Date:	**November 4, 2015**
To:	**NAR Insurance Committee**
From:	**David McKey, Chair, Flood Informal Work Group**
Subject:	**National Flood Insurance Reform Report and Recommendations**

Charge: An informal work group was formed to deep dive into the National Flood Insurance Program (NFIP) and report back to the Insurance Committee with any recommendations for NAR policy.

The Work Group recommends that the Committee:

1. Ratify the private market flood insurance statement as adopted earlier this year (see Appendix).
2. Release Milliman's NFIP report which provides the basis and context for our recommendations.
3. Adopt the following NFIP reform position statement:

NATIONAL FLOOD INSURANCE REFORM

The National Flood Insurance Program (NFIP) plays a critical role in ensuring that flood insurance remains available <u>in all markets at all times</u> and should continue to exist as an option for property owners. We will continue to work to reauthorize, build on and improve the NFIP, not phase out or replace it.

Long-term Reauthorization. *NFIP's authority to provide flood insurance should be extended for multiples of years rather than months to bring certainty to real estate markets.*

Incremental Fiscal Reform. *Congress is considering ways to pay down or avoid future borrowing from the U.S. Treasury. Improving the enforcement of mandatory purchase of flood insurance requirements; temporarily establishing nominal surcharges; and allowing the NFIP to buy reinsurance are all options that could help the program to remain financially solvent in the long run. However, any major reforms should be incremental, gradual over a long period of time and provide sufficient advanced notice to avoid severely disrupting communities, neighborhoods and households.*

Affordable Insurance. *As "full risk" premium rates phase in particularly for the pre-Flood Insurance Rate Map properties, many homeowners will no longer be able to afford national flood insurance or sell their properties without a loss. Congress must provide reasonable alternatives to help ease the transition and make these families whole again, including:*

- *Providing federally backed mitigation loans or grants directly for property owners to build higher or stronger; such assistance should be made available before floods as well as after.*
- *Offering a one-time buy-out of high risk properties at fair market values for communities to convert to open space, parks or other amenities that enhance neighborhood property values.*
- *Streamlining and making consumer friendly the process for property owners to obtain mitigation loans, grants or buyouts with a minimum of paperwork, burden and red tape.*
- *Providing a gradual glide path for flood insurance rates to reach full-risk levels so no one will see sudden or unreasonable premium jumps overnight or through no fault of their own.*
- *Ensuring the accuracy of flood maps/insurance rates by providing for performance-based incentives as well as adequate training, quality assurance/control and oversight of Write-Your-Own insurance companies and other NFIP contractors.*
- *Grandfathering property owners who build/built higher or stronger so they won't build to one set of standards only to have them raised in the next flood map update only a few short years later.*

- *Enabling communities to purchase flood insurance as most insurance pricing and coverage decisions are best kept at the state or local level.*
- *Streamlining and encouraging the use of the Community Rating System, which offers insurance discounts in exchange for additional floodplain management investments by communities.*

Fair Premium Rates*. According to independent actuaries, NFIP's rate setting methods are outdated and result in many property owners being overcharged. The federal program should modernize in order to better align insurance rates to the specific flood risk of properties, for instance by:*

- *Dividing flood zones into coastal and inland subzones and creating a new rate table for each.*
- *Moving toward site-specific hazard assessments rather than averaging across 30 national flood hazard scenarios.*
- *Incorporating more precise risk factors (e.g., distance to river) in addition to the elevation and the general location of a structure.*
- *Investigating the adoption of modern technologies such as catastrophe modeling or LIDAR.*
- *Obtaining more granular and reliable property data, e.g., through commercial sources or incentivizing property owners to obtain elevation certificates.*

Accurate Flood Maps. *The NFIP should:*

- *Move toward higher resolution and property specific flood maps to improve the accuracy of the flood risk determinations;*
- *Take advantage of recent technological advances including the availability of LIDAR and web-based mapping, as well as catastrophe modeling alternatives;*
- *Provide a simpler, quicker and inexpensive appeals process in order to remove low-risk properties from high-risk maps; and*
- *Reimburse all property owners who successfully appeal the accuracy of their flood map.*

Homeowner's Advocate. *Even in its rudimentary current form, understanding the NFIP and the process of properly determining a property's risk is complex. As such, a fully funded and robust office of the homeowner's advocate is a key part of the solution to problems that property owners have in finding answers and/or assistance.*

Key Findings:

The Problem is Affordability *and Risk*

- Congress is phasing out subsidies for about one-fifth of NFIP properties without an alternative in place for those who can't afford flood insurance at the end of the phase out.
- Most of these properties would be underwater in the next 100-year flood, according to NFIP.
- Unabated, the rates could climb into the tens of thousands of dollars, rendering the properties unsellable and disproportionately impacting the communities where they are concentrated.
- Congress shares a measure of responsibility in this, having not informed the property owners of their true flood risk before they built or bought in harm's way.
- While there is not a "one-size-fits-all" solution for every property, the Work Group believes that there are a number of reasonable, incremental NFIP reforms that would dramatically improve the situation for many.

Fairness in NFIP Rates:

- NFIP is charging national average insurance rate for virtually all high risk properties across the U.S.; one in five of these is being subsidized.
- This means that:
    - Properties with a 1% annual flood risk are being charged the same as those with double or triple the risk; and
    - Two properties with an identical 1% risk are being charged substantially different rates.
- According to an independent actuarial analysis of five NFIP counties,
    - Current NFIP rates are not aligned with the risk, an important measure of fairness.
    - Some properties are being undercharged while others are over-charged.
    - There are several ways that NFIP rates could be improved to increase fairness.
    - Increasing fairness could result in more property owners buying flood insurance.
    - Increasing "take-up" of flood insurance could help strengthen NFIP solvency.

Federal Mitigation Assistance:

- Federally backed loans or grants for subsidized property owners to build stronger and higher represents a "win-win" solution, and should be a central focus of NFIP reform efforts.
    - By mitigating, property owners can reduce their flood risk and insurance rates;
    - By reducing risk, federal taxpayers spend less on NFIP borrowing and disaster relief.
- Current federal programs are underfunded and cumbersome, requiring applications from both the county and state in addition to the property owner, and approval can take 2-10 years before a successful applicant receives mitigation funds.
- The Work Group heard from REALTORS® who have tried to obtain loans/grants from these federal programs but were thwarted by the red tape, paper work, and unnecessary burden.

Grandfathering for Code Compliance

- Property owners who build and maintain to base flood elevation in one flood zone get to keep their current rating if the area is later remapped into a higher cost zone or elevation.
- These property owners are paying a "full risk" premium rate – just not based on current flood maps; instead, they're paying the full risk rate from the previous map in effect at the time the property was built.
- This is to protect property owners from having the goal posts moved on them (i.e., build "this high," then "no, higher") after they've made substantial investments in code compliance and/or mitigation.
- It also incentivizes property owners to "do the right thing" and build higher/stronger not only to reduce their own flood risk but also benefits their communities and taxpayers.
- It is a critical tool which deserves to be preserved and used to leverage mitigation investments.

Strengthening the Homeowner's Advocate

The office of the Advocate, championed by NAR in NFIP reform legislation last year, has since intervened on a number of occasions already and helped address many problems, including:

- Scaling back use of special "submit-to-rate" procedures which caused the most inaccurate rate increases under the Biggert-Waters Act; instead, Write-Your-Own (WYO) companies are now required to stick to FEMA's rate tables, except in the most special of cases.
- Requiring that WYOs re-underwrite all their flood policies to ensure that the rates are based on the correct flood map [Note: this is generally expected to result in rate reductions].

- Hiring McKinsey & Company to review the consumer experience with NFIP and recommend improvements ranging from the small [e.g., more training of insurance agents] to complete overhaul of the WYO program; more on this to come.
- Intervening in flood insurance rate map disputes, including:
    - One between a Georgia property owner and an insurance agent who appears to have committed fraud (i.e., the buyer was told his V-zone property could be grandfathered into the A zone at a substantially lower rate, but by the time the company requested the documentation months later, the agent was long gone);
    - Another prevailing on FEMA to finish the flood maps in Pinal County, AZ; otherwise, local property owners would have had to pay to finish them, before being allowed to appeal their inaccurate risk determinations and adding perhaps years and tens of thousands of dollars to their appeals expense.

Conference calls & Meetings: April 10, 17; May 12; June 11; and October 16, 2015

Speakers & Presentations:

- **Nancy Watkins and Matt Chamberlain (Milliman Actuarial Group):**
    - Provided an overview of how NFIP sets the insurance rates.
    - Collaborated with the Work Group to develop an actuarial analysis of NFIP rates in five counties: Pinellas, FL; Harris, TX; Ocean, NJ, Merced, CA; and Hancock, OH.
    - Presented the results of the analysis at the May meeting and in a written report.
- **David Stearrett (Property owner's Advocate)** briefed the Work Group on efforts to stand up the office within FEMA to advocate on behalf of property owners. NAR championed this office in the Biggert-Waters reform legislation passed last year.
- **Lisa Sharrard Jones (NFIP Expert Consultant)** updated the work group on remaining issues since the Biggert Waters law was amended in 2014 and ways to strengthen the Advocate's office to help.
- **Chad Berginnis (Association of State Floodplain Managers)** provided an overview of government mitigation loan and grant programs at the national, state and local levels and offered ways to streamline the programs for property owners to reduce their flood risk and insurance rates.
- **Dave Canaan (Charlotte-Mecklenberg, NC)** shared his experience directing one of the most successful county mitigation programs in the country; he also provided insight into what it takes for more counties to adopt similar programs.

Work Group Members

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APPENDIX:
INSURANCE COMMITTEE APPROVED STATEMENT OF NAR POLICY ON PRIVATE FLOOD INSURANCE

Recommendation(s):

1. **That NAR endorse the following principles related to private market flood insurance:**
    - **Private Flood Insurance Options --** The development of private market flood insurance options should be encouraged when property owners lack access to affordable coverage under the National Flood Insurance Program (NFIP).
    - **NFIP – An Essential Component --** While private flood insurance options are a vital complement, a reformed NFIP is essential to ensuring that flood insurance coverage is available to all property owners in all markets at all times, and especially those not served by the private flood insurance marketplace.
    - **Continuous Coverage --** Private flood insurance coverage should be taken into consideration when FEMA assesses whether a property owner has maintained "continuous coverage" for purposes of rate setting under the NFIP.
    - **Dispute Resolution --** Private flood insurance customers should have access to alternative conflict resolution methods (e.g., arbitration, mediation, etc.) that provide a less costly alternative to litigation to resolve disputes over coverage terms or claims payments.
    - **Flood Insurance Disclosure --** Consumers have a right to know the terms and full costs of coverage purchased, including any caps on claims, limitations and exclusions, as well as whether the flood insurance rates and coverage terms are regulated by the state. Standard consumer disclosures should be developed and implemented to serve this purpose.
    - **Federal Over-Regulation --** Duplicative, overlapping or unnecessary federal requirements should be removed for private flood insurance companies that are already licensed and regulated by the state.
    - **Federal Mortgage Programs and Regulatory Oversight --** Federal flood insurance laws should not limit or supersede the authority of federal mortgage programs (e.g. Fannie, Freddie, FHA, VA, etc.) or federal financial regulators (e.g. FDIC, Federal Reserve, OCC, etc.) to set requirements on the financial solvency and claims-paying ability of private insurers underwriting flood insurance coverage for federally related mortgages.