

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: May 28, 2015

Subject: June 2, 2015, Housing and Insurance Subcommittee Hearing entitled, “The National Flood Insurance Program: Oversight of Superstorm Sandy Claims”

The Subcommittee on Housing and Insurance will hold a hearing entitled “The National Flood Insurance Program: Oversight of Superstorm Sandy Claims” on Tuesday, June 2, 2015, at 2:00 p.m. in room 2128 of the Rayburn House office Building. The purpose of the hearing is to provide Members with the opportunity to receive testimony from the Federal Emergency Management Agency (FEMA) regarding the National Flood Insurance Program’s (NFIP’s) claim payments to policyholders in the wake of Superstorm Sandy and allegations that at least some policyholders received incorrect payments after their claims were improperly undervalued. The hearing will focus on the extent and causes of the alleged fraudulent behavior, the impact on policyholders, and what steps FEMA is taking to resolve these practices and prevent it from occurring in the future.

This will be a one-panel hearing with the following witness:

- Mr. Brad Kieserman, Deputy Associate Administrator, Insurance, Federal Insurance and Mitigation Administration, Federal Emergency Management Administration

National Flood Insurance Program

In 1968, Congress created the NFIP, which is administered by FEMA and provides flood insurance to more than five million policyholders in over 20,000 participating communities across the United States and its territories. The program enables property owners in participating communities to purchase insurance protection from the government against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing flood damage to buildings and their contents. Residents and business owners are able to buy flood insurance through insurance agents and companies that participate as third-party administrators in the “Write Your Own” program.

Superstorm Sandy: Allegations of Fraud

Superstorm Sandy, which made landfall in October 2012, resulted in \$65 billion in damage and destroyed or damaged 650,000 residential homes. Following the destruction, thousands of flood insurance claims were paid to victims by FEMA but reports began to surface that many claims might have been severely underpaid due to the submission of false engineering reports. On February 17, 2015, a front-page *New York Times* article described “dozens of cases” where original drafts of engineering reports were revised or deleted in order to understate the extent to which the policyholder suffered insured losses, thus lowering payments to flood insurance claimants. For example, according to the article, in order to improperly lower claims payments, individuals were asked to certify without valid basis that the original and final drafts of their engineering reports were unchanged by signing a backdated “memo of understanding.” Policyholders, according to the article, have alleged that these practices are widespread. Following a growing number of fraud allegations, a New York federal judge ordered all drafts of engineering reports be produced for examination. On March 1, 2015, the television program “60 Minutes” aired a report describing similar allegations.

Engineering and insurance firms deny wrongdoing and industry advocates claim that any falsifications were made by rogue agents and do not represent a pervasive problem. Insurance advocates also maintain that there is little motivation to cheat policyholders because FEMA ultimately pays the flood insurance claims rather than the insurance companies.

FEMA: Going Forward

Since FEMA began its own investigation, Administrator Craig Fugate announced the resignation of the NFIP Director and retirement of one other senior official. Additionally, FEMA is negotiating with over 2,200 homeowners who filed lawsuits to settle their insurance claims. Separately, FEMA announced that all 144,000 claims filed by those affected by Sandy will be re-opened and that the agency will review their claims process. Once that review is completed, FEMA will mail letters to all policyholders who filed claims notifying them of the opportunity to re-submit their claim if they suspect that the original claims determination process involved fraudulent activity. If the claimant has not already pursued litigation or received the maximum amount under their policy and FEMA determines that the claim’s value is higher than the originally-determined amount, the claimant will be eligible to receive a payment equal to the underpaid amount.