NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

November 22, 2022
Graham Steele
Assistant Secretary for Financial Institutions
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: FIO Climate-Related Financial Risk Data Collection Comments

Dear Assistant Secretary Steele,

On behalf of the members of the National Association of Insurance Commissioners (NAIC)[1], we wish to convey our deep concerns and suggestions regarding the Treasury Department's October 18th proposal to collect market data from property and casualty insurance companies across the United States. As the primary regulators of this sector, state insurance regulators are on the frontlines of natural catastrophe preparedness and response, protecting policyholders and maintaining well-functioning insurance markets. State insurance regulators, through the NAIC, have had a climate-specific working group for more than a decade, which evolved into our Climate and Resiliency Task Force that serves as the coordinating NAIC body for discussion and engagement on climate-related risk and resiliency issues. This Task Force builds on existing efforts to address the economic consequences of natural disasters, including efforts to mitigate their toll. While the role of the climate in influencing the frequency and severity of natural disasters has received more specific attention over the last decade, our work is built on decades of expertise and experience in managing the economic fallout of these disasters.

While we recognize the Treasury's desire to better understand the impact of climate risk and weather-related exposures on the availability and affordability of the homeowners' insurance market, we are disappointed and concerned that Treasury chose not to engage insurance regulators in a credible exercise to identify data elements gathered by either the industry or the regulatory community indicative of climate risk. The unilateral process Treasury employed thus far is a missed opportunity to work collaboratively with regulators on an issue we have both identified as a priority.

FIO has failed to demonstrate a good faith effort to engage with state regulators and has exhibited their intention to forgo a collaborative effort to identify and collect accurate and useful data. Treasury's approach is contrary to prior partnership-oriented data gathering efforts, such as in the months after Superstorm Sandy, where Treasury initially asked for a wide-ranging set of data from the states, but ultimately agreed to a more focused data call executed by the impacted states, thus avoiding duplication. In the aftermath of the storm, as states were coordinating on a regulatory data call, Treasury worked in advance with state regulators to identify what would be gathered by regulators and shared with Treasury

[1] As part of our state-based system of insurance regulation in the U.S., the National Association of Insurance Commissioners (NAIC) provides expertise, data, and analysis for insurance commissioners to effectively regulate the industry and protect consumers. The U.S. standard-setting organization is governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. For more information, visit www.naic.org.

as part of a collaborative effort. We would further emphasize additional collaborations such as Team USA on the international prudential front and the TRIA program to name some joint efforts that have produced positive results. These examples reflect the fact that states and the federal government have a mutual interest in this information, but for distinct purposes and only in furtherance of specific statutory mandates. In the case of the current effort, however, Treasury's approach was to pose an intentionally and unnecessarily complex hypothetical question to states whether wide ranging data could be collected in 30 days, in a format neither the regulators nor industry was likely to have on hand:

> *If FIO were to ask your jurisdiction at some point in the next four months to provide the data described in the liability data template (Attachment A1) and instructions (Attachment A2), would your jurisdiction be able to provide all of the requested data in the requested format for one or more of the entities identified in Attachment B for all of the zip codes in which they operate, within 30 days of being asked? Please explain if your state could only provide some, but not all, of the requested data in that timeframe; for example, if you could provide all of the requested data for certain entities but only for zip codes within your jurisdiction. FIO is NOT asking you to provide any of this data at this time. We are only trying to determine if you would be able to provide the data if asked.*

Posing a multi-pronged, hypothetical question to state insurance regulators represents neither a good faith effort at coordination, nor a credible basis for a determination that such data is not available in a timely manner. Treasury's own proposal concedes it could take 350 hours for the industry to produce the data, nearly exceeding the total time states would be afforded in the hypothetical request, and likely underestimating the timeline needed. A number of states responded to Treasury explaining the unrealistic nature of the proposed timeline but noted that states typically would have such authority to gather the data in question. Further, a number of states expressed a willingness to work with FIO when and if a request for the data was made. If the timeliness of obtaining the data is the rationale, Treasury has chosen to justify bypassing and ignoring offers for joint efforts by regulators and ignore the realistic time required for the industry to produce the data regardless of who requests it. This has already resulted in Treasury embarking on a months-long administrative process with an uncertain future when that time could have been better spent working collaboratively with regulators to produce a data call best suited to the task.

Taking into account the fact that the Executive Order from President Biden was issued over 17 months ago, coupled with the amount of time taken for this current exercise to date, it would appear collaboration would have always been a more fruitful exercise. We would strongly encourage Treasury to reconsider its ill-advised approach and reengage with the states in a truly genuine and good faith manner on this consequential effort. Further, given the magnitude of deciding not to work with the primary regulators, we question whether the process to date is consistent with Dodd Frank's intent to seek out such information before unilaterally collecting it.

It is unclear how FIO will use the data they intend to collect, and it is likely that any analysis will be misinterpreted and produce fallacious results in trying to identify climate risk. Treasury is requesting property insurance market data at a granular level, but it is unclear how that data will be married with other information to illustrate climate risk specifically. It does appear that this data will be coupled with demographic data. Average premium and deductible, when combined with other socio-economic data can provide insight into affordability, generally, but will not reflect the impact of climate risk on pricing or underwriting.

Affordability and availability analysis will also pick up the impact of social inflation, building codes, land use policies, labor and construction costs, the legal environment, housing stock and pricing, and other socio-economic variables that could be misinterpreted as climate risk. Policy language, exclusions, and provisions are also important to assessing the adequacy of coverage as an under-insured consumer may be more difficult to detect than an uninsured consumer, but both will not be able to fully recover from a loss. Further, excluding certain coverages such as liability, medical payments and living expenses from the policy and claims information on a historical basis may prove prohibitively challenging to provide.

For example, the Surfside Condominium collapse in Florida, which occurred in an area prone to severe weather and would therefore be impacted by increasing climate risk, is a good example of a large loss in 2021 that was not climate related but resulted in significant premium increases for similarly situated buildings in the Florida market due to construction characteristics. Looking at premium and loss data without additional context may produce false positives or false negatives in trying to identify the role climate risk plays across different markets.

Additionally, FIO should be leveraging the expertise of state-based regulators who have significant and widespread expertise in this field to ascertain and discern the potential meaning of any data collected. FIO has not clearly defined the purpose and scope of this data, and it would appear to be counter productive to get the data first, and then find a meaning.

FIO should leverage publicly available data and work with state regulators to better inform a data collection effort to fit its ill-defined purpose. A number of states noted in response to FIO's hypothetical that there are other data available in the public domain or with state insurance regulators that more specifically speaks to the risks faced in their market and the cost of catastrophic events. This would include data from several of the states identified as climate vulnerable. While FIO noted a few of these in the proposal, it implied that the information was inadequate because it does not fit their proposal precisely. However, state insurance regulators are better aware of the risk and the structure of policies available in their markets to better inform a data collection effort fit for purpose. For example, state statutes or regulatory guidelines may require rating characteristics that would be helpful to identify in a data call and vary by state. Examples include rating factors by coastal band or distance to the coastline, named-peril deductibles issued as a percentage of the policy and deductibles that can be applied for a single named-storm or all disaster events occurring within a season. These are the types of nuances best known by the state that reviews the policies written in that state, nuances that may often be unfamiliar or misunderstood. Many states, and the NAIC, have already performed data collections following major natural catastrophes that seem to be far more germane to FIO's inquiry, and indeed have historically been shared with Treasury when appropriate.

Given the timeframe of activities to date, we question the need for haste at this point. We believe FIO should honor the time-tested and well-settled fact that regulation of the insurance industry is best performed at the state level. We are willing to work with FIO within a mutually agreed to, reasonable timeframe to identify pertinent data and develop appropriate analyses suitable to a credible assessment of climate risk. However, in light of our concerns with the current proposal and our shared interest in the issue, we urge you to reconsider this proposal and instead engage with state regulators and the NAIC in good faith and a collaborative spirit on a path forward.

Finally, when reviewing the structure of the current endeavor, we believe that given the cost in dollars and human capital, the risk of misinterpretation of the data including outcomes, the lack of timing justification to ignore working with state insurance regulators, and the ultimate cost to policyholders including the potential disruption of the most robust regulatory system for insurance on a global basis, moving forward has many more substantial material costs than taking a more measured and good faith collaborative approach.

Thank you for the opportunity to provide our perspective.

Sincerely,

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