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October 13, 2008

The Honorable Kevin McCarty
Commissioner, Office of Insurance Regulation
Chair, NAIC Catastrophe Issues Working Group
Florida Department of Financial Services
Larson Building
200 East Gaines Street, Room 101A
Tallahassee, FL 32399

Re: NAIC Draft National Catastrophe Plan

Dear Commissioner McCarty:

This letter is pursuant to the Catastrophe Issues Working Group's request for comments on the latest draft of the NAIC National Catastrophe Plan. The American Insurance Association again reiterates the numerous concerns we and many other companies and organizations have raised over the past several years about this paper. We continue to believe that all stakeholders would be best served if the draft were re-worked as a true white paper, rather than an advocacy piece. In other words, the paper should identify a problem or concern, and lay out all of the various options for addressing the problem. Three particular areas come to mind.

First, we are troubled that the paper continues to implicitly encourage states to create catastrophe funds in order to access federal catastrophic risk reinsurance, as a way to improve insurance capacity and pricing in catastrophe prone areas. One could easily conclude from this draft that government financing of catastrophe risk is both essential and inevitable. Absent from the paper, however, is any discussion of regulatory changes that should be made to facilitate the entry and continued commitment of private capital into the insurance system. Indeed, state insurance regulators are in an excellent position to evaluate, recommend and take steps to make these changes, and the paper would benefit from such a discussion.

Second, the paper seeks to address the problem of determining, following a hurricane, whether a loss was caused by wind or water. The paper concludes, implicitly, that the only way to deal with this is to simply "enhance" the homeowners insurance product to cover flood. The paper not only neglects to discuss any of the practical or economic ramifications of such a sweeping change, it also fails to set forth any of the other options for addressing the "wind versus water" issue, such as Director Richardson's proposed "allocation" approach, or requiring the

NFIP, along with the policyholder and the wind insurer, to participate in state-sponsored mediation programs. Other options for addressing “wind versus water” have been proposed as well.

Finally, the paper goes into a good deal of detail about the need for meaningful mitigation and land use planning, and as we have said in the past, we support these concepts. However, the paper does not even touch on risk-based insurance pricing as a way to encourage mitigation (or, for that matter, as a way to enhance insurer capacity to write business in exposed areas). Insurance pricing that is truly actuarially based and not subject to artificial price suppression sends strong signals to insurance consumers about the hazards inherent in living in a particular location. In other words, when risk is taken in to account, market forces will strongly encourage the necessary levels of mitigation.

We continue to urge the Working Group to engage in an open discussion of all options and ideas that have been developed, and to amend the draft plan in such a way that identifies key issues and lays out all possible options for addressing them. If the NAIC’s goal in developing this paper is to collect and synthesize the best thinking on natural catastrophe financing, all interested parties would be best served by re-working the draft plan to reflect these ideas, rather than endorsing highly controversial approaches.

Thank you for considering our suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "E. M. Goldberg", with a long horizontal flourish extending to the right.

Eric M. Goldberg
Associate General Counsel &
Manager, State Programs

cc: NAIC Officers
NAIC Property & Casualty Committee Members
NAIC Catastrophe Issues Working Group Members