Good morning. Thank you Chairman Chambliss, Ranking Member Harkin and Members of the Committee for the opportunity to present the views and recommendations of the Independent Insurance Agents & Brokers of America (IIABA) on issues regarding the Federal Crop Insurance Program (FCIP). We appreciate the interest you have shown and the initiative you have taken by calling this very important hearing.

My name is Norman (Norm) Nielsen, and I am President of Associated Insurance Counselors, Inc. in Preston, Iowa. I am also the National Chairman of IIABA's Crop Insurance Task Force. IIABA is the nation's oldest and largest national trade association of independent insurance agents, and represents a network of more than 300,000 agents and agency employees nationwide. IIABA members are small businesses that offer customers a choice of policies from a variety of insurance companies. Independent agents offer all lines of insurance - property, casualty, life, health, employee benefit plans and retirement products.

I have been a Main Street insurance agent for over two decades. I have witnessed banner years for agriculture and I have been on the front lines for our nation's agriculture producers during some of the worst harvesting seasons in recent history, both as an agent and as an agriculture lender. I have represented this industry while the Risk Management Agency (RMA) has evolved through seven Administrations and I have never seen it in the disrepair it is in now. I am particularly bothered by the RMA's persistent undermining of the agent's role and overall value to the Program. Working together we have built this program into the success story it is today, and to be treated like second-class citizens is surprising and very disappointing. It is beyond the scope of imagination how time has actually worsened the Agency's ability to oversee this vital risk management tool, but somehow it has. With your indulgence, I will discuss some of the recent policy decisions made by the current management of RMA that has brought the program to the state it is in today, and me before the Committee.

Premium Reduction Plans

Section 508(e)3 of the Federal Crop Insurance Act establishes the opportunity for companies demonstrating an ability to offer crop insurance more efficiently than the rate of the Administrative and Operating (A&O) cost reimbursement the chance to reduce the premium charged by an amount corresponding with that efficiency. In plain English, if a company can establish a true "efficiency" that reduces the delivery cost of crop insurance while maintaining the same quality of service, that savings can then be passed onto the farmer in the form of a policy discount. There is no mistaking the fact that on the surface, a discount in crop insurance for our nation's agriculture producers sounds appealing, and could possibly increase program participation. However, as with any attempt to bring a new product to the marketplace, especially such a broad initiative as introducing price competition, you must conduct a careful analysis to determine its feasibility, and that the governing agency has the capacity to effectively implement and enforce it. IIABA believes that RMA is negligent on all counts.

IIABA is a staunch opponent of the Premium Reduction Plan (PRP). This is not to say that we are against competition; to the contrary, we believe competition provides an important check-and-balance for our industry. To underscore this point, we as independent agents are constantly competing against one another, which ensures that we are constantly striving to provide the

best possible service to our customers. Competition is healthy when handled properly. However, we believe PRPs actually undermine the competitive playing field by putting cost of service over quality of service.

IIABA believes that PRPs have absolutely no role in a marketplace that relies so heavily on the expertise of its agent network, and that the proliferation of this program will result in serious unintended consequences for our nation's farmers. Moreover, we believe that PRPs promote unfair discrimination against limited resource farmers, as well as farmers in areas traditionally classified as high risk, which flies in the face of Congress's intent when they created the Federal Crop Insurance Program - to provide all eligible farmers in the United States with crop insurance. In order to understand why PRPs are bad for the Federal Crop Insurance Program, you need to understand the role the agent plays in the delivery system.

Unlike the typical property-casualty product, an agent's responsibilities for crop insurance require a much more hands-on approach, which invariably increases the threshold for errors and omissions (E&O) exposure. On average, with advance meeting preparation, travel, and meeting time, an agent spends approximately 7 hours on a policy during the sales window alone. In Iowa, a transaction begins with the agent quoting the 247 different plans of insurance and then explaining production reporting and supporting record requirements to the farmer. He explains different date requirements by crop and by coverage for application, the actual production history (APH), the acreage report, the farmer's options and claims. He completes APH-related forms for the farmer, calculates preliminary yields, reviews production early to determine if there is a revenue loss, reviews the APH form for completeness and accuracy, and forwards the signed form and any applicable worksheets to the company. The agent then must review approved APH from the company to ensure accuracy, explain approved APH yields to the farmer, and provide him with a copy. This is just the beginning. I haven't even discussed procedures for Preventive Planting, Yield Adjustment, Unit Division changes, Power of Attorney requirements, or any of the other technical policy provisions. Everything I have just listed goes into writing the policy - I haven't factored in what transpires should the farmer experience a loss. I challenge the RMA to show you a delivery system that reduces the role of the crop insurance agent without reducing the quality of service our nation's farmers have grown to expect for the last 25 years. Some of the witnesses before you today would like you to believe that "innovative software" can reduce or replace the indispensable role of the agent without compromising delivery standards; however, the devil is always in the details.

The Federal Crop Insurance Act, as amended, authorizes the FCIC to establish rules, limitations, and procedures for approving applications by insurance providers to reduce crop insurance premiums. To be eligible for the reduction, however, the Act requires that provider demonstrate that a true "efficiency" will be achieved, not merely that a cost has been cut below the expense reimbursement amounts established by the FCIC. Unfortunately, the easiest "efficiency" a company can realize is a reduction in the role of the agent in the delivery process, thereby confusing cost-cutting with the efficiency required to be demonstrated under the Act. As a result, PRPs undermine the quality of the crop insurance delivery system, contrary to the standards established by Congress.

In 1980, Congress transitioned the federal crop insurance program from a program

administered solely by federal employees to a private-sector/government partnership project. In mandating this transition, Congress recognized that "the sales talents and experience of the private sector commissioned agents . . . are essential to fulfilling the goal of nationwide, generally accepted all-risk insurance protection." As a result of this demonstrated talent, Congress rested upon the agents' shoulders the "large burden of program delivery" and "providing full service to the client" including, but not limited to, sales. Independent agents, including IIABA members, have proved instrumental in achieving the program's goal of helping farmers make well-informed risk assessments and choices about the coverage that they purchase. These agents are knowledgeable about the technicalities of the crop insurance program and skilled at assisting farmers with concerns that directly impact their coverage, such as unit structures and yield guarantee weaknesses. They also have the training and experience necessary to encourage participation of small, limited resource and minority producers, as required under the Standard Reinsurance Agreement (SRA).

Discrimination

Since approval of a pilot PRP in 2003, IIABA and its members have been concerned about the effect of such programs on the delivery system and preventing discrimination against small, limited resource and minority producers. It is easy for RMA to admonish all forms of discrimination; in fact, there are a number of areas in the preamble of RMA's proposed rules where the Agency goes to great lengths to illustrate the prohibition against such behavior. However, condemning discrimination and actually having the means to police it are completely different issues. Although the proposed rules provide that RMA may not approve PRPs that result in a reduction of services to policyholders or PRPs that are unfairly discriminatory, the rules contain no enforcement mechanism to prevent disruption to the balance of agents and services to policyholders in the current crop insurance delivery system or to detect and prevent covert discrimination against small, limited resource and minority producers.

There is one company offering a PRP in 2005. Unfortunately, we have heard of wide-spread patterns of abuse and discrimination being practiced by this company, all happening under the nose of RMA's Office of Compliance. If this is occurring with only one company offering a PRP, it is simply unrealistic to expect RMA's current oversight infrastructure to properly monitor and regulate discriminatory practices, especially if the number of companies offering a PRP grows in the 2006 reinsurance year.

There are also forms of covert discrimination available for companies to employ. For example, the agent network for the delivery of PRP will undoubtedly be driven by the size of an agency's book of business. While an agent is required to offer all products offered by the company(s) for whom they write, the companies have the opportunity to decide which agents they wish to employ. The obvious litmus test for this decision-making process will be the size of the agency's book of business. Therefore, those whose book is comprised of accounts from smaller farming enterprises will be passed over for those with the larger, more profitable accounts. If RMA allows this to proceed, the end result will be cherry-picking by the companies to the detriment of small farmers. No agency can survive by servicing only small

farmers. Therefore, if only the best and most profitable customers are skimmed off the top, the result will undermine the intent of the law that governs the crop insurance program, a program that is based on serving all farmers of all sizes, without discrimination against smaller farms. Sadly, IIABA members have suffered from this tactic over the last year courtesy of the one PRP company in the marketplace.

Given RMA's current budget structure and cuts in agriculture spending in FY 2006, it is unrealistic to expect that a "shift of resources," as RMA proposes, will provide the necessary changes to their Office of Compliance in order to ensure order in PRP distribution. Nothing short of a "PRP Compliance Office" will come even close to providing the proper enforcement mechanism, and RMA does not have the financial resources to establish one. Proper compliance will require regulation all the way down to the agent level, and RMA lacks both the resources and the regulatory authority to achieve this goal.

In keeping with Congress's intent, independent agents currently assist producers, particularly small, limited resource and minority producers, with deadlines for reporting, screening information, quality control, risk assessment and determining the necessary amount of coverage. By doing so, agents then make up the difference by writing coverage for larger farming enterprises. If additional PRPs are approved, many independent agents, who receive at most only fair compensation under the current delivery system, would likely stop delivering crop insurance. Companies would likely consolidate their business among a smaller workforce of agents. The smaller delivery system resulting from PRPs would be unable to provide the same amount of individualized service, which would violate the PRP statute requiring no reduction in the quality of service to policyholders. As a result, Congress's goal of providing producer education through the crop insurance delivery system would be defeated and farmers would likely experience negative financial consequences from ill-informed risk assessment and coverage decisions.

Additional PRP Observations

When section 508(e)3 of the Federal Crop Insurance Act was established, its purpose was to create a vehicle for reducing the federal subsidy paid to the companies which offset policy costs to the farmer while at the same time, mandating that quality of service to the policyholder is not compromised. It is also important to note that when 508(e)3 was established, the A&O subsidy was several percentage points higher than it is today, making it easier to operate efficiently below the federal reimbursement. When RMA renegotiated the SRA in 2004, among other provisions was an additional reduction in federal subsidies paid to the companies. Therefore, there is a degree to which RMA has already created the savings anticipated in 1994 when Congress passed section 508(e)3. Therefore, the empirical evidence exists that the FCIP burden on the American taxpayer has continued to decline, while the quality of service to our nation's agriculture producers has remained static. This will not be the case under a PRP scenario. Proliferation of PRPs will be the equivalent of throwing the baby out with the bathwater, and will create numerous draconian consequences for an agriculture system our nation depends on, many of which will come to fruition well after the train has left the station.

Rulemaking Process for PRPs

In November of 2004, the Federal Crop Insurance Corporation (FCIC) Board passed a resolution suspending PRPs until a notice and comment rulemaking process can be completed. The FCIC Board should be commended for this prudent action. Prior to the resolution, RMA had approved one company and was prepared to approve several additional company applications to participate in a program lacking a proper set of rules in place to govern its distribution, despite scores of industry complaints regarding the discriminatory nature the program's delivery system lends itself to. Furthermore, we call into question the motives of RMA when they authorized the one company to continue to offer a PRP after the Board's resolution passed. The company continues to market a PRP in several states without any safeguards against predatory sales tactics, and the lack of foresight demonstrated by this decision has created a government -sponsored monopoly for the 2005 reinsurance year. Yet what is particularly singular about this decision -- when compared to RMA's alleged effort to police fraud, waste and abuse within the industry - is that prohibiting all PRP sales until the completion of the rulemaking process should have been paramount. However, despite conventional wisdom, the Agency decided to turn a blind eye to their irrational decision and instead focus on areas within the industry historically portrayed as good actors. IIABA puts no stock into any initiative by RMA to inhibit abuse of the program when they allow such fragrant loopholes to exist. Furthermore, if this is RMA's idea of promoting competition in the industry, then the future looks very bleak for anyone involved in the delivery of this important risk management program, and I shutter to think of the impact it will have on America's agriculture producers.

Comment Period

RMA activated a 60-day comment period on the preliminary rules beginning on February 25th and ending on April 25th, 2005. During this window, 805 formal comments were submitted to RMA from virtually every stakeholder - from the company down to the farmer - in the crop insurance industry. Out of these 805 comments, an astounding 94% voiced concerns regarding the deleterious impact PRPs will have on the delivery system. It is important to note that the one company offering a PRP offered a financial inducement (a pair of leather work gloves) to any agent or policyholder who submitted comments based on their suggested talking points, and provided them with a copy. This attempt to skew the outcome of the comments, which amounts to nothing more than a perversion of the rulemaking process, should have resulted in immediate disqualification. However, when questioned by a Member of this Committee, RMA's Office of General Counsel contended that they were not aware of any law or regulation that would be broken by an interest group providing a financial inducement to encourage individuals or entities to provide comments to a regulation, thereby insinuating their decision not to determine the influence this offer had made on the comments. It is IIABA's conclusion that, absent the incentive offered for favorable comments, the percentage of negative comments would have been considerably higher than the already overwhelming 94% received.

The lopsided results during the comment period, so heavily opposed to the preliminary rules for several reasons, should have prompted an immediate second comment period to ensure that all of the issues raised by the public and Members of this Committee were addressed. However, on April 19th, 2005 during an industry meeting, officials from RMA indicated that

the Agency's intention was to move forward with promulgating final rules by July 1st, in time for the 2006 reinsurance year. As mentioned above, the closing date of the comment period was April 25th; since this statement was made on April 19th, it is evident that the outcome of the comment period would have no bearing on RMA's version of the final rules. If the comments were to be read and utilized in the final rules, then it would be impossible for RMA to make such a broad statement regarding a completion date without having information regarding the final scope of the comments received.

IIABA contends that RMA has made a mockery of the comment period. Out of 805 submissions, 757 (94%) were negative. If RMA's intention is to arbitrarily promulgate the final rules without following proper procedure, then it is in Congress's best interest to place a moratorium on the PRP program until a thorough third party investigation, such as the Government Accountability Office, can be completed.

Conflict of Interest

The regulatory guidelines set forth in the 2005 Standard Reinsurance Agreement (SRA) further complicate the relationship between the agent and the loss adjustor. Let me be clear - IIABA in no way believes that the agent should be adjusting losses for the farmer and we firmly support the barrier between these two separate roles during the indemnity stage. However, in RMA's effort to thwart abuse and waste, the new procedures regarding agent and loss adjustor cooperation not only ends once a claim has been filed, but a $10,000 fine has been created and instituted for any subsequent violations. This fine will be levied against agents who fail to conform to the new policy.

This new policy is not only onerous and oppressive, but it flies in the face of RMA's latest effort to promote good farming practices in the new era of Asian Soybean Rust. It is difficult at best for agents to advise their clients on good farming practices via the manuals provided by the companies when it is in turn a violation of the SRA to advise the farmer during a claim, beyond the basic paper filing. Furthermore, with the realistic possibility of a $10,000 fine, most, if not all agents will make overly-defensive and cautious business decisions, which will place a serious burden on their livelihood. This irrational policy decision by RMA is completely inconsistent with how the crop insurance industry is supposed to operate. RMA has circulated a draft of a "revised" conflict of interest bulletin, but by all accounts the latest version only further defines what was already stated.

It is interesting that RMA has built the barrier between the agent and the loss adjustor while at the same time, moving ahead to implement PRP with reckless abandonment, since scenarios under future PRPs present a contradictory situation. For example, according to the conflict of interest bulletin, if a policyholder provides records to his/her agent for the adjuster to use to determine the claim, this is considered a conflict of interest, since the SRA limits the agent to simply collecting production information and provide it to the company. However, under a PRP scenario, the agent and the policyholder can be one in the same. To illustrate my point, consider a producer who has opted-in to a PRP where the company's efficiency is created through the farmer's responsibility to service their policy over the internet. Given this it is impossible for the agent and the loss adjuster not to communicate through the claims process,

since the farmer is acting as his own agent. This is an acute concern given the fact that RMA is moving forward with the PRP rulemaking process, and could be an even bigger issue should more companies offer a discount program utilizing the internet as a primary delivery tool.

Perhaps the most disturbing element of this policy decision is the fact that it was made during the renegotiation of the 2005 Standard Reinsurance Agreement, which precluded any consultation from the agent community whatsoever. As non-SRA signors, RMA determined that we are not qualified to contribute to the negotiation, despite the fact that several provisions in the SRA, particularly the conflict of interest, have a direct regulatory impact on the agent. Had we been given an ability to voice our concerns while the SRA was being discussed by the industry, issues such as this provision would have benefited from the perspective of Main Street agents. Instead, RMA chose to force it on us after the fact and use inappropriate scare tactics such as excessive and unwarranted fines. The proper due course is to invite the agent community to the negotiations for any SRA appendix that has even a marginal effect on their role in the delivery process. Anything else is a violation of reasonable due process.

Conclusion

Premium Reduction Plans are the wrong policy at the wrong time. Under PRPs, our nation's farmers are on the losing end, and the level and quality of service of their risk management will suffer. The access to available plans will be greatly reduced, and the knowledge and understanding of the system will be limited to those farmers who are willing and have the time to educate themselves on the complexities of crop insurance, while all the while servicing their farm on a full time basis. There are people at RMA who seem to think that "direct" insurance, similar to the delivery system employed by companies like Geico or USAA -- the United Services Automobile Association - is a realistic scenario that can be applied to the crop insurance delivery system. I can assure you that after two decades in this industry, that is an irrational and irresponsible conclusion and therefore lacks any merit whatsoever.

The insurance marketplace is too complex to regulate with broad strokes, and I implore the Congress to shelve section 508(e)3, either through a timeout or a total repeal, before it effectively dismantles the most successful public/private partnership our country has had in over 25 years. I also encourage the Committee to initiate a third party investigation into the stability and long-term impact of the PRP, preferably through the Government Accountability Office, before any additional action is taken that would advance the program into the 2006 reinsurance year. As you have heard today, there are several unanswered questions regarding the future of this program, and an investigation will guarantee that RMA moves in the right direction, a direction that is in the best interest of the crop insurance industry, and, more importantly, our nation's agriculture producers. Thank you for the opportunity to testify before you today, and I would be pleased to entertain any questions you may have.