pennsylvania
INSURANCE DEPARTMENT

May 2, 2017

Roy E. Wright
Deputy Associate Administrator for Insurance and Mitigation
Federal Emergency Management Agency
500 C Street S.W.
Washington, DC 20472

Dear Administrator Wright:

Thank you for meeting with me during the NAIC Spring National Meeting in Denver, CO. I'd also like to thank Deputy Assistant Administrator Paul Huang for his participation in the private flood insurance roundtable discussion I hosted in partnership with the Reinsurance Association of America and Property Casualty Insurers Association of America on April 4, 2017 in Philadelphia, PA.

As you know, I have championed the growth of the private flood insurance market in Pennsylvania. I believe it is important to provide consumers with options and I have heard from Pennsylvanians that have found significant premium savings in the private flood insurance market.

However, as I also said during our panel discussion at the CIPR event ("The Future of Flood Insurance") in Denver – there will always be a need for the NFIP. There isn't a mandatory type of property and casualty insurance without a residual market or insurer of last resort. And, the NFIP does a lot more than just sell insurance. But I believe it's time to let the private market compete with the NFIP's flood insurance monopoly and remove the many barriers that keep the private flood insurance market from providing a viable and affordable alternative.

You have stated that the NFIP likewise supports the growth of the private flood insurance market. But, I have seen the NFIP take actions that appear to contradict this sentiment. Specifically, there are barriers the NFIP has created to growing the private flood insurance market. Below are some examples of such actions.

1. Around November 2016, the NFIP took action on its own accord to eliminate the ability for an NFIP policyholder who obtains compliant flood insurance from the private market to cancel the NFIP policy mid-term. This seems counter to supporting the private flood insurance market and has been repeatedly cited as one of the largest barriers to growing the private flood insurance market. While I would understand the NFIP implementing some sort of cancellation penalty (e.g. offering a short rate instead of pro-rata refund of the unearned premium), I don't understand how this policy change helps consumers or encourages growth of the private flood insurance market.

2. I understand that a consumer who leaves the NFIP to test the private flood insurance market but later decides to return to the NFIP is no longer eligible for any NFIP subsidy or grandfathering; the NFIP would consider this to be a lapse in coverage. I have experience with private insurers charging higher rates to consumers who have lapses in coverage on other P&C insurance products. I don't know of any that would consider continuous coverage provided by another insurer to be a lapse. And while I understand

that lapses in coverage are required under the U.S. Code to be charged full actuarial rates *(see 42 U.S. Code § 4014(g)(1))*, there appears to be adequate discretion for the NFIP to consider continuous coverage between the NFIP and the private market to not be a lapse.

3. The NFIP maintains a non-compete clause for private insurers participating in the NFIP's Write Your Own (WYO) program. You have stated that since agents are not subject to the non-compete clause and WYO carriers generally have a plethora of subsidiaries at their disposal, this is not really a barrier to growing the private market. I would suggest that if it is that easy to overcome, then the NFIP has no need for and can eliminate the non-compete clause.

4. The NFIP owns vast historical flood insurance data that could assist the private market with developing flood insurance rates. While I understand that the NFIP has taken steps to share certain flood insurance data and that you are constrained by federal privacy laws, I would ask that you explore what more can be done to share the vast historical data owned by the NFIP.

Clearly, the intent of Congress was to grow the private flood insurance market when it passed the Biggert-Waters Flood Insurance Reform Act of 2012. However, five years later federal rulemaking that would implement the private flood insurance acceptance requirements in the Act remain unpromulgated and many obstacles to growing the private flood insurance market remain – some created by the NFIP itself.

I hope that you will consider taking action to eliminate the barriers over which the NFIP has direct control. I'd be happy to answer any questions you have or engage in further discussion on this important issue.

Sincerely,

Teresa D. Miller
Commissioner