, Nueces, Polk, Refugio, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, Washington, Wharton, Willacy, and Wilson.

Accordingly, I, Charles G. Cooper, Banking Commissioner of Texas, do hereby authorize banks organized under the laws of this state, at their discretion, to close offices, pursuant to Section 37.003 of the Texas Finance Code in the areas indicated above and other areas that may be impacted by Hurricane Harvey and related weather conditions until appropriate human resources, utilities and security can be restored to safely serve the financial service needs of the affected communities.

Dated this 28th day of August 2017.

/s/
Charles G. Cooper
Banking Commissioner

Exhibit B

ORDER NO. 2017-013

ORDER AUTHORIZING TEMPORARY BRANCHES OR OFFICES

I, Charles G. Cooper, Banking Commissioner of the State of Texas, issued a proclamation on August 24, 2017, authorizing Texas state-chartered banks with offices in areas affected by Hurricane Harvey and related weather conditions to temporarily close pursuant to Section 37.003 of the Texas Finance Code. On August 28, 2017, in response to the continuing damage and threat of damage caused by Hurricane Harvey, I amended the aforementioned proclamation to recognize additional affected areas.

On August 23, 2017, Governor Greg Abbott issued a disaster proclamation certifying that Hurricane Harvey posed a threat of imminent disaster, including severe flooding, storm surge and damaging winds to several Texas counties. By amendments on August 26 and 27, 2017, Governor Abbott declared a disaster in additional counties, such that a disaster has been declared in Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Montgomery, Newton, Nueces, Polk, Refugio, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, Washington, Wharton, Willacy and Wilson counties.

Accordingly, pursuant to the above disaster proclamations issued by Governor Abbott and myself, and in accordance with Texas Finance Code §§ 37.003 and 37.007, I find that an emergency has affected and will continue to affect certain Texas state-chartered banks for an extended period, and I hereby authorize banks organized under the laws of the State of Texas, in the areas indicated above and other areas that may be impacted by Hurricane Harvey and related weather conditions, to open temporary branch offices or other facilities required for banking operations for the purpose of prompt restoration of access by the public to banking services.

A temporary bank office opened pursuant to this Order may remain open for so long as the conditions requiring the temporary office continue to exist.

Effective Date

This Order is effective on August 28, 2017, and remains in effect until November 27, 2017 or until such time as I rescind this Order.

Signed on this 28th day of August, 2017.

/s/
Charles G. Cooper
Banking Commissioner of Texas

Exhibit C

EVENT MANAGEMENT DATABASE SCRIPT

1) Was your financial institution materially impacted by this event?

2) Is the physical condition and availability of your staff sufficient to implement your Business Continuity Plan?

3) Are all offices open? (Designate individual office openings/closings via office module.)

4) Are telecommunications available to all offices?

5) If not, please describe outages and estimated recovery time.

6) Is electrical power available to all offices? (Note: Also inquire if the bank is operating on a generator and note in comments section).

7) If not, please describe outages and estimated recovery time.

8) Is the institution using temporary locations?

9) If so, where?

10) Are there physical security concerns at any of your offices?

11) If so, please describe.

NOTE: If no concerns are noted in the first 11 questions, there is no need to continue with the remaining questions.

12) Is IT serviced in-house?

13) Have IT operations been moved to a backup site?

14) Is G/L processing current?

15) If G/L processing is not current, what is the estimated date to meet this objective?

16) Is customer transaction posting, including ACH, current?

17) If customer posting is not current, please estimate date.

18) Is the institution able to transmit & receive cash letters?

19) Is there a cash shortage?

Exhibit C

20) List current status and plan of action, if necessary.

21) Have there been any unusual withdrawals?

22) Does the institution offer online banking?

23) Is online banking operational?

24) Does the institution have its own ATM network?

25) Is the institution–owned ATM network operational?

26) Can customers access the national ATM network?

27) If the national ATM network is down, what is the estimated date to restore your ATM network?

28) Does the bank have a website?

29) Has the website been updated?

30) Can we refer customers to this website for updates?

31) Does institution issue debit/credit cards?

32) Are there any known issues with debit credit/cards?

33) Do you need any Regulatory assistance and/or flexibility?

34) What phone number would you like for us to give to customers?

35) Are there any special issues, needs, or concerns that we need to be aware of?

36) Please provide a Contact Name for the regulatory staff?

37) Contact Number?

38) Backup Contact Name?

39) Backup Contact Number?

Note: The proposed database will include a block that will be used to identify the specific event that is impacting the bank in question. In the case of multiple events, the user would first select the specific event associated with the call/update.

Exhibit D

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

Charles G. Cooper
Commissioner

INDUSTRY NOTICE 2017-10
Date: October 2, 2017

Texas Banking Department Provides Support and Guidance for Financial Institutions and Borrowers Affected by Hurricane Harvey – Home Equity Loans and Home Repairs

The Texas Department of Banking recognizes the impact that natural disasters such as Hurricane Harvey have on both customers and financial institutions. The Department fully anticipates that lenders will be making new loans to assist in recovery efforts and may need to adjust terms or temporarily extend maturities of existing loans where circumstances warrant and safety and soundness is not compromised. Financial institutions should identify distressed borrowers and monitor their progress to resolve financial difficulties caused by Hurricane Harvey. The Department is supportive of measures that will help borrowers recover and provide an opportunity to ultimately repay their debt. The purpose of this notice is to provide additional guidance to banks about the options and potential problem areas of extending new loans and renewing or modifying existing consumer loans.

Loans for Home Repair

Many homes in declared disaster areas need repairs and rehabilitation, and homeowners may seek to borrow funds for that purpose. A customer may seek a home equity loan, a home equity line of credit (HELOC), or a home improvement loan. Customers with an existing home equity loan may seek assistance if the loan is in danger of default in the form of a modification or a refinance, with or without additional cash advanced. These situations have constitutional implications, and banks should proceed with caution before modifying a home equity loan.

Loan Options – New versus Existing Loan

New Loans - For a new home equity loan or HELOC, the funds advanced, when added to the outstanding principal balance of all other loans secured by the homestead, may not exceed 80% of the homestead's fair market value (FMV) at the time the loan is made, as determined by a current appraisal. However, the FMV of flooded property will likely have declined due to the resulting damage, which may make this option unavailable.

Alternatively, a homeowner could apply for a home improvement loan to make repairs to the homestead. A home improvement loan is not subject to a loan-to-value (LTV) requirement but is typically evaluated based on the expected value after improvements are completed. Further, the closing for a home improvement loan is subject to a shorter waiting period (five days) than a home equity loan or HELOC. However, obtaining an adequate appraisal may be difficult during recovery efforts when resources are stretched thin. In such cases, institutions may adopt reasonable guidelines to allow rational flexibility in arriving at property values.

Existing HELOC – A homeowner with an existing HELOC may be able to obtain an additional advance on the HELOC. Because the maximum amount of a HELOC is determined at the time the HELOC was closed, additional draws are possible if the current outstanding balance on the HELOC is less than 50% of the FMV at closing. The minimum draw on an existing HELOC may not be less than $4,000.

Refinance of Existing Home Equity Loan – Although no additional funds are available to be drawn under an existing home equity loan, additional funds might be available through a refinance, provided the current FMV of the homestead will support the amount financed. An existing home equity loan may be refinanced without regard to the one-year seasoning requirement if the homestead is located within an area that has been declared a "disaster" by the Governor or the President of the United States, and if the homeowner requests the closing less than one year from the original closing due to the emergency or disaster.

Modification of Existing Home Equity Loan – An existing home equity loan may be modified at the request of the homeowner without violating the Texas Constitution if the modification is consistent with the opinion of the Texas Supreme Court in *Sims v. Carrington Mortgage Services, L.L.C.*, 440 S.W.3d 10 (2014). In the context of an existing home equity loan in default, the court held that a new agreement with the borrower that capitalizes past-due interest, fees (late charges), property taxes, and insurance premiums into the principal of the loan (all past-due amounts owed under the terms of the initial loan) and a lowering of the interest rate and the amount of installment payments, but does not involve the satisfaction or replacement of the original note, an advancement of new funds, or an increase in the obligations created by the original note, is not a new extension of credit for purposes of section 50 of Article XVI of the Texas Constitution.

As noted in 7 TAC §153.14(2), a home equity loan and a subsequent modification are considered a single transaction for purposes of the home equity lending requirements of Section 50(a)(6), including the percentage cap on loan fees.

Although the *Sims* case did not explicitly involve traditional payment deferrals or an extension of the term of the original note, we believe these to be permissible under the Court's holding that "[t]he Constitution does not prohibit the restructuring of a home equity loan that already meets its requirements in order to avoid foreclosure while maintaining the terms of the original extension of credit." However, we recommend that bank management consult with legal counsel before engaging in these types of loan modifications for home equity loans.

This Industry Notice is not an interpretation of the Texas Constitution and is not being issued under Texas Finance Code §11.308 and §15.413. State-chartered banks with questions related to home equity lending activity with customers affected by Hurricane Harvey should contact the Texas Department of Banking via email or 512- 475-1300.

Additional Resources

IBAT – Post Harvey Resources
IBAT – Home Improvement and Home Equity Loans: Bona Fide Emergencies
TBA – Hurricane Harvey Resources

Exhibit E

FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-56-2017
October 26, 2017

Regulatory Relief:

FDIC Issues Temporary Exceptions to Appraisal Requirements in Areas Affected by Severe Storms and Flooding Related to Hurricanes Harvey, Irma and Maria

Summary: The FDIC is providing flexibility relative to appraisal requirements for real estate-related transactions in areas declared a major disaster in Florida, Georgia, Puerto Rico, Texas, and the U.S. Virgin Islands due to severe storms and flooding related to Hurricanes Harvey, Irma, and Maria. The flexibilities may be exercised by any institution underwriting a real estate-related transaction in these areas.

Statement of Applicability to Institutions With Total Assets Under $1 Billion: This Financial Institution Letter applies to all FDIC-supervised institutions with loans secured by real estate in the affected areas.

Distribution:
FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Lending Officer

Related Topics:
12 CFR Part 323 of the *FDIC Rules and Regulations*

Interagency Appraisal and Evaluation Guidelines, FIL-82-2010

Attachments:
Press Release
Federal Register Notice and Order

Contact:
Beverlea S. Gardner, Senior Examination Specialist, at BGardner@FDIC.gov or (202) 898-3640

Note:
FDIC Financial Institution Letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2017/index.html.
To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights: The FDIC is facilitating the recovery process in areas declared to be major disasters by temporarily easing appraisal requirements for real estate-related financial transactions under the *Financial Institutions Reform, Recovery, and Enforcement Act*.

- The exception expires three years after the date each state or territory was declared a major disaster.

- To qualify for the exception, an institution must document that:
  (1) The transaction involves real property in an area declared a major disaster;[1]
  (2) There is a binding commitment to fund a transaction in an area declared a major disaster in the states or territories listed below that was entered into on or after:
    - August 25, 2017, but no later than August 24, 2020, for Texas;
    - September 7, 2017, but no later than September 6, 2020, for the U.S. Virgin Islands;
    - September 10, 2017, but no later than September 9, 2020, for Florida and Puerto Rico; and
    - September 15, 2017, but no later than September 14, 2020, for Georgia;
    - September 20, 2017, but no later than September 19, 2020, for Puerto Rico; and
    - September 21, 2017, but no later than September 20, 2020, for the U.S. Virgin Islands.

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

- A financial institution relying on the appraisal exception should maintain sufficient information estimating the collateral's value to support the institution's credit decision.

- The FDIC will review institutions' reliance on the appraisal exception during regularly scheduled examinations.

[1] See https://www.fema.gov/disaster/4332. See https://www.fema.gov/disaster/4335. See https://www.fema.gov/disaster/4337. See https://www.fema.gov/disaster/4336. See https://www.fema.gov/disaster/4338. See https://www.fema.gov/disaster/4339. See https://www.fema.gov/disaster/4340.

Exhibit F -

Texas Bank Report

Texas Department of Banking, Charles G. Cooper, Commissioner

November 2017

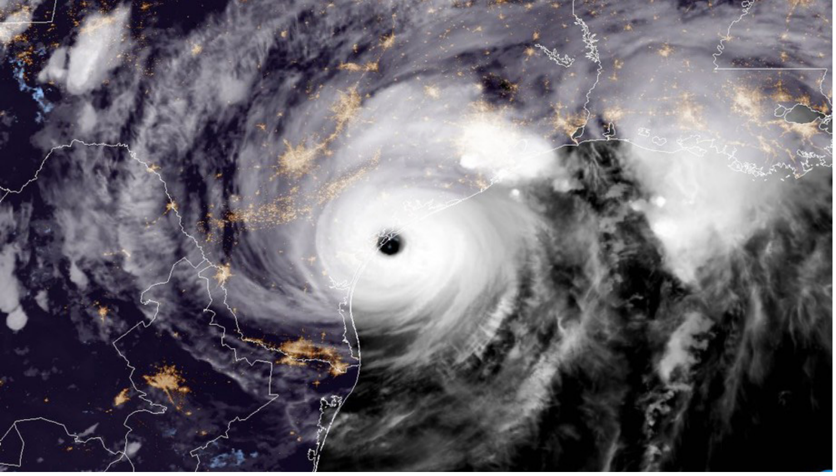

Exhibit F

Hurricane Harvey

By Jared Whitson

Hurricane Harvey will go down in the books as one of the largest, most severe hurricanes in the history of Texas. According to the Weather Channel, when Hurricane Harvey made landfall on August 25, 2017, it was the first Category 4 hurricane to hit the United States since Hurricane Charley hit southwest Florida in August 2004. Hurricane Harvey initially made landfall near Rockport, Texas, threatening millions of Texans with 130-mph plus winds, heavy rains, and a massive storm surge that drenched coastal areas. It then stalled around southern Texas for days as a weakening hurricane produced catastrophic flash flooding throughout most of southeast and central Texas. According to the National Weather Service, Cedar Bayou, Texas, located just southeast of Houston, recorded over 51 inches of rain, setting the record for the most rainfall ever from a single storm in the continental United States. In the aftermath, Governor Greg Abbott declared 54 Texas counties a disaster area, impacting 2,422 national and state-chartered branch locations. Loss estimates for these counties are in the multi-billions, and recovery efforts will take years to complete. At the peak, 260 state-chartered branches were temporarily closed due to the storm's massive destruction. In many cases, roadways were completely unpassable due to severe flood waters, which limited employee access to banking locations. However, through the strength and courage of many Texans, banks implemented their disaster recovery and business continuity plans, and their locations were quickly back up and functioning to serve their respected communities. Within several weeks, all state-chartered branches opened in some capacity, except for three that remain closed. This is truly remarkable considering the magnitude of the devastation caused by Hurricane Harvey.

Lessons Learned

Financial institutions responded admirably to the unique challenges caused by Hurricane Harvey. Disaster recovery and business continuity plans were activated and generally provided sound direction in restoring services in quick order. The lessons taken from previous storms such as Hurricanes Katrina, Ike and Rita proved to be invaluable, as many organizations utilized those experiences through advanced planning and preparation to guide them through this catastrophic event. Due to advancements in technology, the impact to some customers was less severe than with prior events as technology provided alternative means to conduct business. In areas that had continuous power, the large-scale adoption of mobile banking and remote deposit technologies allowed most customers access to their accounts, which bridged the gap until brick and mortar banking locations were fully functional and accessible. Below are a few takeaways provided by financial institutions regarding their disaster recovery plans and lessons learned from the effects of Hurricane Harvey.

- Focus on effective communication with customers and employees. Institutions reported difficulties communicating with their employees and customers in an efficient and timely manner to ensure they were safe and properly informed. As a result, several banks have since engaged third party companies that specialize in mass notification systems to help with delivering and receiving important messages to both staff and customers.

- Utilize social media (Facebook, Twitter, Snapchat, etc.) before, during, and after any catastrophic event. Social media was key in delivering cost-effective, timely updates and solutions to affected communities.

- Discuss with key third-party vendors their disaster recovery process and determine how a disruption in their operations would impact the execution of the institution's disaster recovery procedure. For example, there were instances of armored car services being understaffed and could not meet the demands of the institutions in affected areas.

- Some institutions deployed teams to Dallas, Texas prior to Hurricane Harvey's arrival, to operate the bank's information technology systems in the event of lost power or communications in the affected areas.

- Multiple facilities sustained considerable damage; however, bankers acted swiftly to obtain temporary mobile facilities to serve their communities.

- In areas that had no power for an extended period, the use of satellite service communications was vital in providing internet access to the bank's core operating systems.

- Ensure that payment systems business resumption plans consider the possibility that employees will be unable to access bank locations due to flooding.

- Accessing surveillance cameras of facilities offsite proved to be a useful tool in determining what, if any, damage had occurred during and after the storm. However, in some instances, the positioning of the cameras did not capture a view of the street to determine if the roadways leading into the parking lot were flooded. In hindsight, a properly positioned camera would have provided useful information in determining if employees could access the banking facility.

- Ensure that ample cash is on hand and that automated teller machines are fully stocked prior to the arrival of a catastrophic hurricane.

- Establish a rapport with local law enforcement agencies so that in the event of a natural disaster or emergency, these first responders already know who they are communicating with.

- Develop an internal database application that has predetermined questions focused on the needs of employees impacted by an event. Creating a centralized process will make it easier to track and prioritize which employees need financial and/or other assistance.

- Ensure that policies and procedures for endorsing insurance checks are up to date and meet the institution's needs.

- Report any operational difficulties to the Department.

As institutions resume normal operations, it is vital for executive management to review existing disaster recovery and business continuity plans, solicit input from staff, and make necessary modifications for future events. The plans should be enterprise-wide and address all critical needs, functions and processes, and personnel. Factors to consider, include, but are not limited to: establishment of effective communications; operating with limited staff; restoration of infrastructure or core systems; loss of customer data; treatment of destroyed documents, files, and collateral; and handling contaminated or destroyed safe deposit boxes and contents.

Bankers should also consider threats like a cyber security event, terrorist attack, fire, tornado, pandemic event, etc. and prepare accordingly.

Recovery

The Department and federal regulatory agencies are encouraging financial institutions to work with borrowers in communities affected by Hurricane Harvey. Commercial borrowers are expected to face challenges as their normal business operations are interrupted, and unless they had business interruption insurance, it is anticipated that revenue losses may hinder their ability to service debt without some assistance. As such, many banks are forbearing payments and/or modifying loan terms to provide storm victims relief until they can reassess their financial condition.

Financial institutions with customers located in the disaster areas should consider performing risk assessments on a more frequent basis to identify loans and investments that are significantly affected and may show a higher potential for loss. The assessment should include a mechanism for monitoring collateral and the collectability and timing of insurance. This may necessitate an increase in the frequency of loan reviews and additional provisions for potential loan losses. In addition, management should consider developing a disaster credit policy that provides guidance on how to appropriately monitor customers in affected areas.

Bank management should also monitor municipal securities which might be negatively affected by the economic conditions in the coastal bend and greater Houston areas. Prudent efforts to monitor these investments should be taken as part of a bank's ongoing risk assessment process.

Real estate values in the affected areas will experience significant fluctuations in value, affecting existing and new real estate loans. As recovery efforts begin, it is anticipated that loan demand will increase as consumers and businesses will need funds to rebuild. Policies and practices regarding estimating values on collateral in the real estate market should be prudent and reasonable for the current situation. Sufficient documentation should be retained in each loan file to support valuations and credit decisions.

On October 17, 2017, the federal financial regulatory agencies took action and issued a press release announcing temporary exceptions to the appraisal requirements for areas affected by Hurricanes Harvey, Irma, and Maria to aid in the recovery process. Similar regulatory relief occurred in 2005 after Hurricanes Katrina and Rita.

The Department has been in contact with affected institutions and will monitor conditions as recovery efforts continue. We are prepared to provide guidance as necessary to help address the needs of regulated entities and their customers during this process.

Acknowledgements

This article was composed using a variety of sources, including the FDIC, CFPB, the Office of the Governor, and community bankers. Other sources include the Weather Channel and Deloitte.

Exhibit G

FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-62-2017
December 15, 2017

MAJOR DISASTER EXAMINER GUIDANCE

Interagency Supervisory Examiner Guidance for Institutions Affected by a Major Disaster

Summary: The federal financial institution regulatory agencies, in consultation with the Conference of State Bank Supervisors, have jointly issued the attached guidance outlining the supervisory practices to be followed in assessing the financial condition of insured depository institutions and branches and agencies of foreign banking organizations (institutions) affected by a disaster that results in the President declaring an area a major disaster with individual assistance.

Statement of Applicability to Institutions With Total Assets Under $1 Billion: This Financial Institution Letter applies to all FDIC-supervised institutions that are directly affected by a major disaster.

Distribution:
FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Financial Officer
Chief Lending Officer

Related Topics:
FFIEC Accounting and Regulatory Reporting Questions & Answers at www.FFIEC.gov

Attachments:
Interagency Supervisory Guidance for Institutions Affected by a Major Disaster

Contact:
Beverlea S. Gardner, Senior Examination Specialist, at BGardner@FDIC.gov or (202) 898-3640

Note:
FDIC Financial Institution Letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2017/index.html.
To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.
Paper copies may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights:

- Areas declared a major disaster with individual assistance generally experience extensive damage that will continue to affect the business activities of the institutions serving that area for an extended period of time.
- The attached *Interagency Supervisory Guidance for Institutions Affected by a Major Disaster* describes supervisory practices for institutions directly affected by a major disaster, including institutions that may be located outside the area declared a major disaster, but have loans or investments to individuals or entities located in the area declared a major disaster.
- The supervisory agencies will work with institutions affected by a major disaster to determine their needs, reschedule any examinations, consider extensions for filing quarterly Reports of Condition and Income or other reports, and address capital declines due to temporary deposit growth, as needed.
- The guidance indicates examiners will consider how management at affected institutions conduct initial risk assessments and refine such assessments as more complete information becomes available and recovery efforts proceed.
- The guidance states examiners will consider the extent to which weaknesses in an institution’s financial condition are caused by external problems related to the major disaster and its aftermath.