Center for Capital Markets Competitiveness

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Washington, DC 20220

***Re: Federal Insurance Office Request for Information on the Insurance Sector and Climate-Related Financial Risks*** **(Docket Number: 2021-18713)**

Dear Ms. Brown:

The U.S. Chamber of Commerce's ("the Chamber") Center for Capital Markets Competitiveness ("CCMC") appreciates the opportunity to comment on the Federal Insurance Office ("FIO") Request for Information ("RFI") on the insurance sector and climate-related financial risks.

The Chamber has been a leader in the conversation on environmental, social, and governance ("ESG") topics for nearly a decade, encouraging industries to work with investors on standards to meet investor interests and reflect the unique circumstances and contexts of industries and businesses. We have collaborated with our members and other stakeholders to promote practices, policies, and technology innovations across industry and government that address our shared climate challenges, particularly to quickly reduce greenhouse gas emissions to the lowest levels possible.

CCMC supports market-driven solutions to address these challenges presented by climate change, and the insurance sector seeks to promote stability and maintain affordability for U.S. consumers. For years, the insurance industry has been forward leaning in addressing the impacts of climate change, taking *voluntary* actions to address climate-related financial risk, including changes in underwriting, promoting resilience and predisaster mitigation for at-risk assets insured by commercial P&C, and changes in long-term investment strategy. This work has not gone unnoticed by regulatory bodies. In its November 2021 report, the Financial Stability Board noted, "P&C insurers are one type of financial institution whose leverage may be affected by climate change. Leverage at P&C insurers remained at historically low levels in the first half of 2021. The low leverage allowed P&C insurers to cover claims from recent severe weather events without solvency issues."[1] Any forthcoming recommendations should take into account and build upon the work that the insurance industry has already undertaken.

Below, CCMC addresses the specific priorities and questions set forth in the RFI.

**Executive Order on Climate-Related Financial Risk**

1. **Please provide your views on how FIO should assess and implement the action items set forth for FIO in the Executive Order on Climate-Related Financial Risk.**

CCMC supports the order's call for consultation with the states, who are the primary regulators of the insurance industry. We continue to support the primacy of state regulation of the business of insurance in any recommendations regarding climate-related financial risk. The McCarran-Ferguson Act makes clear that the regulation of insurance is the province of the states: "no Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any state for the purpose of regulating the business of insurance."[2] FIO should comply with the executive order's directive to consult with the States and build upon work already being undertaken by state regulators like the NAIC Climate and Resiliency Task Force, which engages dialogue among state insurance regulators, industry, and other stakeholders on climate-related risk and resiliency issues.

President Biden's Executive Order on Climate-Related Financial Risk, issued on May 20, 2021, calls on FIO to "assess climate-related issues or gaps in the supervision and regulation of insurers, including as part of the FSOC's analysis of financial stability, and to further assess, in consultation with States, the potential for major disruptions of private insurance coverage in regions of the country particularly vulnerable to climate change impacts."[3] In addition to the executive order, Recommendation 1.7 in the Financial Stability Oversight Council (FSOC) Report on Climate-Related Financial Risk released on October 21, 2021, "recommends that the Federal Insurance Office (FIO) should act expeditiously to analyze the potential for climate change to affect insurance and reinsurance coverage, particularly in regions of the country affected by climate change, *in consultation with the States*, in a manner consistent with Executive Order 14030."[4] Again, Recommendation 3.8 in the FSOC report notes, "The Council supports continued efforts *by FIO and insurance regulators to work together* to enhance the existing climate-related disclosures for the insurance sector."[5]

We acknowledge the EO's calls on FIO and encourage FIO to work with the NAIC, state, and federal regulators to ensure the best outcomes. In addition to the directive in the executive order, CCMC urges FIO to promote better understanding of the strengths of the U.S. state-based insurance regulatory system in international forums to promote development of approaches consistent with U.S. practice.

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[1] Financial Stability Board Report (November 2021) at 41.
[2] 15 U.S.C. § 1012(b).
[3] Executive Order on Climate-Related Financial Risk | The White House
[4] FSOC Report on Climate-Related Financial Risk at 6.
[5] Id. at 8.

**FIO's Initial Climate-Related Priorities**

2. **Please provide your views on FIO's three climate-related priorities and related activities, particularly with regard to whether there are alternative or additional priorities or activities that FIO should evaluate regarding the impact of climate change on the insurance sector and the sector's effect on mitigation and adaptation efforts.**

The RFI is an important step in addressing the three climate-related priorities. Regarding the first priority of supervision and regulation, CCMC supports the primacy of state regulators in these matters. FIO notes in the RFI that it will "consult with individual state insurance regulators and the NAIC during its assessment." CCMC strongly encourages this collaborative effort.

The second priority of mitigation and resilience is also a top priority of the private sector. Making insurance available and affordable is a primary focus that promotes smart, modern, resilient infrastructure that reduces risks and ensures long-term asset sustainability. In particular, the industry is focused on providing affordable insurance to underserved communities and consumers.

CCMC also applauds FIO for making insurance sector engagement one of its stated priorities. The insurance sector provides stability and wants to work collaboratively with FIO to address these critical issues.

We address each of the above priorities in more detail in the responses below to specific questions outlined in the RFI.

**Climate-Related Data and FIO's Data Collection and Data Dissemination Authorities**

3. **What specific types of data are needed to measure and effectively assess the insurance sector's exposures to climate-related financial risks? If data is not currently available, what are the key challenges in the collection of such climate related data? In your response, please provide your views on the quality, consistency, comparability, granularity, and reliability of the available or needed data and associated data sources.**

CCMC believes that FIO should work with other regulatory bodies who are collecting data before any new data collection begins. A key issue for the insurance sector, like other industries, is maintaining consistency with anticipated proposals from the SEC, NAIC, and select regulatory bodies so that the costs and burdens of duplicate processes are avoided. The work of these bodies should advance before FIO begins assessing what may be missing. Additionally, an important contribution of FIO, rather than requesting new data, is to help coordinate the data collection already underway at the domestic and international levels. FIO should assist the efforts of insurers in several key areas: 1) providing analysis of the quantity, consistency, and quality of disclosure; 2) strategies for incorporating climate-related risks into underwriting and investment processes; and 3) alignment and engagement with industry initiatives. By performing this coordinating function, FIO could help ensure data is consistent, and therefore useful.

CCMC also feels that certain data (particularly community-level data) can provide useful insights into addressing climate-related financial risk. While data collection can be beneficial, it is important for industry to know the purpose behind the data collection. Helpful uses of data include determining rate adequacy and determining better zoning to mitigate against climate-related risk.

FIO should be transparent at the outset about the potential uses of the data and indicate what it plans to do with any data that is presented. If FIO draws conclusions based on the data, it should explain its methodology. By outlining uses like those mentioned above in any data collection request, regulators can instill confidence in insurers about the uses of the data. Transparency by regulators throughout any data collection process will lead to better quality data being produced.

4. **What are the key factors for the insurance sector in developing standardized, comparable, and consistent climate-related financial risk disclosures? In your response, please discuss whether a global approach for disclosure standards needs to be adopted domestically for insurers. Please also address the advantages and disadvantages of current proposals to standardize such disclosures, such as those set forth by the Task Force on Climate-Related Financial Disclosures or the NAIC's Insurer Climate Risk Disclosure Data Survey.**

CCMC believes that any disclosures should follow whatever requirements are implemented by other agencies and that FIO should not be the primary, or even secondary, arbiter of requirements. Disclosure should continue to reflect an American emphasis on enterprise value and should be varied based upon industry, company, and investor circumstances to preserve flexibility. FIO should not develop disclosure requirements but could provide industry insight and encourage alignment in what is disclosed.

5. **Please provide your views on how FIO's data collection and dissemination authorities should be used by FIO to research, monitor, assess, and publicize climate-related financial risk and other areas of the insurance markets that are affected by climate change.**

As mentioned above, FIO should follow the lead of other agencies on data collection related to climate. Any data furnished to the public should be scrubbed and anonymized. If the purpose of the disclosure is for public scrutiny, there should be a liability safe harbor for newly mandated reporting due to the increased litigation risk.

6. **What are the likely advantages and disadvantages of a verified, open-source, centralized database for climate-related information on the insurance sector? Please include in your response the types of information, if any, that may be most useful to disseminate through such a database and the key elements in the development and design of such a database.**

While there is value in centralized data sources (e.g., a Federal Climate Service), data should be used in a manner consistent with the purpose of its original collection, and governmental agencies should appropriately and consistently interpret the data.

If data is collected from insurers, it should be aggregated and de-identified to protect proprietary information. Proprietary and trade secret information should be protected to avoid disclosure of the investment strategy of individual insurers. Allowing FIO to have access to all of the data so easily creates privacy concerns. Insurers would want certainty that their proprietary information would not be shared or used against them.

**Insurance Supervision and Regulation**

As noted above, CCMC supports market-driven solutions to address these challenges presented by climate change, and we reiterate our support for the primacy of state regulation of insurance. Climate-related issues are complicated and present significant challenges, similar in their complexity to ongoing challenges that have not been resolved with flood insurance and crop insurance in recent years. We believe the states are doing an adequate job, particularly efforts by NAIC's Climate and Resiliency Task Force, and we remain supportive of state regulation of the business of insurance.

7. **How should FIO identify and assess climate-related issues or gaps in the supervision and regulation of insurers, including their potential impact on financial stability? In your response, please address insurance supervision and regulations concerning: (a) Prudential concerns, (b) market conduct regarding insurance products and services, and (c) consumer protection. In addition, please discuss how FIO should assess the effectiveness of U.S. state insurance regulatory and supervisory policies in addressing and managing the climate-related financial risks with regard to the threat they may pose to U.S financial stability, including identifying (1) the major channels through which climate-related physical, transition, and/or liability risks may impact the stability of the U.S. insurance market, and (2) the degree to which insurers' business models could be affected by each category of risk and the relevant time horizons for such effects.**

CCMC contests the position that the impacts of climate-related financial risks are automatically systemically important with the kind of impact suggested by the executive order and this RFI. Before conclusions can be drawn, buildup of climate-related vulnerabilities must be rigorously analyzed from an activities-based transmission channel and internal risk management perspective for any potential to be systemically relevant. For decades, the insurance industry has been a leader at promoting stability and soundness in the financial system, and property and casualty insurers serve as a mitigant to climate risks. Additionally, while climate risk is a key risk for many insurers, elevating it above other risks to the physical and financial stability of insurers potentially takes away from the overall financial solvency health of an insurer as more and more resources are devoted to climate change risk instead of other risks.

FIO can play a role in educating others within the U.S. government and helping prevent negative policy actions that could give rise to unintended consequences.

8. **What approaches used by other jurisdictions or multi-national organizations should FIO evaluate that would help inform it about existing supervisory and regulatory issues and gaps concerning climate-related financial risks? Please describe these approaches, including their advantages and disadvantages, as well as available data sources on these approaches.**

Insurers report on climate change risk through confidential financial solvency filings such as, but not limited to, Own Risk and Solvency Assessment (ORSA); Enterprise Risk Report (Form F) and other less public means like the NAIC Climate Risk Disclosure Survey. Rating agencies are also incorporating climate change risk into their evaluations.

Any regulatory oversight by FIO should embrace domestic regulator deference and avoid duplication. The solvency regulatory framework should be kept at the state level. State regulators monitor transfer risk related to climate change and other risks to investments through specific regulatory limitations on investment types, liquidity stress tests, periodic financial examinations, and quarterly and annual reviews of financial statements. State regulators also monitor the risk of physical impacts from climate change through the Risk Based Capital (RBC) minimum surplus requirement. FIO can play a key role here in calling attention to situations where lack of uniformity creates confusion, conflict, or ineffectiveness in meeting climate-related objectives.

**Insurance Markets and Mitigation/Resilience**

9. **What factors should FIO consider when identifying and assessing the potential for major disruptions of insurance coverage in U.S. markets that are particularly vulnerable to climate change impacts?**

CCMC believes that in any assessment of disruptions, keeping insurance affordable for American consumers should be a high priority. In order to keep insurance available and affordable, FIO should focus on climate resiliency and adaptation.

Data should be leveraged to identify the highest risk and greatest exposed areas to assist in prioritizing where to allocate funds to support resilience efforts. Community-based resiliency, mitigation, and land use also should be part of the overall consideration. CCMC supports protection of underwriting, rating, and form freedom for excess and surplus lines carriers to help address availability and to keep a private market intact. There also should be a major focus on pre-event resilience funding but without mandated insurance subsidies.

Post-disaster spending should focus on building back with resilience. Policies and regulations following a disaster should maintain the integrity of contract terms and not include post-event underwriting activities that have a negative impact on affordability, such as requiring insurers to waive deductibles or increase limits.

12. **Climate change is currently exacerbating economic losses caused by weather-related disasters and is projected to cause further damage in the future. Please provide information on the actions that insurers have taken in response to the threat of increased economic losses from climate-related disasters, including how insurers are incorporating mitigation and resilience considerations into their business operations, as well as what other strategies or solutions that insurers or U.S. regulators may want to explore that would help insurers mitigate the impact of climate change and build resilience.**

Models help insurers assess property insurance risk from natural disasters and the impacts of mitigation. Hurricane models, which have been used for decades, are more mature than wildfire models, and wildfire risk presents additional complexities than hurricane risk. However, wildfire models continue to evolve and both types of models are important tools. The insurance industry also has been engaged in the research and promotion of resiliency for years. Regulators and policymakers should explore mitigation/resilience strategies that align with "Insurers' Principles of Climate Change Adaptation" by the Insurance Institute for Business & Home Safety (IBHS), such as the Building Resilient Infrastructure and Communities Program.

**Insurance Sector Engagement**

CCMC applauds FIO for making insurance sector engagement one of its climate-related priorities. The insurance sector recognizes the seriousness of the climate-related financial risk challenge and wants to be engaged with policymakers. Much of the sector is taking proactive steps to address the impacts of climate change on their businesses and the financial system.

**17. How should FIO assess the efforts of insurers, through their underwriting activities, investment holdings, and business operations to meet the United States' climate goals, including reaching net-zero emissions by 2050? For example, what steps should the insurance sector be taking to help improve transparency, comparability, and assessment of Scope 1, Scope 2, and, to the extent possible, Scope 3 GHG activities?**

CCMC also strongly believes that governments should not be directly involved in the investment decisions of insurers. The insurance industry holds investment assets of roughly $5.8 trillion as of December 2017, and they make up a sizable share of asset classes such as corporate bonds (21%) and municipal bonds (20%)[6]. As the RFI notes, the life insurance sector is one of the largest investors in U.S. capital markets. The insurance industry may be vulnerable to decreases in asset value as the world transitions towards a low-carbon economy.

CCMC supports the ability of insurance companies to adopt investment strategies that help maintain financial strength and fulfill promises to policyholders. Maintaining commitments to policyholders is foundational to the insurance industry, and insurers need to make investment

[6] The Role of Insurance Investments in the U.S. Economy, Center for Capital Markets Competitiveness (Winter 2019) at 4.

decisions that provide the returns necessary to fulfill these promises. Mandatory divestment strategies or restrictions in investment policy should not be pursued, as they could have immediate negative financial consequences to insurers and therefore their policyholders. Any non-divestment alternatives, such as engagement, should be encouraged instead of mandatory divestment, as companies will need capital to transition to a decarbonized and sustainable economy.

We recommend that FIO look for clear description of insurers' approach to incorporating climate-related risks in underwriting and investment processes. In underwriting, FIO should look for insurers' consideration of the impact of structural and non-linear changes from climate-related factors on their existing actuarial models and the implementation of forward-looking models, as recommended in the IAIS/SIF 2021 application paper. In the investment processes, FIO should look for systematic, evidenced consideration of climate transition risks and opportunities, using TCFD's guidelines for asset managers and owners (Section D.3 & 4).

Regarding business operations, FIO may want to consider the practices of insurance companies as they set public targets that align with U.S. climate goals, including time horizons (short, medium, and long). Working with the NAIC, FIO may be able to supplement state regulatory assessments, track progress, and assist in addressing gaps. Companies either are, or will be, working toward achieving stated targets (TCFD guidance for the Financial Sector, Section D.5). FIO should also ensure that insurers are aligned and engaged with ongoing state and industry climate-related initiatives. FIO should encourage disclosure around such activities alongside other climate-related disclosure, such as accounting of greenhouse gas emission.

Lastly, we believe specific steps towards transparency, comparability, and assessment should come from industry-wide discussion to form agreement for disclosure adequacy and consistency. We would encourage the FIO to work in a complementary role to coordinate more consistent disclosure across the insurance industry to provide transparency and comparability to better assess climate-related risk.

Thank you for the opportunity to provide our views regarding climate-related financial risk in the insurance sector. We look forward to a continued transparent discussion on these issues.

Sincerely,

William B. Gardner

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U.S. Chamber of Commerce