WRITTEN STATEMENT FOR THE TESTIMONY OF CHRISTOPHER HEIDRICK ON BEHALF OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES FINANCIAL SERVICES COMMITTEE

HEARING ENTITLED: PREPARING FOR THE STORM - REAUTHORIZATION OF THE NATIONAL THE FLOOD INSURANCE PROGRAM

MARCH 13, 2019

I. Introduction

This written statement for the record is intended to support the oral testimony of Christopher Heidrick on behalf of the Independent Insurance Agents & Brokers of America (Big "I") before the U.S. House of Representatives Financial Services Committee on March 13, 2019. Mr. Heidrick is the president and founder of Heidrick & Co. Insurance and Risk Management, an independent insurance agency located in Sanibel, Florida. Mr. Heidrick is also the President of Trusted Flood, a wholesale insurance brokerage specializing in the distribution of private flood insurance products through independent agencies. Mr. Heidrick holds a designation of Associate in National Flood Insurance, and currently serves as chairman of the Big "I" Flood Insurance Taskforce and chairman of the Flood Insurance Producers National Committee (FIPNC), an organization that provides technical assistance and advice to FEMA on operational aspects of the National Flood Insurance Program (NFIP).

Founded in 1896, the Big "I" is the nation's oldest and largest national association of independent insurance agents and brokers, representing more than 25,000 agency locations united under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies. As explained further below, the Big "I" supports a long-term reauthorization of a modernized and transparent NFIP that would increase take-up rates for flood insurance, both in the NFIP and the private market, and calls on Congress to extend the NFIP before it expires on May 31, 2019.

II. The Big "I" supports passage of a long-term extension of the NFIP before the program expires on May 31, 2019.

The last long-term reauthorization of the NFIP occurred when Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters), which reauthorized the program through September 30, 2017. Since then, Congress has debated how to best reform the program and the NFIP has seen nearly a dozen short-term extensions as well as a few brief lapses. In the 115th Congress, while the U.S. House of Representatives passed legislation that would have extended the NFIP for five years and makes various reforms to the program, the legislation did not receive consideration in the Senate.

Most recently on December 21, 2018, Congress acted to extend the program through May 31, 2019. The Big "I" commends Congress for their efforts in December to extend operational authority for the NFIP through May 31, so that the program could continue to operate during the recent partial government shutdown.[1] In doing this, Congress recognized the critical role the NFIP plays in the U.S. housing market and the overall economy. As such, the Big "I" urges Congress to yet again extend the program as soon as possible and before it expires on May 31 to avoid unnecessary economic disruption.

While it is most important that the NFIP does not lapse, the Big "I" also encourages Congress to work to pass a long-term reauthorization of the program. Every time the program is set to expire, the private companies that partner with the NFIP to administer the program must send notices to consumers, agents must work with clients to explain the ramifications of a potential expiration, and realtors and mortgage lenders must decide how to proceed when issuing and servicing mortgages that require flood insurance, all in an unsettled regulatory environment.

Additionally, NFIP staff are forced to shift limited resources to deal with potential program lapses and divert attention away from other important initiatives they are working on. Lapses and near lapses of the NFIP are also heavily covered by the news media. The public instability and uncertainty created by continual short-term extensions cannot only lead to concrete damages in the real estate and development market as well as the country's economy overall, but it hinders the ability of the NFIP to successfully meet policyholder needs and ultimately undermines overall consumer confidence in the NFIP. Furthermore, this legislating by emergency distracts from the ultimate goal of reforming the NFIP.

III. The Big "I" supports policies to increase take-up rates for flood insurance, whether in the NFIP or the private market, because an insured disaster survivor recovers more quickly.

As Congress deliberates how best to make reforms to the NFIP, the Big "I" urges Congress to consider policies that would help more Americans obtain flood insurance coverage through the NFIP and the private market. In 2017 and 2018, Hurricanes Florence, Harvey, Irma, Maria, and Michael devastated multiple U.S. states and territories. Yet, most of the Americans impacted by these storms were uninsured or underinsured. Furthermore, flooding caused by hurricanes and coastal events is only part of the story. A significant portion of flooding occurs outside of perceived high-risk areas from localized rain events for those living inland near rivers, creeks, and other bodies of water, or in low lying areas. In the first ten weeks of 2019, Presidential disaster declarations have already been declared in Minnesota, Mississippi,

[1] Even though Congress took explicit steps to reauthorize the NFIP ahead of the recent partial government shutdown there was unfortunately still uncertainty over whether the NFIP could continue operating. On December 26, FEMA announced that the NFIP could not issue any new or renewal polices or make changes to existing policies during the government shutdown, despite the enactment of the December 21 legislation mentioned above. Then, on December 28, FEMA reversed its decision. As such, the Big "I" urges Congress to work with the Administration to ensure that there is clear guidance regarding NFIP operations should there be a lapse in annual Department of Homeland Security appropriations in the future.

Texas, Kansas, and Washington State for flooding events unrelated to hurricanes. Flooding is the most common and costly natural disaster and not enough property owners are insured against it. Put simply, where it rains it can flood.

While instituting policies to encourage property owners and communities to mitigate before disaster strikes, enforcing floodplain management standards and building codes in high risk areas will go a long way in minimizing risk, flood insurance will always remain a necessary safety net for property owners. In that regard the NFIP is a vital government program as it is the primary source of flood insurance for U.S. property owners.

Outside of the NFIP there is a small but growing private insurance market. Historically, flooding has been a difficult risk to underwrite in the private market; however, advances in modeling and underwriting technology have contributed to some market growth in recent years. Yet to date, the private insurance market covers only a small portion of flood risk nationally. While commercial flood insurance markets are more developed, private flood insurance on residential properties remains less common. For example, a July 2018 report by researchers at Wharton-U Penn estimated that there are currently only between 175,000 and 220,000 private residential flood policies in the U.S. Nonetheless, even FEMA has publicly acknowledged on multiple occasions that we need both the NFIP and an expanded private market if we want to noticeably increase flood insurance coverage for the country because an insured survivor–regardless of how they purchase their coverage–will recover more quickly and fully.

While some have expressed concern that a growing private market will harm the NFIP because private insurers will select the best risks from the NFIP, the Big "I" like FEMA believes that there is a necessary role for both the NFIP and the private market. As the private flood insurance market has grown in recent years—particularly in states like Pennsylvania and Florida where certain state level policies have encouraged market growth—there have not been significant decreases in NFIP policy counts. State regulated insurers have different ways of selecting and pricing risks via underwriting meaning that a "good risk" to one insurer may be a "bad risk" to another insurer, depending on the insurers overall risk portfolio.

Furthermore, there are over 125 million households in the U.S., but only five million of these households participate in the NFIP. Every year many homes that do not have flood insurance are flooded, and more Americans need protection period. Consequently, the Big "I" would be concerned with any policies that could impede the overall long-term growth of the private market and supports making legislative or regulatory changes to some aspects of the NFIP to facilitate immediate private market growth in high risk flood zones, protect consumers, and help ensure consumers have affordable insurance choices.

For example, the Big "I" strongly supports clarifying that private flood insurance can satisfy NFIP continuous coverage requirements. Under the NFIP's current system for underwriting flood insurance policies, for properties that were built to comply with or surpass the appropriate floodplain management standards in place at the time of construction only later to become subject to higher standards rending the property no longer in compliance with minimum elevation requirements, the policyholder is eligible to maintain a preferred rate if continuous coverage is maintained. This is an important consumer protection and affordability measure to ensure that homeowners are not unfairly penalized with increased flood insurance rates due to changes in circumstance that are beyond their control if the homeowner has otherwise followed all appropriate regulations and guidelines.

However, under current NFIP rules it is not clear that private flood insurance could be used to satisfy these continuous coverage requirements. In some cases, the different underwriting guidelines followed by private insurance companies mean that even with grandfathered rates a consumer may find a less expensive policy in the private market. However, the risk of a substantial NFIP rate increase should the consumer later wish to return to the NFIP often makes insurance agents and brokers hesitant to recommend private flood insurance policies. As such, the Big "I" supports Congress passing legislation to clarify that if a consumer leaves the NFIP for the private market and conditions change such that the consumer must return to the NFIP they can do so without penalty.

The Big "I" also supports allowing refunds for unearned premiums for the mid-term cancelation of NFIP policies if a consumer elects to purchase a policy from the private flood insurance market. In the private property insurance market if a consumer cancels an insurance policy because they obtained insurance elsewhere that better meets their needs, they are generally entitled to a refund for any unearned premiums remaining on the term of the policy. However, under current NFIP guidance and regulations it is unclear if and when policy holders can obtain such refunds. This is also an important consumer protection and affordability issue. In fact, a November 2018 report by researchers at Wharton-U Penn identified NFIP regulations that only allowed policyholders to switch insurance providers at the time of their annual renewal as a barrier to more affordable private market policies for some consumers.

Under the National Flood Disaster Protection Act, flood insurance is required for federally-related loans if the property securing the loan is in a Special Flood Hazard Area (SFHA). In addition to the changes mentioned above, some changes around these mandatory purchase requirements could also be helpful in facilitating the private market and increasing take-up rates for flood insurance. During the last long-term reauthorization of the NFIP in 2012, Congress emphasized the need to increase private market participation in flood insurance to help ensure the long-term sustainability of the NFIP, increase consumer choice for flood insurance and increase the number of consumers covered by flood insurance.

Accordingly, Biggert-Waters took steps to encourage the use of private flood insurance by explicitly permitting the use of private insurance policies for loans subject to the mandatory purchase requirement. Consequently, on February 20, 2019 the Office of the Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the National Credit Union Administration published a final rule outlining when federally related lending institutions must and can accept private flood insurance in satisfaction of the mandatory purchase requirement. The rule is currently scheduled to take effect on July 1, 2019 and we hope it will provide overall clarity to current and potential homeowners who are seeking to purchase private flood insurance. But more work remains to be done due to some limitations within the statutory definition of private flood insurance.

Biggert-Waters requires that "private flood insurance" subject to mandatory acceptance by federally-related lenders include several contractual provisions that are in line with those included in an NFIP policy. Included in these required provisions are: (1) a requirement for the insurer to give 45 days' written notice of cancellation or non-renewal of flood insurance coverage; and (2) a provision requiring an insured to file suit not later than one year after the date of a written denial of all or part of a claim under the policy.

Each state, through their general regulation of the business of insurance, has requirements related to the time limitations for both cancellation notices and statutes of limitation. These laws are put in place to protect consumers and vary state-to-state. Unfortunately, as Biggert-Waters does not preempt state insurance laws, the statute effectively prohibits "private flood insurance" as it relates to mandatory acceptance in states whose requirements contradict the statutory definition. However, it is important to note that many states have enacted cancellation notice and statute of limitation requirements that provide protection to consumers beyond those outlined in Biggert-Waters. For example, a state may require 60 days' notice to consumers of cancellation or non-renewal; as opposed to the only 45 days' notice required under Biggert-Waters. Because of this, the definition of private flood insurance should be amended to make clear that statutory limitations are the minimum periods for both requirements, and that policies written in states where the consumer has more time to act remain eligible for mandatory acceptance.

The Big "I" also supports clarifying that a private flood insurance policy can satisfy mandatory flood insurance requirements for mortgages insured by the Federal Housing Administration (FHA). As noted above, Biggert-Waters took steps to encourage the use of private flood insurance by explicitly permitting the use of private insurance policies for loans subject to the mandatory purchase requirement. Some lenders, however, are currently unwilling to accept private flood insurance on FHA-insured loans when the property is in a SFHA because Section 203.16a of FHA's regulations and the corresponding implementing guidelines require flood insurance coverage in the form of a NFIP policy. This is confusing for consumers because private flood insurance is accepted on other federally backed loans. Since FHA loans are often utilized by first time and lower income home buyers such home buyers should be able to explore private flood insurance options that may offer more robust and affordable coverages than the NFIP is able to under its statutory restrictions, just like their counterparts who obtain non-FHA loans.

Making statutory and regulatory reforms to better allow consumers to utilize private market polices when such policies can provide more robust coverage than the NFIP at more affordable rates is only part of the efforts that are needed to increase take-up rates for flood insurance. Considering how the NFIP can better serve consumers is also important. As explained further below, the NFIP is currently undergoing efforts to change how policies are rated and make policies more consumer friendly. The Big "I" hopes that this process will help drive consumer understanding about flood risk and ultimately lead to more consumers seeking to purchase flood insurance.

Finally, as noted in the hearing memo in 1983, FEMA created the Write Your Own (WYO) Program to increase the NFIP's policy base and geographic distribution of policies; improve service to NFIP policyholders through infusion of insurance industry knowledge and capacity; and, provide the insurance industry with direct operating experience with flood insurance. This WYO Program operates as a partnership between FEMA and participating insurance companies that are compensated to write and service NFIP policies and 87% of policies are offered through program. The WYO Program is a necessary component of the NFIP and the Big "I" opposes any policies that would harm the WYO Program, make it more complex, or otherwise place limits on the program in a manner that could negatively impact NFIP take-up rates.

Section 100224 of Biggert-Waters directed FEMA to formulate an expense reimbursement ratio to WYO companies to ensure reimbursements track actual expenses, including standard business costs and operating expenses, in selling, writing, and servicing NFIP policies, in both catastrophic and non-catastrophic years. FEMA currently uses a proxy ratio based on five private market property/casualty expense ratios to determine reimbursement rates for companies.

Accordingly, FEMA has been working on a proposal to amend the formula by which WYO companies are reimbursed for certain costs associated with administration of the NFIP. A draft proposal and request for public comment should be released soon and the Big "I" hopes that it will build on the many improvements that FEMA has made to the NFIP since 2012 and serve as a pragmatic standard for ensuring accountability within the program. The Big "I" encourages Congress to work with FEMA as the rulemaking process moves forward and is ultimately finalized to ensure that the WYO program can operate efficiently and effectively to best serve policyholders.

IV. The Big "I" supports efforts to modernize and simplify the NFIP to make it more transparent to the approximately five million property owners that rely on the program.

The NFIP was originally created in 1968, and while many changes to the program have occurred since then it is important that steps are taken to continue to modernize the NFIP to ensure that it works for consumers in 2019. In addition to continuing efforts to implement changes to the program put in place by Congress in 2012 and 2014, FEMA is currently working on several initiatives to simplify the program.

For example, for the past two years FEMA has managed current risk exposure and enhanced the future viability of the NFIP through the transfer of risk to private reinsurance companies and capital markets investors. Under current law, FEMA has the flexibility to shift an appropriate level of risk from the federal government to the private market through the NFIP Reinsurance Program by securing reinsurance at a fair and reasonable cost. This provides FEMA with an additional method to fund the payment of flood claims after catastrophic flood events.

Additionally, FEMA is currently working within their statutory authority toward modernizing the insurance products the NFIP offers to consumers to better reflect new technologies, current underwriting methodologies, and insurance industry best practices. The Big "I" understands the intent of this initiative—dubbed Risk Rating 2.0—is to improve the experience that policyholders have with FEMA by (1) making the rating process more transparent so that it is easier to understand a property's individual flood risk; (2) modeling rates to appropriately reflect the varying types of flood risk (e.g. heavy rain fall vs. storm surge); and (3) using more intuitive rating variables to streamline what is currently an unnecessarily complex underwriting process for consumers and agents. FEMA also plans to offer more mitigation credits through the Risk Rating 2.0 process. With this information, the Big "I" hopes that FEMA will have a better understanding of the NFIP's risk portfolio and how that portfolio is impacted by Congressional mandates, to best serve consumers.

The Big "I" is optimistic that steps being taken to modernize NFIP underwriting via Risk Rating 2.0, including using advanced mapping and probabilistic modeling technologies, will eventually yield better risk communication for consumers helping to drive increases in take-up rates. Currently, a homeowner's flood insurance rate in the NFIP can change dramatically when you move from a SFHA to just outside a SFHA because the rate changes with the flood zone line on the map. However, water does not decide to stop at a flood zone line drawn nicely on a map. Flood risk is dynamic and changing and, while flood maps are still useful tools, they are a static depiction of risk. While the SFHA zones are necessary for mandatory purchase requirements, and the Big "I" has supported the mandatory purchase requirement over the years, it has resulted in inaccurate risk perceptions being communicated to consumers. As the NFIP moves forward with Risk Rating 2.0 and rates better reflect the gradation of risk within a flood zone, the Big "I" is encouraged that it will lead to more transparent and accurate pricing outcomes.

Simplification of the NFIP's complex underwriting process for consumers and agents is also important to the Big "I". Not only will this help to drive consumer understanding of rates but the Big "I" is hopeful it will result in more agents being willing to partner with the NFIP. Despite the need for flood insurance, purchasing flood insurance can be a daunting and complex process, especially within the SFHA. Flood insurance can be one of the hardest products for an insurance agent due to its complexity and current misperceptions about flood risk. As such, the Big "I" hopes that the Risk Rating 2.0 process will ultimately result in more insurance agent engagement with the NFIP.

Furthermore, by ensuring that the new rates better reflect individualized risk and rebuilding costs, the new rating structure should deliver more equitable rates for low-value homes. Rating for low-value homes was an issue flagged in the Affordability Framework that FEMA released in April 2018. Lastly, it is important to note that FEMA is working on Risk Rating 2.0 within their current statutory framework, meaning that any new rates will still be subject to the statutory caps on rate increases ensuring that affordability remains a priority. The Big "I" encourages Congress to work constructively with FEMA on these and other innovative approaches to modernizing the program within the program's current statutory framework and to only make targeted statutory reforms where necessary to simplify and streamline the program.

V. Conclusion

In conclusion, the Big "I" supports a long-term reauthorization of a transparent and modernized NFIP that would increase take-up rates for flood insurance, both in the NFIP and the private market, and urges Congress to extend the NFIP before it expires on May 31, 2019. Specifically, the Big "I" urges Congress to consider modest policy changes that could help grow the private market and protect consumers, such as clarifying requirements related to continuous coverage, mid-term cancellation, FHA-backed loans, and state law conflicts. The Big "I" would also be concerned with any policies that could impede the overall long-term growth of the private market and any policies that would harm the WYO Program, make it more complex, or otherwise place limits on the program in a manner that could negatively impact NFIP take-up rates. Finally, the Big "I" encourages Congress to work constructively with FEMA on innovative approaches to modernizing the program within the program's current statutory framework and to only make targeted statutory reforms where necessary to simplify and streamline the program. The Big "I" believes these policies will help more Americans obtain flood insurance coverage through the NFIP and the private market.

The Big "I" and Mr. Heidrick are grateful for the opportunity to provide testimony to Congress today on this very important issue. While the testimony has focused on the NFIP as a government insurance program, it is important to note that there are many other significant issues related to mitigation and floodplain management that deserve attention as they have a broader community impact beyond just those individuals who are required to or choose to purchase flood insurance. The Big "I" thanks Congress for considering the important viewpoint of independent insurance agents and brokers on the NFIP and looks forward to continue to work with Congress to close the flood insurance gap.