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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of
THE CALIFORNIA FAIR PLAN ASSOCIATION,
Respondent.

ORDER NO. 2019-2:

WHEREAS, the California FAIR Plan Association (“FAIR Plan”) is an involuntary association of all admitted insurers licensed to write and engaged in writing *Basic Property Insurance* in California, governed by Chapter 9 of Part 1, Division 2 of the California Insurance Code¹, sections 10090 et seq. (“Chapter 9”);

WHEREAS, pursuant to section 10095, subdivision (g), administration of the FAIR Plan is subject to the California Insurance Commissioner’s supervision;

WHEREAS, pursuant to section 10095, subdivision (f), the Commissioner may revoke his or her approval of the FAIR Plan’s Plan of Operation if he or she feels it is necessary to carry out the purposes of Chapter 9;

WHEREAS, pursuant to section 10090, the FAIR Plan’s purposes are:

- (a) to assure stability in the property insurance market for property located in the State of California;
- (b) to assure the availability of *basic property insurance* as defined by [Chapter 9];
- (c) to encourage maximum use, in obtaining *basic property insurance*, of the normal insurance market provided by admitted insurers and licensed surplus line brokers; and
- (d) to provide for the equitable distribution among admitted insurers of the responsibility for insuring qualified property for which *basic property insurance* cannot be obtained through the normal insurance market by the establishment of a FAIR Plan...; (Italics added.)

WHEREAS, pursuant to section 10091, subdivision (c), *basic property insurance* means...

...insurance against direct loss to real or tangible personal property at a fixed location in those geographic or urban areas designated by the commissioner, from perils insured under the standard fire policy and extended coverage endorsement and vandalism and malicious mischief *and such other insurance coverages as may be added with respect to such property* by the industry placement facility with the approval of the commissioner or *by the commissioner*, but shall not include insurance on automobile or farm risks; (Italics added.)

WHEREAS, to ensure the availability of *basic property insurance*, the FAIR Plan’s current Plan of

1 Operation (Ed. 05/31/19) requires the FAIR Plan to offer, under its Division I program, dwelling fire and
2 allied lines policies containing, *inter alia*, the coverages set forth in section 10091, subdivision (c), but such
3 policies do not include the majority of coverages included in a typical homeowners' policy available in the
4 voluntary market;

5 WHEREAS, the data compiled and released publicly by the Commissioner in August 2019 shows
6 that the FAIR Plan's market share has increased significantly as the voluntary market non-renewed
7 significant numbers of homeowners policies in areas throughout the State of California exposed to
8 wildfire²;

9 WHEREAS, the Commissioner has determined that the coverages offered in the FAIR Plan's
10 Division I dwelling fire and allied lines policies as required by the FAIR Plan's current Plan of Operation are
11 insufficient to meet the growing demand for comprehensive homeowners' insurance in wildfire prone areas
12 and other areas of the state where the voluntary market has and likely will continue to non-renew
13 significant numbers of homeowners policies;

14 WHEREAS, certain homeowners' insurers in the voluntary market offer a version of the Insurance
15 Services Office, Inc. HO-3 policy with certain California amendatory endorsements (collectively referred to
16 herein as "HO-3") that includes the coverages specified in section 10091, subdivision (c) [perils insured
17 under the standard fire policy; extended coverage endorsement; vandalism and malicious mischief]; as
18 well as accidental discharge or overflow of water or steam, personal liability; incidental worker's
19 compensation; medical payments to others; damage to property of others; theft; falling objects; weight of
20 ice, snow, or sleet; freezing; and loss of use, including additional living expenses and fair rental value;

21 WHEREAS, under the FAIR Plan's current Plan of Operation, the FAIR Plan is required to use
22 standard forms such as an HO-3, except as modified with the Commissioner's permission;

23 WHEREAS, the Commissioner feels it is necessary, in order to carry out the purposes of Chapter
24 9, to revoke his approval of the FAIR Plan's current Plan of Operation (Ed. 05/31/19) to the extent the
25 current Plan of Operation is inconsistent with this Order to add additional coverages to the definition of
26 *basic property insurance* and to the extent that it does not require the FAIR Plan to offer the option to
27 purchase an HO-3 policy or a policy with coverages equivalent to those included in an HO-3 policy, in
28 addition to the Division I dwelling fire and allied lines policies the FAIR Plan offers as of the date of this
Order, to respond to the unmet demand for homeowners insurance in the state;

WHEREAS, the FAIR Plan's current Plan of Operation currently provides combined coverage
limits of \$1.5 million for Division I dwelling fire and allied lines;

WHEREAS, a significant number of FAIR Plan's Division I policyholders have purchased the
combined coverage limit of \$1.5 million, and certain of such policyholders have allocated all or a portion of
such limit to Coverage A for the dwelling, resulting in those policyholders being uninsured or underinsured
for other coverages;

¹ All statutory citations are to Chapter 9 of Part 1, Division 2 of the California Insurance Code, section 10090 *et seq.*

² See: http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/upload/nr063_nonrenewalcountydata.pdf.

1 WHEREAS, the Commissioner has determined a significant number of homeowners in the state of
2 California will be required to purchase a FAIR Plan dwelling fire or allied lines policy, or the HO-3 policy or
3 a policy with coverages equivalent to those included in an HO-3 policy, at combined coverage limits in
4 excess of \$1.5 million;

5 WHEREAS, the combined \$1.5 million combined coverage limit has not increased since on or
6 about 1993, so it has failed to keep pace with inflation;

7 WHEREAS, the Commissioner has determined that \$3 million is an appropriate combined
8 coverage limit for the FAIR Plan's current Division I dwelling fire and allied lines policies;

9 WHEREAS, the Commissioner has determined there is no rate impact if the FAIR Plan increases
10 its current Division I dwelling fire and allied lines combined coverage limits to \$3 million because the FAIR
11 Plan has no existing business above the \$1.5 million combined coverage limit currently offered;

12 WHEREAS, the Commissioner has determined that the liability coverage in the HO-3 or a policy
13 with coverages equivalent to those included in an HO-3 policy required by this Order, requires up to an
14 additional \$300,000 in excess of the \$3 million in combined coverage required by this Order for Division I
15 dwelling fire and allied lines to be available for the HO-3 or equivalent policy required by this Order;

16 WHEREAS, the Commissioner feels it is necessary, in order to carry out the purposes of Chapter
17 9, to revoke his approval of the FAIR Plan's Plan of Operation (Ed. 05/31/19) to the extent the Plan of
18 Operation is inconsistent with this Order that the FAIR Plan offer a \$3 million combined coverage limit for
19 its current Division I dwelling fire and allied lines policies, and a \$3.3 million combined coverage limit for
20 the HO-3 or equivalent policy required by this Order;

21 WHEREAS, the FAIR Plan currently only permits applicants and policyholders to pay in quarterly
22 installments and does not offer applicants or policyholders the ability to pay their insurance premiums for
23 Division I in monthly installments or to remit payment by credit card and electronic funds transfer, thus
24 creating a financial burden on applicants and reducing insureds' ability to afford and obtain *basic property*
25 *insurance*, contrary to the purposes of Chapter 9; and

26 WHEREAS, the Commissioner feels it is necessary to revoke the FAIR Plan's Plan of Operation
27 (Ed. 05/31/09) to the extent that it does not require the FAIR Plan to offer Division I policyholders the
28 option to pay their insurance premiums for *basic property insurance* in monthly installments with no
additional fees and/or to remit payment by credit card and electronic funds transfer with no additional fees.

NOW THEREFORE, IT IS ORDERED

1. The Commissioner revokes his approval of the FAIR Plan's current Plan of Operation (Ed.
5/31/19) to the extent the definition of *basic property insurance* for Division I does not specify
the FAIR Plan is required to offer the option of an HO-3 policy or a policy with coverages
equivalent to those included in an HO-3 policy, in addition to the dwelling fire and allied lines
policies the FAIR Plan offers under Division I as of the date of this Order;

a. The FAIR Plan shall, within 30 days of the date of this Order, submit for the
Commissioner's approval, a revised Plan of Operation amending the definition of
basic property insurance for Division I such that the FAIR Plan is required under the
revised Plan of Operation to offer, in addition to the dwelling fire and allied lines

1 policies the FAIR Plan offers under Division I as of the date of this Order, the option of
2 an HO-3 policy or a policy with coverages equivalent to those included in an HO-3
3 policy with a combined coverage limit of \$3.3 million, up to \$300,000 of which shall be
4 available at the policyholder's option for liability coverage;

5 b. The FAIR Plan's revised Plan of Operation shall include a requirement that the FAIR
6 Plan offer, in addition to the dwelling fire and allied lines policies FAIR Plan offers
7 under Division I as of the date of this Order, no later than June 1, 2020, to applicants
8 and renewing policyholders the option of purchasing an HO-3 policy or a policy with
9 coverages equivalent to those included in an HO-3 policy with a combined coverage
10 limit of \$3.3 million, up to \$300,000 of which shall be available at the policyholder's
11 option for liability coverage; and

12 c. The FAIR Plan shall file a rate application supporting the HO-3 policy or a policy with
13 coverages equivalent to those included in an HO-3 policy, sufficiently in advance of
14 June 1, 2020, so that the rates for the HO-3 or equivalent policy will be approved with
15 an effective date on or before June 1, 2020;

16 2. The Commissioner revokes his approval of the FAIR Plan's current Plan of Operation (Ed.
17 05/31/19) to the extent the Plan of Operation does not require the FAIR Plan to offer a \$3
18 million combined coverage limit for its current Division I dwelling fire and allied lines policies;

19 a. The FAIR Plan shall, within 30 days of the date of this Order, submit for the
20 Commissioner's approval, a revised Plan of Operation that requires the FAIR Plan to
21 offer applicants or policyholders the option of a \$3 million combined coverage limit for
22 its current Division I dwelling fire and allied lines policies;

23 b. The FAIR Plan's revised Plan of Operation shall, no later than April 1, 2020, require
24 the FAIR Plan to offer to applicants and existing policyholders the \$3 million combined
25 coverage limit for its current Division I dwelling fire and allied lines policies; and

26 c. The FAIR Plan shall, no later than December 1, 2019, submit a separate rule filing to
27 reflect the increased combined coverage limits for its current Division I dwelling fire
28 and allied lines policies.

3. The Commissioner revokes his approval of the FAIR Plan's current Plan of Operation (Ed.
5/31/19) to the extent that it does not require the FAIR Plan to offer applicants or policyholders
the option to pay Division I insurance premiums for the FAIR Plan's current dwelling fire and
allied lines policies, and the HO-3 or equivalent policy required by this Order, in monthly
installments, with no additional fees, and also does not require the FAIR Plan to allow Division
I applicants and policyholders the ability to pay by credit card and electronic funds transfer
with no additional fees;

a. The FAIR Plan shall, within 30 days of the date of this Order, submit for the
Commissioner's approval, a revised Plan of Operation that requires the FAIR Plan to
offer applicants or policyholders the option to pay Division I insurance premiums for
the FAIR Plan's current dwelling fire and allied lines policies, and the HO-3 or

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equivalent policy required by this Order, in monthly installments, with no additional fees, and also requires the FAIR Plan to allow Division I applicants and policyholders the ability to pay by credit card and electronic funds transfer with no additional fees; and

- b. The FAIR Plan's revised Plan of Operation shall, no later than February 1, 2020, require the FAIR Plan to offer applicants or policyholders the option to pay insurance premiums for the FAIR Plan's existing Division I dwelling fire and allied lines insurance policies in monthly installments, with no additional fees, and shall also require the FAIR Plan to offer Division I dwelling fire and allied lines applicants and policyholders the ability to pay by credit card and electronic funds transfer with no additional fees.

IT IS SO ORDERED.

Executed this 14th day of November 2019.

RICARDO LARA
Insurance Commissioner

