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Waterproof your assets

The Environment Agency report has revealed a staggering one in six properties is now at risk of flooding. While the annual cost of flood insurance for commercial and residential property is more than £1 billion, insurers and property owners were forced to pay out almost three times that in the wake of the 2007 floods.

What's changing?

Traditionally both property owners and professionals have relied on insurance to cover the risk of flooding. However, this cover may not be available for much longer.

Why?

- The agreement from 2000 between the Government and the British Insurers Association that insurers would insure against flooding as part of their standard cover for all properties runs out in June 2013.
- Whatever your view on global warming, research has revealed an increase in flood risk across the UK and media hype has helped reinforce public perception that the risk of property damage through flooding is rising.

What does it mean?

A lack of clarity and a perceived increase in risk makes it more likely than ever that insurers will move to full-risk based pricing. For insurers this could start with renewals from June 2012, as the policies will run on to post June 2013. The potential consequences could be:

- Insurance is likely to become steadily more expensive for properties at risk and full insurance may become unavailable to those at the highest risk. Uninsured properties could leave owners or occupiers in breach of their mortgage or finance obligations as well as making it more difficult to sell, assign or remortgage any property which is at risk of flooding; and
- Even where insurance is available and is cost effective, flood risk could still become increasingly significant on any property transaction. Some businesses may not survive the disruption. Astute purchasers will realise this and are likely to factor it into the price they are prepared to pay for any property deemed to be at risk of flooding.

How should I prepare?

- Purchases - buyers and their advisors should carefully consider conducting detailed flooding due diligence. The traditional model of simply visiting the Environment Agency website to complete a basic search is no longer considered sufficient as it does not deal with surface water flood risk. Instead buyers should consider a separate search as part of their conveyancing due diligence, which would provide more information about the flood risk.
- Leases - both landlord and tenants should carefully consider their insurance obligations. Due to the changing market, landlords may not want to be under an absolute obligation to provide flood insurance where it may not be available. Increasingly tenants are demanding uninsured risk provisions in their lease which passes the risk of uninsured risks damaging the building from tenants on to landlords. These provisions have traditionally been seen as a protection for tenants against terrorism but are now often expanded to cover other risks that are not insured such as flooding.
- Development - flood risk is also becoming increasingly important on proposed developments as planning policy now pays more careful regard to the flood risk. Development sites may become difficult to exploit or require more to be spent on flood protection measures. Developers should ensure they understand the flood risk and the likely impact upon planning before completing a purchase.

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