

Testimony of Rebecca Kagan Sternhell
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House Financial Services Committee
“Flood Insurance Reform: A Taxpayer’s Perspective”

Thank you to Chairman Hensarling, Ranking Member Waters, New York City Congressional Delegation members Ms. Maloney, Mr. Meeks, and Ms. Velazquez. And to the other fellow New Yorkers on this committee, Mr. King, Mr. Zeldin, and Ms. Tenney, for the opportunity to testify here today.

I bring the perspective of the City of New York as it engages with the NFIP. Many of the challenges the City faces- urban cores, waterfront development, and riverine communities - are common across communities nationwide, but New York City has them on a larger scale. Our 8.5 million residents live across the 5 boroughs, with terrain so varied even within a borough that some blocks are coastal while others are situated up on hills and others border creeks that feed into the Hudson. And within this density along our 520 miles of coast, 37 percent of households in the floodplain earn less than 80 percent of area median income (AMI).

When Hurricane Sandy hit the New York and New Jersey coast in 2012 the City was in the process of getting new flood maps as the City’s flood maps had not been updated in 30 years. I highlight this fact to note that in many ways, the Committee is dealing with flood insurance in an extremely dense urban area for the first time in a generation. The City’s floodplain according to the 1983 maps has 36,000 buildings and 218,000 residents, on new 2013 pFIRMs 71,500 buildings and over 400,000 people. Clearly these new maps were overdue. As the floodplain continues to grow with more extreme weather events, the NFIP will continue to play a critical role for these property owners. Sandy made plain the importance of flood insurance in helping recovery, and it is our position that the NFIP must be preserved. Improvements are welcome but not such that they undermine the program.

As we talk about the program today I hope to emphasize that at the end of the day we are talking about real people- real taxpayers; their homes where they raise children and seek refuge.

On the other end of every rate change, added requirement, or disqualification is generally a person. The property is also most homeowners' largest tangible asset and nest egg. Too often as the policy discussion proceeds, we can lose sight of this point. It is easy to glibly say, "people need to move" or "too bad," it is quite another to talk face-to-face with a constituent who you inform must leave the home that has been in their family for generations -that is near their job, their church or synagogue, their community. And it is doubly difficult when you let them know that the property they may be forced from has little to no value because of escalating insurance costs and policy made many miles away in Washington DC.

I want to thank Chairman Hensarling and Chairman Duffy for putting forward these draft proposals to reform the NFIP. As detailed further below, however, we have serious concerns with section 2 of the Flood Risk Mitigation Act of 2017, which could potentially kick large swaths of the country out of the NFIP; section 8 of the NFIP Integrity Improvement Act, which would either foreclose NFIP as an option, or make flood insurance unaffordable, for residents of New York City and across the country; and the changes to the definitions of 'multiple loss property' and 'severe repetitive loss' in the NFIP Program Integrity Improvement Act, which would interact with the other proposals in these bills in a way that would make flood insurance less affordable and less available."

The remainder of my testimony will focus on the chief concerns of our residents and the legislation mentioned. First, I would like to touch on mapping, then planning and mitigation, affordability, data sharing, and lastly, the claims process reform.

Mapping

The City recently won its very expensive appeal of its 2013 pFIRMs after a Scientific Review panel determined that FEMA had not properly validated its model and therefore was not accurate. We firmly believe you should only be paying insurance premiums today for your risk today, not the risk ten years out. That said, following our appeal FEMA agreed to work with the City to develop two mapping products: (1) a map that reflects current risk for insurance purposes; and (2) a new climate-smart map that will be adopted for building code and land use decisions. The climate-smart maps will reflect the impact of sea level rise and help us

strategically direct future city planning. I would urge the committee to consider an approach like this. By arming communities with the best available information they can make smart floodplain management and building code choices to avoid wasting taxpayer dollars.

Affordability

The issue of greatest concern is affordability. The affordability challenge affects take-up rates, the real estate market, and City planning overall. A few months ago, the City was pleased to share with this committee and other interested stakeholders, a RAND report commissioned to look at what “affordability” meant and model out options to remedy the issue. The report utilized a metric called a PITI ratio (a ratio of mortgage principal and interest, property taxes, and property insurance (PITI) payments to income), that looked at the cost of owning a given home, not merely property value or income alone. This tool enabled researchers to see what small changes could affect the ability of a person to stay in their home, whether it was a mandatory rate increase or even just additional fees.

Three major findings I wish to highlight here:

1. Grandfathering in properties is one of the most effective affordability tools available.
2. Targeted, means tested vouchers or credits are the most cost effective tools.
3. Mitigation is cost effective only with greater premium reductions for actions taken and grants in support.

Any proposed affordability program should not also cause more cost or fees to be incurred by the very people who need assistance. Nor should it create disincentives to take up flood insurance though additional fees.

The affordability issue also looms large in a proposal in the “Program Integrity Improvement Act” that would, in many ways, disallow any new coastal or riverine development and at the same time foreclose the NFIP as an option to many New York City residents. Section 8 of the Act would not allow NFIP coverage for new Special Flood Hazard Area building or for

properties that would cost more than \$1 million to rebuild. In order to be eligible for NFIP, plus the mandated 10% surcharge, the state would need to certify that insufficient private insurance is available. This must be done year over year, adding bureaucracy and complication to the NFIP program. Most troubling to residents is the resultant uncertainty as to whether their coverage will be dropped by NFIP because it is no longer allowed from one year to the next. Will they have to shop for private coverage immediately? What if no coverage is available that they can afford? How does this affect force placed insurance? More importantly, what happens with maintaining continuous coverage? Of if NO private insurer will insure a property?

What is ostensibly an effort to boost private participation becomes nightmarish for taxpayers; and has the potential to leave many in a “donut hole” of no coverage. I would strongly urge the Committee to revisit, if not eliminate, this provision and instead find a way to work with communities for better floodplain management. The Federal Flood Risk Management Standard, or FFRMS, was by no means a perfect solution but it was a more measured and collaborative response to construction in Special Flood Hazard Areas.

Planning and Mitigation

New York City has long-endorsed utilizing mitigation to avoid risk and drive down costs to homeowners. Since the passage of Biggert-Waters, the City has pushed for FEMA to develop cost effective mitigation options for dense urban areas – where homes cannot be elevated nor can homeowners “build up”- that result in meaningful premium reductions. For example: elevating mechanicals. If most of what FEMA is paying claims for is drywall, carpet and mechanical systems, shouldn’t moving them out of harm’s way result in a lower premium? In addition to largescale mitigation initiatives like the Staten Island sea wall and the Rockaway Beach hardening, the City has also evaluated smaller scale options like mitigation loans and block level measures to help manage risk. We believe these are not bad policy ideas but we found the ROI for many simply do not pan out for either the homeowners or the City.

This hard truth is what gives us great pause about the *Royce-Blumenauer* bill, included as Section 2 of the “Flood Risk Mitigation Act.” Hundreds of communities would face the threat of being kicked out of the NFIP because of a small number of properties with repeat claims. According to an analysis of FEMA data, 33 of the members of this committee – spread evenly across party lines, would have a community in their district potentially kicked out of the NFIP or

sanctioned under this provision. Moreover, these numbers would grow far worse with the proposed change to the definitions of “multiple loss property” and “severe repetitive loss” in the “Program Integrity Improvement Act,” that would qualify more communities for sanctions.

The majority of these communities are not trying to mismanage floodplains – and they should be encouraged to revisit what isn’t working and devise plans. But as noted, sometimes the best plans available cost far more than the benefits that flow to the residents of those communities. Add to this limited funding for mitigation nationwide and proposed cuts to those very programs, and the provision becomes unduly punitive.

Furthermore, the proposed buyout mitigation program, while well intentioned, both lacks funding and excludes huge numbers of communities. Since community eligibility is tied to the \$250,000 coverage limit and property values, New York City and many others would never be eligible.

Data

Another area of concern is the elimination of the non-compete clause for the Write Your Own insurance companies, and the requirement that NFIP share their data in full with any party. Such actions might certainly bring more private participation but it will be at the expense of the NFIP and its solvency. Past witnesses representing the insurance industry in both Senate and House hearings have admitted to “cherry-picking” the “healthiest” policies, which will leave NFIP with only the riskiest properties — thus undermining its solvency. This will do nothing for the program’s debt nor for the residents holding NFIP policies, who will see increased rates and fees. Flood insurance will become more unaffordable for those that can least afford the increase.

Rather than a dualistic approach – sharing all or nothing, the City would like to offer a third way: eliminating the non-compete for a subset of properties – the “(A) through (D) properties” in section (a)(2) of 42 USC 4014. These properties represent a smaller part of FEMA’s book of business. They can also be a proving ground to validate or dispel the fears about cherry-picking FEMA’s book. The Committee could set a timeframe for this and a review, ensure the review is validated by a non-stakeholder third party, and vest the administrator with the authority to reinstall or remove non-competes – this needn’t be all or nothing.

As for data, it needs to come at a price. As currently proposed, private insurers have all the upside while the NFIP only stands to be harmed. The NFIP incurs costs for collecting and maintaining this data, this fact needs to be recognized in the sharing. No private insurer would ever turn over their records and data wholesale for free. We should not expect the NFIP to do so either.

Claims

After the experience with the Sandy claim process and fraud, we whole heartedly endorse revisions to the claims process – both in preserving the customer-centric approach FEMA stood up once fraud was discovered, and other reforms laid out in the proposed legislation. We would also offer that a provision be included such that none of the rights to appeal, litigate, and review documents can be waived in a contract. Homeowners attempting to pursue a claim should not find out that they waived their rights in signing an insurance contract.

I thank the committee again for their time and attention today. I am happy to answer any questions.