STATEMENT BEFORE THE U.S. SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS FOR A HEARING ON THE REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM:
LOCAL PERSPECTIVES ON CHALLENGES AND SOLUTIONS

January 25, 2024

Founded in 1931, PIA is a national trade association that represents independent insurance agencies and their employees. Our members sell and service all kinds of insurance, but they specialize mostly in property & casualty insurance. They represent independent insurance agents in all 50 states, Puerto Rico, and the District of Columbia.

I. Background

The National Flood Insurance Program (NFIP) was created in 1968 to provide property owners in the U.S. with flood insurance coverage for their homes. At the time, the private insurance market viewed flood as an uninsurable risk, and, as a result, flood insurance products sold through the private market were cost-prohibitive or unavailable. In the decades since its inception, the NFIP has remained the primary source for flood insurance products.

The Federal Emergency Management Agency (FEMA) administers the NFIP, and, over the past several years, FEMA has been updating the NFIP’s risk rating process using a methodology known as Risk Rating (RR) 2.0. As of April 1, 2023, all NFIP policies were being rated using RR 2.0. PIA strongly supports the new rating system, which calculates premium rates using substantially more granular data, and ideally aligns rates more closely with each property’s actual level of flood risk. The implementation of RR 2.0 represents a chance for the NFIP to approach solvency while also providing policyholders with more accurate, detailed information about their property’s flood risk. With better information available to them, policyholders and potential policyholders may be encouraged to learn more about their property’s flood risk, engage in mitigation efforts where appropriate, and, ultimately, purchase flood insurance that matches their risk.

Affordability and accessibility for the NFIP can only be achieved with a long-term reauthorization of the NFIP. PIA supports the growth of the private market for flood insurance products, but private flood insurance is not available nationwide and is sometimes unavailable in the areas where it is needed most.

II. Essential Role of the Independent Agent

The NFIP is a public-private partnership between the federal government and insurance companies, which are referred to as "Write-Your-Own" (WYO) carriers. The federal government enters into a contract with each WYO selling NFIP products, and each WYO uses insurance agents to sell those products to consumers. Independent agents have separate contracts with each WYO whose NFIP policies they sell.

Flood insurance accessibility for consumers begins with consumer access to independent flood insurance agents. Independent insurance agents generally serve as the first point of contact for a potential policyholder inquiring about flood insurance, and agents represent prospective customers as they navigate this complicated program. Independent agents are essential resources for property owners trying to make educated choices about the need for and purchase of flood insurance policies for their homes and businesses. Agents are committed to providing consistently excellent customer service, and, within the NFIP, where rates are outside the control of even the carriers, extraordinary customer service is often the only vehicle by which agents can distinguish themselves. In fact, a policyholder's first call after a flood loss is often to their agent.

Purchasing an NFIP policy is a difficult process for consumers; it requires the aid of agents with specialized knowledge, especially as we approach the point at which all NFIP policies will be subject to the new RR 2.0 methodology. Even before RR 2.0, the flood policy purchasing process was very different from and more complex than that of a standard homeowners' or auto policy, and it still is. Selling flood insurance demands far more effort from agents than selling other, simpler insurance products. With the private market growing, and the requirements imposed on it by state statutory and regulatory authorities always evolving, agents must compare the NFIP to the private market for eligibility, coverage options, and pricing; inform policyholders and prospects of their results; and offer options where appropriate.

To effectively serve their customers, agents must remain up to date on ever-changing laws and regulations governing flood insurance coverage requirements, and, historically, they have also had to keep pace with the constant evolution of applicable floodplain maps, flood zones, specialized terminology, and relevant community participation. RR 2.0 also requires them to gather data points about each of the properties they cover to provide the rating engine with a complete picture of the property.

At renewal time, agents review notices for accuracy (name[s] of insured[s], mailing address, location of insured property, scope of coverage, and identification of any liens and lienholders); research legal changes that could affect coverage or premium rates and the existence of other policies that could cause a gap in coverage; and obtain and enter data points required by RR 2.0. Agents work with policyholders to ensure renewal payments are received in a timely way, send policyholders reminders as the expiration date approaches, and warn of cancellation for nonpayment of a policy for which renewal is intended.

Perhaps most importantly for consumers, independent agents support their clients after a flooding event, even when that event also affects the agents' own homes and businesses. Once a flood occurs, agencies regularly make customer service representatives available nearly around the clock in shifts. Agencies will sometimes hire extra staff to assist in navigating the complicated claims process. Often, the entire agency staff has itself been affected by the flood from which their clients are recovering; however, they recognize their responsibility to put their clients first. Because floods frequently damage an entire neighborhood or community at once, an agent usually does not have the luxury of handling just one claim arising from one flood; rather, a single agent or agency could be handling many claims, all arising from a single flood. Plus, as severe weather events become more frequent, the likelihood increases that agents will be faced with an influx of losses from floods and other catastrophic weather events, all at the same time.

Over the past couple of years, agents have also fielded a barrage of questions from lenders, builders, community floodplain managers, realtors, and clients about the effect of RR 2.0 on different aspects of the program. The flood insurance program has always been a complex program with a steep learning curve, but RR 2.0 exacerbated it by placing agents in the uncomfortable position of being unable to answer consumer inquiries.

Independent agents' businesses, like those of many salespeople, are built on their reputations. They use their skill and experience to answer clients' questions and alleviate their concerns.

III. "Direct to Consumer" Sales Proposal Must Utilize Expertise Available Only Via Independent Agents

About a year and a half ago, FEMA first proposed what it refers to as its "direct-to-consumer" (D2C) model, through which prospective NFIP consumers would be able to buy an NFIP policy online. Initially, it was unclear whether consumers purchasing NFIP policies that way would have any access at all to the independent agent expertise that undergirds the program. Today, it appears that agents may have *some* role in the D2C purchasing process, but the scope of that role remains unclear. This proposal risks limiting potential policyholder access to agents—the people most capable of giving consumers accurate information about, and thus convincing them to buy, flood insurance.

Additionally, PIA member agents have reported that many of their WYO partners already provide policyholders and prospects with interfaces and/or platforms offering them the ability to make online purchases of flood insurance, including both NFIP and private market products. For agents who partner with WYOs already making such platforms available, FEMA appears to be developing a duplicative model that would not offer consumers any increased access to flood insurance.

In its recent Request for Information[1] (RFI), FEMA suggested that the implementation of its online sales platform "will reduce some burden and barriers to customers" and that enabling the digital sale of NFIP policies via D2C will "ensure equitable access and outcomes," but we disagree. The Covid-19 pandemic demonstrated that access to the internet is inequitably distributed. Across the country, the digital divide left people struggling to connect to workplaces

[1] https://sam.gov/opp/ab9d1bc5cb3448719e2c9ed555b87d71/view (last visited January 23, 2024).

and schools.[2] If anything, the available evidence suggests that an overreliance on online sales could exacerbate existing inequities.

Plus, the NFIP has a well-documented affordability problem. Many property owners at risk of flood remain uninsured because they cannot afford flood insurance premiums.[3] Those uninsured property owners may be among those least able to pay for the broadband or Wi-Fi access that would enable them to use a D2C system. Moreover, access to an online platform through which consumers can shop for an unaffordable product is no access at all.

RR 2.0 requires extensive, specific data to generate a policy quote. Each data point is comprehensively explained in the Flood Insurance Manual, a comprehensive, 400-plus-page guide to writing, renewing, and canceling NFIP policies. A D2C system presumes that consumers will have somehow acquired essential data points about their properties themselves, along with an understanding of the complex rules that govern each one. The concept purports to be an attempt to improve the consumer experience, but it fundamentally misunderstands the level of information a prospective NFIP policyholder has about their own property. Ultimately, a D2C offering will most confuse low-information consumers.

Flood insurance is complex, and, from a consumer standpoint, RR 2.0 has not alleviated that complexity. FEMA's plan to put the burden of 2.0's granular data requirements on consumers is untenable and unfair to current policyholders and prospective ones, whose recovery after a loss will depend on their knowledge—or, worse, their memory—of property details that no consumer routinely knows.

Given the importance of the NFIP to policyholders, and the many benefits that would emanate from increasing the number of policies in force, the NFIP should not be allowed to experiment with an online sales platform for NFIP policies—using your constituents as test subjects—without establishing a clear role for independent agents to educate consumers about the products available.

With the benefit of this context, PIA would like to assist Congress as it works to reauthorize the program by highlighting some opportunities to improve the NFIP going forward.

IV. Reauthorization Fundamentals

a. Long-Term Reauthorization

The program's most recent five-year reauthorization expired on September 30, 2017, six years ago. Leading up to that deadline, the 115th Congress was unable to agree on

[2] "The Internet and the Pandemic," Pew Research Center. https://www.pewresearch.org/internet/2021/09/01/the-internet-and-the-pandemic/ (September 1, 2021).

[3] *May 11, 2022 Letter from Alice Lugo, Assistant Secretary for Legislative Affairs of the U.S. Department of Homeland Security* to Vice President Kamala Harris in her capacity as president of the U.S. Senate and Senate and House majority and minority leaders, https://www.fema.gov/sites/default/files/documents/fema_flood-insurance-reform-proposal_5242022.pdf (recommending to Congress, among other policy proposals, the implementation of an affordability program).

reforms to the program. As a result, the NFIP briefly lapsed three times within a three-week period in early 2018. The NFIP has been subject to more than 25 extensions of varying lengths since the 2017 deadline, and its current extension will expire on March 8, 2024.

Every short-term extension brings with it the chance for the program to lapse. When the NFIP lapses, consumers are unable to renew existing policies or finalize the purchase of covered properties. Claims continue to be paid on existing, in-force policies, but consumers engaged in ongoing real estate transactions may experience disruptions in those processes, especially if they are purchasing a property in a mandatory purchase area, where federal law requires flood insurance. Plus, if a flood loss occurs during a lapse, some claims may not be processed until the program is reauthorized. Prior NFIP lapses are estimated to have disrupted over 1,000 home sales per day, and, of course, the longer the lapse, the greater the disruption.[4]

The series of short-term extensions over the last six years has been extremely disruptive for everyone associated with the NFIP, including policyholders. Even if the program does not lapse, the federal government and every facet of the insurance industry incurs costs associated with preparing for a lapse as the NFIP's next expiration date approaches. Agents, carriers, vendors, lenders, and FEMA itself all develop contingency plans for an anticipated lapse. They need to manage those expenditures whether the lapse occurs or not, and only a long-term reauthorization can avoid them. The program's effectiveness depends on certainty.

b. Maintenance of the Current Write-Your-Own Reimbursement Rate

The WYO reimbursement rate was developed by FEMA and is derived from an average of various industry property and casualty expense ratios for the following five lines of business: Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril (non-liability portion). The current WYO reimbursement rate is 29.9 percent.

The WYO reimbursement rate should remain 29.9 percent. Any reduction in the rate could prompt WYO carriers to leave the program. Fewer than 50 WYOs participate in the program now, and any WYO rate reduction could lead more to leave. Fewer WYOs in the program will mean even fewer options for consumers.

WYOs currently administer approximately 88 percent of NFIP policies.[5] The NFIP Direct program, which administers the remaining 12 percent of policies directly, does not have the capacity to administer the volume of claims that the WYOs do. Plus, PIA agents who work with both WYOs and the NFIP Direct report greatly preferring to work with WYOs, thanks to their better customer service and faster response times.

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[4] See https://www.nar.realtor/blogs/economists-outlook/how-many-home-sales-will-be-affected-by-a-nfip-lapse (last visited on January 23, 2024).

[5] See GAO Report 23-105977 (last visited on January 23, 2024).

If Congress passes a reduction to the WYO reimbursement rate, WYOs may be forced to pass that cut on to agents through their commissions so that the WYO can absorb the lost income and remain in the program. In turn, a cut to agent commissions could result in an exodus of qualified independent agents from the NFIP, which would devastate the program and harm consumers who rely on agents to explain their flood coverage options in plain language.

Finally, the NFIP needs to increase the number of policies in force, not decrease it. Congress should not make programmatic changes that would harm both consumers and agents, who are the sales force of the NFIP. The NFIP is a complicated program; its learning curve alone is a significant barrier to entry for new agents. If Congress lowers the WYO reimbursement rate, independent agents may decide that the cut to their commission makes selling and servicing NFIP policies not worth the reputational risk and expenditure of agency resources. NFIP policyholders and potential policyholders will be hurt most by this because they will lose the expertise of the independent agents they trust to walk them through every aspect of the NFIP.

PIA strongly supported the House Financial Services Committee reauthorization bill that unanimously passed out of the committee in 2019. Notably, that package did not include a cut to the WYO reimbursement rate; PIA will oppose any legislation that includes a provision reducing the WYO reimbursement rate.

c. Continuous Coverage

One of PIA's top priorities is the inclusion of a continuous coverage provision in any NFIP reauthorization, so that policyholders can move between the private market and the NFIP without penalty.

Currently, consumers may be left in an untenable financial position if, for example, their private flood policy is cancelled for reasons outside their control. Existing law requires that, if such consumers live in an area where flood insurance is required, they reenter the NFIP as if they were brand-new policyholders, at which point they are immediately subjected to full-risk rates and denied access to the glide path afforded to renewing policies.

Continuous coverage would allow a former NFIP consumer who purchased a private flood policy to return to the NFIP at the same rate they were paying when they left. Without continuous coverage, consumers whose NFIP rates were on a glide path toward full risk rates will effectively be penalized with higher rates for attempting to return to the NFIP after leaving it for the private market.

The inclusion of a continuous coverage provision will free agents to offer, and consumers to purchase, flood insurance policies available in the private market without fear of losing an existing glide path toward full-risk rates.

d. Debt Forgiveness

The NFIP has not been financially stable since Hurricane Katrina hit the Gulf Coast in 2005. Hurricane seasons since have resulted in a mix of small and catastrophic losses, and, as a result, the NFIP's debt lingers, year after year. The debt is being paid back to the Treasury Department in annual $400 million increments—and that just represents the interest.

Since 2005, the NFIP has repaid billions of dollars to the Treasury Department; even the Trump administration's decision to forgive $16 billion of the debt did not substantially alleviate this burden. The program is finally moving in a direction of financial stability with the full implementation of RR 2.0; the existing debt represents a liability that, in the absence of debt forgiveness, the program may never be able to shed.

e. A Robust Affordability Framework

The NFIP is presently on a gradual track toward financial stability. However, as noted above, for RR 2.0 to succeed, and for the NFIP to remain a viable program, consumers need the program to acknowledge the issue of affordability. The past several years have been financially tumultuous for individuals, businesses, and for the national economy, and, in some parts of the country, some property owners will find their full-risk rates to be unaffordable, whether they are new policyholders subject to full-risk rates immediately or existing policyholders experiencing the statutory maximum in allowable annual increases.

One of the primary goals of the NFIP has always been to increase the number of flood policies in force; indeed, the program owes its very existence to that goal. Even though the NFIP has been available for more than a half century, as of December 2022, only 30 percent of homes in high-risk areas had flood insurance,[6] and fewer than 25 percent of the properties flooded by Hurricanes Harvey, Sandy, and Irma were covered by flood insurance.[7] To increase the take-up rate, particularly in high-risk areas, the NFIP needs an affordability framework with means testing to ensure that flood insurance is not out of reach for those who need it most.

Anecdotally, our agents reported that some NFIP policyholders with low-risk properties turned to the private market when faced with their first RR 2.0 renewal. If that trend bears out on a national scale, the NFIP will be increasingly composed of the properties with highest flood risk in the country. Without an affordability mechanism, RR 2.0 could create an adverse selection problem for the NFIP, where this federal government program is populated only by the highest-risk properties. If that happens,

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[6] See https://www.iii.org/article/spotlight-on-flood-insurance#:~:text=Flooding%20is%20the%20most%20common%20and%20costly%20natural,natural%20disasters%20in%20the%20United%20States%20involve%20flooding (last visited on January 23, 2024).

[7] See https://riskcenter.wharton.upenn.edu/policy-incubator/upgrading-flood-insurance/closing-the-flood-insurance-gap/ (last visited on January 23, 2024).

the benefit of putting all varieties of risk in one place will be effectively erased, because the flood risk within the NFIP will be largely homogenous. The NFIP's risk must remain diversified; it should not become, essentially, the federal flood insurer of last resort.

PIA supports both RR 2.0's progress toward full-risk rates and the development of an affordability framework. Consumers need the detailed, accurate information provided by RR 2.0 to enable them to make smart choices about their level of risk. However, some consumers may not be able to afford the rates associated with their property's level of risk as assessed by RR 2.0—if not now, then in the future. The program must be made affordable for policyholders who will never be able to afford their property's full-risk rate and for those who may find themselves priced out of their homes before their rates even reach full risk.

Because agents are in regular communication with existing and prospective policyholders, they witness the effects of rate increases in the communities they serve. Agents know firsthand that the NFIP does not have the luxury of choosing between full risk rates and an affordability framework.

f. Greater Rate Transparency

Consumers and agents need more information about how the new methodology's rating factors combine to calculate NFIP premiums, especially in the context of mitigation efforts. Reauthorization should include provisions demanding greater rate transparency from FEMA, including information about how the rating engine builds a rate, how some rating factors may be used to increase a rate, and how other rating factors may be used to decrease it. Everyone invested in the future of the NFIP would benefit from a more comprehensive understanding of how the system is intended to work.

g. Mapping Improvements

NFIP policyholders would benefit from a federal investment in mapping improvements. To the extent that the NFIP relies on mapping to evaluate risk, maps should reflect data available through the use of cutting-edge technology like geospatial intelligence and global positioning system (GPS) satellites. The NFIP should continue to collaborate with the U.S. Geological Survey and other federal agencies to maximize the accuracy and reliability of flood maps.

h. Mitigation

Mitigation helps control the NFIP's claims costs. Robust mitigation efforts allow communities, homeowners, and businesses to resume normal activity more quickly after a disaster. PIA continues to support expanding the amount allowable for increased cost of compliance (ICC) coverage for policyholders and allowing its use to fund pre-flood mitigation efforts.

However, the RR 2.0 methodology does not reward policyholder mitigation efforts with lower rates like they did in the legacy rating system.

i. Agent Advisory Council

Agents are the face, the sales force, and the first responders of the National Flood Insurance Program, and they deserve a voice in the regulatory process. An Agent Advisory Council housed within FEMA, but independent of the agency, could provide FEMA with recommendations to enhance the customer experience, including but not limited to improving the application and claims processes, improving communications about NFIP programmatic changes, and providing input on agent training needs and potential solutions. An Agent Advisory Council should include independent agents who are experts on flood insurance and routinely sell and service NFIP policies.

V. Conclusion

PIA supports the NFIP because it provides critical flood coverage to residential and commercial property owners, and we support Risk Rating 2.0 because it provides property owners with a more accurate estimate of their flood risk than was previously available to them. This additional information will help property owners make sound decisions about how to protect their investments. Plus, the progress towards risk-based rates will enable the NFIP to rebuild its long-term financial stability for the first time in nearly twenty years.

PIA would like to see more transparency in the rates produced by RR 2.0, particularly when those rates are at odds with the expectations of knowledgeable flood experts. We are also committed to the creation of an affordability framework to ensure that NFIP policyholders are not priced out of their homes as their rates increase along the glide path toward full risk.

PIA urges Congress to work towards a long-term NFIP reauthorization that will attract and retain policyholders and provide everyone associated with the program with the certainty they need to remain in the business of flood insurance.

PIA looks forward to continuing to work with Congress on this critical issue.