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TO: CIAB

FROM: Scott Sinder
Kate Jensen

RE: Overview of House NFIP Reauthorization Proposal

Last week, the House Financial Services Committee ("Committee") released a summary of provisions expected to appear in its forthcoming National Flood Insurance Program ("NFIP") reauthorization bill. It is our understanding that Committee members met recently to discuss contents of the summary, but it is unclear when text of a bill will be finalized and released. For purposes of identifying and prioritizing Council issues within NFIP reauthorization legislation, we have included below an overview of key topics within the Committee's summary.

Five-year reauthorization – The legislation will reauthorize the NFIP for five years (compared to 10 years in a recently-released reauthorization proposal from Senators Cassidy and Gillibrand). Historically, the Council has been supportive of a long-term reauthorization period.

Increasing private market involvement **–** The legislation aims to grow the private market for flood insurance—an objective long supported by the Council—through the following provisions:

- Adopting the Ross-Murphy approach to private flood insurance –
  - ➢ Private flood insurance is treated on par with NFIP insurance (i.e., both fall within the definition of "flood insurance," which satisfies the mandatory purchase obligation);
  - ➢ Simplified definition of "private flood insurance" (vis-à-vis Biggert-Waters current definition): (1) may be issued by an admitted or surplus lines insurer (not disapproved as a surplus lines insurer) and (2) coverage complies with state laws and regulations;
  - ➢ No private insurance-specific mandatory acceptance requirement; and

- Eliminates the non-compete provisions under current law to allow Write Your Own ("WYO") insurance companies to sell their own private policies outside of the NFIP.

Private market access to FEMA claims data – The legislation will require FEMA to share certain program information with the public. Specifically, the legislation instructs FEMA to develop and open-source data system to allow access to "all information related to assessing flood risk or identifying and establishing flood elevations and premiums, including data related to risk on individual properties, if available, and loss ratio information and other information identifying flood losses related to the program." Personally identifiable information will be protected and information is to be provided by zip code or census tract.

The Council has previously weighed in with congressional staff regarding the need for greater private-sector access to FEMA claims data so that the private market can effectively underwrite flood policies. Based on feedback from Council members, we specifically requested that the Committee amend current law to require FEMA to disclose to properly licensed insurers and their authorized agents and representatives, at least annually and upon request, certain claims and exposure data, including—for residential and commercial properties:

- Property address;
- Building value;
- Amount of insurance coverage;
- Date of loss;
- Amount of claim(s);
- Depth of water in the building during flood event(s); and
- Any other data or information agreed upon by the Administrator and industry participants that is relevant to underwriting private flood insurance policies.

We further proposed a provision requiring such information/data to be used only for aggregate underwriting of flood policies, and not to identity any individual for underwriting purposes.

The Council will study the specific data sharing provisions in the forthcoming legislative text and continue to work with Committee members on this issue to ensure private insurers receive the information and data they need to be viable participants in this market.

Increasing take up rates – The legislation will place greater focus on enforcement of the mandatory purchase requirements by reinstating a compliance report from federal regulators and GSEs to ensure lending institutions are complying with the law.

Affordability/stability for policyholders **–** The summary notes that consumers must be protected from "sticker shock and unpredictable rate increases." Accordingly, the legislation will, among other things:

- Cap individual policyholder annual rate increases at 15% (down from 18%);
- Limit the chargeable risk premium of any residential property to no more than $10,000 per year;
- Cut annual surcharges for certain low-risk, non-owner occupied residential properties;
- Allow FEMA to expedite implementation of the monthly installment payment provision in current law;
- Require FEMA to refund premiums on a pro-rated basis when policyholders cancel NFIP policies during the middle of a policy term and replace them with private funds (if the property has not been mitigated with NFIP funds); and
- Encourages development of optional Flood Damage Savings Accounts for policyholders who wish to reduce/eliminate NFIP premiums.

<u>Financial soundness of the NFIP</u> – The legislation addresses concerns regarding the long-term financial soundness of the NFIP by:

- Assigning FEMA accountability for the solvency and actuarial soundness of the NFIP, including a mandatory annual actuarial study of the flood insurance fund;
- Incorporating the Rep. Luetkemeyer approach (reflected in H.S. 2246), which requires FEMA to use risk transfer tools (e.g., reinsurance, catastrophe bonds, other securities) to reduce direct taxpayer exposure to losses;
- Increasing funding for the Flood Insurance Fund;
- Prospectively requiring FEMA to not make available coverage for any property for which the aggregate amount of claims payments exceeds twice the amount of the replacement value of the property;
- Four years after enactment -
    - Phasing out NFIP coverage for residential structures (1-4 units) where replacement cost of the building alone is greater than $1 million (subject to availability of private sector options);
    - Prohibiting NFIP from selling new coverage to future structures build in highest-risk areas (again, subject to private coverage availability);
    - Requiring FEMA to correctly measure and adjust rates to track real risk; and
- Capping WYO compensation at no more than 25%.

<u>Other general areas covered in the legislation summary</u> – Other topics addressed in the summary which may be of more general interest to Council members include:

- Reform of the flood mapping process;
- Updates/reforms to the NFIP's mitigation of frequent flood properties; and
- Claims processing and litigation reforms to better address and minimize fraudulent practices.