

The congressional authorization for the National Flood Insurance Program (NFIP) is poised to expire on May 31, 2019. This is an overview of the NFIP, as Congress considers whether and how to reauthorize the program. Links to materials and other resources are listed at the end of this update.

## Quick Background

Most property insurance policies in the US do not cover damages from flooding, whether from rivers and streams, from ocean storm surges or from ground water resulting from extreme rain events. To address this uncovered risk, in 1968, the Federal Emergency Management Administration (FEMA) opened the NFIP to make flood insurance available to residential and commercial property owners. Current coverage limits are US\$250,000 for single family up to four-unit residences, and US\$500,000 for other residential and non-residential buildings. The program is a partnership between the federal government and some 22,300 US communities that participate in the FEMA flood and floodplain risk mitigation programs. FEMA estimates that these programs save the federal government close to US\$1.9 billion annually in flood losses.

Currently, there are more than 5 million NFIP policies in force. Since 2000, the NFIP has seen an increase in the size and frequency of flood catastrophes. Its first payment year above US\$1 billion was in 2001 following Tropical Storm Allison. In subsequent years, it has paid out more than US\$2 billion four times – US\$2.7 billion following Hurricane Ike (2008) and almost US\$9 billion following each of Super Storm Sandy (2012) and Hurricane Harvey (2017). Hurricane Katrina payments (2005) are still the largest the NFIP has ever incurred at US\$16.25 billion. Currently, the NFIP is US\$20.5 billion in debt to the US Treasury, and carries annual interest charges of approximately US\$400 million.

## NFIP Funding Expires May 31, 2019

The NFIP is funded through dedicated congressional funding authorizations. In December 2018, the program was authorized through May 31, 2019. Past gaps between funding authorizations have caused temporary disruptions in some real estate and mortgage markets. A reauthorization gap as of May 31, 2019 will leave the program on ambiguous footing just as the 2019 hurricane season begins on June 1, 2019.

## Reauthorization Hearing

The House Financial Services Committee (the Committee) held a hearing on reauthorization on March 13, 2019. During that hearing, the Committee primarily focused on the four legislative discussion drafts detailed below. Other bills in the House relevant to NFIP reauthorization include H.R. 471, H.R. 2318, H.R. 469, H.R. 1666 and H.R. 470.

In the Senate, on April 11, 2019, Senator Marco Rubio (R-FL) introduced S. 1144 to update mapping requirements under the NFIP. Perhaps more relevantly, expectation is that the Senate will consider key elements of a 2017 bipartisan reauthorization proposal by Senators Mike Crapo (R-ID) and Sherrod Brown (D-OH). (Key elements in each of these bills are listed below). The common wisdom is that the program will be reauthorized, but with required program reforms.

## The Policy Debates

Reauthorization initiatives inevitably stir debate about NFIP policy underpinnings. Should the program reflect policies that encourage re-development after flooding, or those that encourage long-term land use planning in high-risk areas? Should NFIP premium levels be actuarially sound, or is it important to offer subsidized premium rates to make the coverage available to lower income homeowners? Should more resources be redirected to mitigation rather than to disaster response? How can economic and real estate development needs be balanced with long-term flood mitigation planning? How can the NFIP more effectively manage, fund and transfer its risks? What can be done to increase penetration of flood insurance in flood prone areas? Should the federal government get out of the flood insurance business altogether? What can be done to encourage development of a private insurance market?

## Expanding the Private Insurance Market

Interest is growing in expanding the nascent US market for private flood insurance.

- **Regulator data collection** – In 2016, US insurance regulators began requiring insurers to submit separate statistics about their private flood insurance lines of business. A National Association of Insurance Commissioners (NAIC) 2019 study of the first three years of this data concluded that 120 insurance companies are now writing private insurance in the US, and that flood insurance premium writings are increasing in most states. The report also predicted that these statistics miss a significant portion of additional private flood activity, as alien surplus lines carriers are not required to submit their data. The NAIC study recommended (1) collecting this additional surplus lines data, and (2) requiring insurers to break apart their data between residential and commercial flood insurance activities.
- **New banking rules** – Banks regulated or insured by the federal government may not issue mortgages to properties in high-risk flood areas unless the properties are covered by an NFIP flood insurance policy. After six years of cross-agency discussion, on February 14, 2019 all of the federal bank regulators and the FDIC issued standards allowing banks the option of meeting this requirement by accepting private flood policies that meet certain criteria.

## NFIP Initiatives

- **Rating 2.0** – FEMA is planning to unveil a new rating methodology in 2019, called Rating 2.0. The new methodology is intended to enable flood insurance premium charges to be more actuarially sound and to be tailored specifically to each property's actual flood risk.
- **Reinsurance** – In 2017, for the first time, FEMA secured reinsurance for the NFIP's flood insurance obligations and has put larger reinsurance programs in place in 2018 and 2019. The 2018 program limited coverage to damages from named storms only and included both traditional reinsurance and catastrophe bond placements. In 2019, the NFIP reinsurance program involves 28 reinsurers. For premiums of US\$186 million, the 2019 placement covers 14% of losses between US\$4 billion and US\$6 billion, 25.6% of losses between US\$6 billion and US\$8 billion, and 26.6% of losses between US\$8 billion and US\$10 billion. On April 18, 2019, FEMA also announced a US\$300 million catastrophe bond placement to cover NFIP risk for named storms and certain flood events.
- **Updated Technical Bulletins** – FEMA issued 11 Technical Bulletins between 1993 and 2010. The bulletins provide guidance to state and local officials for complying with and enforcing NFIP floodplain management requirements, building codes and NFIP regulations. FEMA is re-issuing the bulletins, streamlining them and using updated information and guidance.

## Discussion Drafts Currently Circulating the House

On March 13, 2019, the House Committee on Financial Services held a hearing to discuss NFIP reauthorization. During that hearing, members discussed four proposed discussion drafts:

- The first, led by Chair Maxine Waters (D-CA), *inter alia*, reauthorizes the NFIP through September 30, 2024; forgives the NFIP debt outstanding to the US Treasury; and creates a five-year demonstration project related to means-tested premiums <sup>1</sup>
- The second, from the House majority, *inter alia*, authorizes and requires accelerated creation of a digital mapping program; creates processes for appeal of flood mapping disputes; and creates new flood map zones for levee-impacted and agricultural areas <sup>2</sup>
- The third, also from the House majority, *inter alia*, increases funding available for mitigation; expands types of allowable mitigation activities; allows for co-ops to be treated like condominiums; and creates a pilot community-based flood insurance program <sup>3</sup>
- The fourth, led by Representative Nydia Velázquez (D-NY), *inter alia*, establishes a Federal Flood Insurance Advisory Committee to review the NFIP, make recommendations to the NFIP and report to Congress about the NFIP; articulates new requirements re studies, claims processing, litigation and other matters for insurers participating in the NFIP Write Your Own program; and requires a study of earth movement caused by flooding and a study of NFIP claims adjustment practices <sup>4</sup>

Notably, with the Spring recess over and Congress now back in session, House Majority Leader Steny Hoyer (D-MD) has announced that the House will consider a short-term extension of the National Flood Insurance Program (NFIP) in May. With authorization of the NFIP set to expire at the end of May, House leadership has added a provision to its disaster aid bill that would extend the program through September 30 in an effort to give lawmakers sufficient time to reach agreement on a longer-term authorization package.

## And in the Senate

In 2017, the Crapo-Brown National Flood Insurance Program Reauthorization Act provided, *inter alia*:

- Six-year reauthorization
- Increased funding for mitigation
- Flood mapping improvements
- Authorizing the NFIP to use additional risk transfer tools like catastrophe bonds, collateralized reinsurance and other insurance-linked securities <sup>5</sup>

1 [https://financialservices.house.gov/uploadedfiles/bills-116pjh-waters\\_009.pdf](https://financialservices.house.gov/uploadedfiles/bills-116pjh-waters_009.pdf)

2 [https://financialservices.house.gov/uploadedfiles/bills-116pjh-maj\\_mapping.pdf](https://financialservices.house.gov/uploadedfiles/bills-116pjh-maj_mapping.pdf)

3 [https://financialservices.house.gov/uploadedfiles/bills-116pjh-maj\\_mitigation.pdf](https://financialservices.house.gov/uploadedfiles/bills-116pjh-maj_mitigation.pdf)

4 [https://financialservices.house.gov/uploadedfiles/bills-116pjh-velazq\\_035.pdf](https://financialservices.house.gov/uploadedfiles/bills-116pjh-velazq_035.pdf)

5 <https://www.congress.gov/115/bills/s1571/BILLS-115s1571is.pdf>

## Links and Resources

- National Flood Insurance Program homepage <https://www.fema.gov/national-flood-insurance-program>
- NFIP statistics, re: Significant Flood events since 1978 <https://www.fema.gov/significant-flood-events>
- Committee Memorandum March 13, 2019 House Financial Services Hearing on NFIP [https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-20190313-sd002\\_-\\_memo.pdf](https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-20190313-sd002_-_memo.pdf)
- NAIC April 2019 report on Private Flood Insurance Data [https://media.squirepattonboggs.com/pdf/misc/NAIC\\_Report\\_on\\_Private\\_Flood\\_Insurance\\_Data.pdf](https://media.squirepattonboggs.com/pdf/misc/NAIC_Report_on_Private_Flood_Insurance_Data.pdf)
- March 13 House Financial Services Committee hearing materials <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402386>
- New Banking Rules Allowing Private Flood Insurance [http://media.squirepattonboggs.com/pdf/misc/Banking\\_Regulations\\_Private\\_Flood%20Ins.pdf](http://media.squirepattonboggs.com/pdf/misc/Banking_Regulations_Private_Flood%20Ins.pdf)
- NFIP Reinsurance Program <https://www.fema.gov/nfip-reinsurance-program>
- NFIP Manual <https://www.fema.gov/media-library/assets/documents/171681>
- NFIP Technical Bulletin Updates [https://www.fema.gov/media-library-data/1552414826370-d2c9029a117b479e08f41b0643d25a73/UpdatetoNFIPTechnicalBulletins\\_03122019.pdf](https://www.fema.gov/media-library-data/1552414826370-d2c9029a117b479e08f41b0643d25a73/UpdatetoNFIPTechnicalBulletins_03122019.pdf)

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