Testimony

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On behalf of the National Association of Professional Insurance Agents

"Reauthorization and Reform of the National Flood Insurance Program"
Subcommittee on Housing, Community Development and Insurance
Committee on Financial Services
United States House of Representatives

May 25, 2022

Good afternoon, Chairman Cleaver, Ranking Member Hill, members of the subcommittee, and invited guests, thank you very much for holding this hearing and for inviting me to be a part of it. My name is Ariel Rivera-Miranda, and I am the founder and agency principal of Deer Insurance Agency, which is an independent insurance agency located in Jacksonville, FL.

I was born and raised in San Juan, Puerto Rico and have over 18 years of experience in the insurance industry. I have been an independent insurance agency owner since I began my professional career, and I have founded and operated insurance agencies in Puerto Rico and Florida. In my current capacity, I sell flood insurance products through both the National Flood Insurance Program and in the private market, and I am currently the Secretary of the National Association of Professional Insurance Agents (PIA).

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 we specialize mostly in Property & Casualty insurance. We represent independent insurance agents in all 50 states, Puerto Rico, and the District of Columbia.

We strongly supported the House Financial Services Committee reauthorization bills that unanimously passed out of the committee in 2019, and we remain supportive of many provisions of the discussion drafts listed for today's hearing.

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. We strongly support this new rating system, which calculates premium rates using substantially more granular data to align rates more closely with each property's actual level of flood risk. The use of RR 2.0 is an opportunity for the NFIP to achieve solvency while also providing policyholders with more accurate, detailed information about their property's flood risk. With better information available to them, we hope policyholders and potential policyholders will be encouraged to learn more about their property's flood risk, engage in mitigation efforts where needed, and, ultimately, purchase flood insurance that matches their risk.

A long-term reauthorization of the NFIP is crucial to the program's longevity because the NFIP continues to provide critical support to all flood-prone areas. We support 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.

Independent insurance agents generally serve as the first point of contact for a potential consumer inquiring about flood insurance, and they represent potential policyholders as they navigate this complicated program. 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. More often than not, agents also receive the first call policyholders make after a flood loss.

Purchasing an NFIP policy is a difficult process for consumers; it requires the aid of agents with specialized knowledge, especially now that all policies are subject to the new RR 2.0 methodology. Additionally, even before the RR 2.0 transition, the flood policy purchasing process was very different from and more complex than that of a standard homeowners' or auto policy; that remains true today. Selling flood insurance demands far more effort from agents than selling other insurance products. With the private market growing, and state statutory and regulatory oversight of the private market evolving all the time, 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 if available.

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. In the current RR 2.0 environment, they are also tasked with gathering dozens of data points about each of the properties they cover to provide the RR 2.0 rating engine with a complete picture of the property they are insuring.

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; obtain and enter the new data points required by RR 2.0; and, during the first six months RR 2.0 was in use, determine when each policy was eligible for renewal into the RR 2.0 system. Agents work with policyholders to ensure renewal payments are received in a timely way, sends policyholders reminders as the expiration date approaches, and warns 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 often 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.

Over the past year, agents have also been fielding constant questions from lenders, builders, community floodplain managers, realtors, and clients about the effect RR 2.0 would have on different aspects of the program. But without a clear understanding of how each rating factor works, agents cannot answer these questions. The flood insurance program has always been a complex program with a steep learning curve, but RR 2.0 has exacerbated it and sometimes placed agents in the uncomfortable position of being unable to answer the inquiries of consumers and others. The workload of independent agents around the country increased exponentially once FEMA announced its bifurcated transition plan, and the smooth implementation of RR 2.0 has required tremendous effort.

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. Agents have spent the past year investing time, money, and manpower to familiarize themselves and their employees with a completely new rating methodology, but they often face a ubiquitous yet unanswerable question: Why did my rate increase so much?

III. Risk Rating 2.0

We strongly support RR 2.0 because it will make the NFIP more solvent while also providing policyholders with more accurate information about their properties' flood risk. With better information, we hope property owners will learn more about their risk of flood, engage in mitigation efforts where needed, and, ultimately, purchase flood insurance that matches their risk.

Moreover, we support the continued use of statutory caps, to provide consumers with a gradual progression toward actuarially sound rates. Risk-based rates are essential for stabilizing the NFIP financially, but their gradual implementation is key and should be accompanied by clear and frequent communication.

a. **Implementation**

Last October, FEMA began the first phase of RR 2.0's two-part deployment process. RR 2.0 was implemented for all new policies and some existing policies during the first phase. Specifically, existing policies whose renewal dates were between Oct. 1, 2021 and March 31, 2022 gained access to the RR 2.0 pricing system during that renewal (and thus before policyholders whose renewal dates occurred outside that time frame), if doing so would be financially advantageous to the policyholder—that is, if the RR 2.0 methodology produced a lower premium than the legacy methodology did. Existing policyholders whose policies were up for renewal during that time were permitted to renew using the legacy methodology if moving to RR 2.0 rate would have resulted in a premium increase.

FEMA's choice to bifurcate of the implementation process intensified the burden already being placed on independent agents, which include small business owners who, in some cases, have only a handful of employees. Splitting the process into two phases for renewing properties had several unintended consequences: first, the attendant media attention prompted policyholders around the country to contact their agents with inquiries about their eligibility for a lower rate via the new rating system. At that time, agents had no way of identifying the eligible policies within their books of business, so they were unable to answer their clients' questions. Indeed, agents only received access to the rating engine about a month before it went live. As a result, many hired additional staff to comb through their policies and identify clients eligible for RR 2.0 renewal during this first phase.

This past April, FEMA implemented the second phase, which rendered all policies subject to RR 2.0, regardless of whether the legacy methodology would have produced a lower rate. Currently, the last of the policies still using the legacy rating method will renew on March 31, 2023. From that point forward, all policies will be subject to RR 2.0, irrespective of its effect on their rates.

b. Affordability and Transparency

As independent agents have gained experience with RR 2.0, we have seen that we need more information from FEMA about how the new rating factors are weighed and combined to produce a single property's RR 2.0 rate. The FEMA website includes numerous Excel spreadsheets designed to be cross-referenced with one another to understand how a single rate is constructed, but the calculation process is unclear even to the most seasoned flood agents, particularly when compared to their experiences using the legacy methodology.

Every day, all over the country, agents begin the process of renewing a policy into RR 2.0 by entering the required datapoints into the new rating engine. Often, based on our years of experience, and our growing experience working with RR 2.0, we expect the system to produce a rate within a certain range. Sometimes our expectations are met, but, in many cases, we are surprised at the quotes returned by the system. Clients we expected would experience rate increases do not, while those we expected to benefit from it do not.

Agents have discovered that the legacy rating system credited consumers for mitigation measures in a way that the new system does not. Consumers who invested in mitigation because they expected it to pay for itself in premium reductions are learning that, in some cases, they will need to own their home for another decade or more before their investment pays off—if it ever does. An unintended consequence is that consumers considering whether to undertake mitigation efforts may be discouraged from doing so. If asked whether mitigation is a worthwhile investment, we may be hesitant to say yes, because we have seen the way mitigation is treated in RR 2.0, and we do not want to mislead our clients or colleagues about its advantages. This concern is widespread; legislators and regulators should want to minimize flood losses by incentivizing mitigation. Based on our experiences with the new rating engine, it appears that consumer mitigation efforts are minimally rewarded, if at all, in RR 2.0.

Because consumers whose rates went down using RR 2.0 were eligible for transition at their next renewal, beginning this past October 1, current policies being renewed into RR 2.0 for the first time are disproportionately those of consumers experiencing rate increases. Naturally, consumers facing increases seek explanations from their agents, who are, too often, unable to provide them. The rating engine was designed to take in data from agents and produce a rate, so the system does not show how it arrives at a particular rate. Agents cannot see what effect any single data point has on a rate, making it impossible for them to walk policyholders through the system's process of building an increased rate. Policyholders deserve to understand how their data is being used to calculate their premiums, whether mitigation efforts could change those premiums, and how existing mitigation efforts are accounted for in the new system.

Independent agents are the face of the NFIP, and our expertise and personal attention to our clients are vital assets to the program. The lack of transparency in the rating engine makes our work harder because it leaves us with frustrated clients and incomplete information. Better information about how rates are produced would help us maintain the level of service we are accustomed to providing and would improve the customer experience. Increased transparency will lead to greater trust in the NFIP, which could increase the flood insurance take-up rate all over the country, and further strengthen the NFIP.

The second trend concerning agents is the affordability of NFIP policies as they transition to full-risk rates pursuant to RR 2.0. All new policies are being issued at full-risk rates, which means that those covering high-risk properties will immediately be charged commensurately high-risk rates. Existing policyholders' annual rate increases are subject to statutory caps (typically either 18 or 25 percent per year, depending on the type of property). We support the continued use of statutory percentage caps on rate increases as the NFIP transitions remaining policyholders to full-risk rates. That said, even with statutory caps, some policyholders will be subject to the maximum allowable increase each year and will find their premiums unaffordable before they even reach their full-risk rates. For that reason, in the interest of retaining NFIP policyholders, we are open to proposals to lower the maximum rate cap, so long as policyholders' glide paths to full-risk rates continue.

The affordability problem will be exacerbated for policyholders who make changes to their policies that are not eligible for statutory caps, which apply only to rate increases prompted by a consumer's trajectory along the glide path. If a change in premium is prompted by something other than movement along the glide path, that change is not subject to the otherwise-applicable statutory cap. The NFIP refers to these as "premium-bearing changes,"[1] which include but are not limited to the loss of an applicable discount, an increase in coverage amount, or a decrease in deductible. An increase in coverage should remain subject to an otherwise-applicable rate cap. Omitting coverage increases from statutory caps arguably discourages policyholders from obtaining more coverage, leaving properties less protected than they would otherwise be.

With the benefit of this context, we 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, nearly five years ago. Leading up to that deadline, the 115th Congress was unable to agree on reforms to the program. As a result, the NFIP briefly lapsed three times within a three-week period in early 2018. Since the 2017 deadline, the NFIP has been subject to around 20 extensions of varying lengths, and its current extension will expire on September 30, 2022, which is still the peak of the Atlantic hurricane season.

Every short-term extension brings with it the chance for a lapse in the program. When the NFIP lapses, consumers are unable to renew existing policies or finalize the purchase of existing policies. 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 flood insurance is required. Plus, if a flood loss occurs during a lapse, some claims may not be processed until the program is

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[1] The October 2021 Flood Insurance Manual addresses this issue in its "How to Endorse" section. See https://www.fema.gov/sites/default/files/documents/fema_nfip-flood-insurance-manual-sections-1-6_oct2021.pdf.

reauthorized. Prior NFIP lapses have been estimated to have disrupted over 1,000 home sales per day, and, of course, the longer the lapse, the greater the disruption.[2]

The series of short-term extensions over the last five 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 when the NFIP's next expiration date approaches. Agents, carriers, lenders, and FEMA itself all develop contingency plans for an anticipated lapse. Those expenditures are made whether the lapse occurs or not, and only a long-term reauthorization can avoid them. The program's effectiveness depends on certainty.

b. Continuous Coverage

One of our 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. We were gratified to witness the bipartisan support this provision garnered in the 2019 committee vote and appreciate its inclusion in the draft legislative text associated with today's hearing.

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 without access to the glide path.

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.

c. Debt Forgiveness

The NFIP has not been financially stable since Hurricane Katrina hit the Gulf Coast in 2005. Hurricane seasons since have yielded a mix of small and catastrophic losses, and, as a result, the NFIP's debt grows each year. Policyholders are left to pay off the debt, which amounts to $400 million annually paid to the Treasury Department—and that just represents the interest on the debt.

Since 2005, the NFIP has repaid a total of $5.5 billion to Treasury; 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 use of RR 2.0; the existing debt represents an albatross around its neck from which it may never otherwise be free.

[2] See https://www.nar.realtor/blogs/economists-outlook/how-many-home-sales-will-be-affected-by-a-nfip-lapse.

d. A Robust Affordability Framework

Thanks to the implementation of the Risk Rating 2.0 methodology, 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 consider the issue of affordability. The past several years have been financially tumultuous for individuals 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 them immediately or existing policyholders experiencing maximum 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 program has been available for more than a half century, only 30 percent of homes in high-risk areas have flood insurance,[3] and fewer than 25 percent of the properties flooded by Hurricanes Harvey, Sandy, and Irma were covered by flood insurance.[4]

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, agents are seeing some NFIP policyholders with low-risk properties transition to the private market when faced with their first RR 2.0 renewal. If that trend bears out on a national scale, the NFIP could be increasingly composed of the highest flood risk properties in the country. Without an affordability mechanism, RR 2.0 could create an adverse selection problem for the NFIP, where the federal government is left to cover only the highest-risk properties. The NFIP should not become, effectively, the federal flood insurer of last resort.

We support both Risk Rating 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 smarter 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 revealed by RR 2.0—if not now, then in the future. The program must be affordable for policyholders who will never be able to afford their property's full-risk rate and for those who may otherwise 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 are already seeing the effects of RR 2.0 increases in some of the

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[3] 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.

[4] See https://riskcenter.wharton.upenn.edu/policy-incubator/upgrading-flood-insurance/closing-the-flood-insurance-gap/.

communities they serve. For that reason, the NFIP does not have the luxury of choosing between full risk rates and an affordability framework.

e. 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 understanding how the system is intended to work.

Rate transparency will be bolstered by the disclosure of each policyholder's full actuarial premium rate, which is included in the National Flood Insurance Program Reauthorization Act of 2022 discussion draft listed for today's hearing.

Rep. Nydia Velázquez's National Flood Insurance Program Administrative Reform Act of 2022, which is listed for today's hearing, includes provisions that would strengthen disclosure requirements for NFIP policies. We support these provisions, which include the requirement of an acknowledgement page confirming that the carrier and consumer both fully understand the scope and limitations of the policy being purchased.

f. 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 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.

g. 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. We continue 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, using the RR 2.0 methodology, policyholder mitigation efforts appear not to be rewarded with lower rates the same way they were in the legacy rating system. We are monitoring this issue as RR 2.0 continues to be implemented.

h. An 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.

The discussion draft of the National Flood Insurance Program Administrative Reform Act of 2022, listed for today's hearing, calls for a broader stakeholder Federal Flood Advisory Council, and we would support that concept as well. Any such council should include at least one seat for each of the three national independent agent organizations, to account for the various perspectives within the agent community.

V. Conclusion

We support 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.

We 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, and we are committed to the creation of an affordability framework to ensure that existing NFIP policyholders are not priced out of their homes as their rates increase along the glide path toward full risk.

We urge Congress to work towards a long-term NFIP reauthorization that will attract and retain policyholders and provide everyone associated with the program the certainty needed to remain in the business of flood insurance. We look forward to continuing to work with you all on this critical issue.