Berkeley Law

Center for Law, Energy, & the Environment

December 20, 2022

Elizabeth Brown
Senior Insurance Regulator Policy Analyst
Room 1410 MT
Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Re: Federal Insurance Office Climate-Related Financial Risk Data Collection

Dear Ms. Brown,

We appreciate the opportunity to offer comments in response to the Federal Insurance Office (FIO) Climate-Related Financial Risk Data Collection published in the Federal Register (87 FR 64134) on October 21, 2022.[1]

FIO proposes to collect information from certain property and casualty insurers regarding their current and historical underwriting data on homeowners' insurance, to assist FIO's assessment of climate-related exposures and their effects on insurance availability and affordability, including whether climate change may create the potential for any major disruptions of private insurance coverage in regions of the country particularly vulnerable to climate change impacts.

Collecting and analyzing data regarding the impact of climate change on the availability and affordability of insurance in the United States is critically important. We offer some recommendations below to improve FIO's proposal.

The Center for Law, Energy & the Environment (CLEE) at the University of California (UC) Berkeley School of Law channels the expertise and creativity of the Berkeley Law community into pragmatic policy solutions to environmental and energy challenges. We work with government, business, and the nonprofit sector to help solve urgent problems that require innovative and often interdisciplinary approaches. Drawing on the combined expertise of faculty, staff, and students across UC Berkeley, we strive to translate empirical findings into smart public policy solutions that better our environmental and energy governance systems.

[1] Agency Information Collection Activities; Proposed Collection; Comment Request; Federal Insurance Office Climate-Related Financial Risk Data Collection, The Federal Register, October 21, 2022.

CLEE established the Climate Risk Initiative to research and develop market based, regulatory, and public policy tools to assist the insurance and financial industries in recognizing, addressing, and responding to the risks caused by climate change.

Prior to serving as Director of the CLEE Climate Risk Initiative, I served as California's Insurance Commissioner from 2011 through 2018, where I was responsible for regulating the largest insurance market in the United States where insurers collect over $370 Billion in premiums annually.

In 2021, President Biden's Executive Order on Climate-Related Financial Risk instructed the Treasury Department to direct FIO to assess the potential for major disruptions of private insurance in regions of the country particularly vulnerable to climate change impacts. Pursuant to that same order, the Financial Stability Oversight Council recognized that climate change poses a threat to financial stability and has given clear direction for all participating agencies to respond to that threat.

Climate change is contributing to more severe and frequent weather-related natural catastrophes occurring in the United States and globally, including but not limited to wildfires, hurricanes, coastal and riverine flooding, tornados, urban heat islands and drought. These climate driven natural catastrophes are taking lives and causing injuries and are damaging property resulting in both economic losses and insured losses.

In 2021 in the United States alone, the estimated insured losses from natural catastrophes were $91 Billion, according to the Insurance Information Institute.[2] The Swiss Re Institute annual report, which looks at global losses from natural catastrophes, estimates the total economic losses will reach $260 billion in 2022. That's down 11% from last year, but still well above the 10-year average of $207 billion. Natural catastrophes caused an estimated USD $115 billion of insured losses globally in 2022 to date, coming in well above the 10-year average of USD $81 billion.[3]

Climate driven natural catastrophes are not only causing insurance company losses. They are also causing insurance companies to decline to write or renew home and commercial property insurance in areas at risk of loss due to climate driven natural catastrophes and causing insurance company insolvencies.

Hurricane Ian provides a recent example of the impact of a natural catastrophe on insurance companies and insurance availability and affordability. Hurricane Ian was the single largest

[2] Insurance Information Institute, "Facts + Statistics: US Catastrophes 2021" https://www.iii.org/fact-statistic/facts-statistics-us-catastrophes

[3] Leslie Kaufman, "Storms, Flood and Fires Caused $260 Billion in Losses in 2022", BNN Bloomberg, Bloomberg L.P., December 1, 2022.

loss-causing event of the year to date, with an estimated insured loss of USD 50–65 billion.[4] Even before the storm hit, 400,000 consumers in Florida had already lost their private home insurance over the last two years, as a result of about a dozen home insurer insolvencies in Florida and insurance price increases.

Florida homeowners unable to obtain private home insurance have been forced to rely on the state-created nonprofit "insurer of last resort" — Citizens Property Insurance Corporation of Florida. Citizens has seen exponential growth in demand over the last couple of years, with 1.1 million policyholders, double where it was two years ago. However, the Florida legislature required Citizens to operate without state funding, so when a big disaster hits and claims pour in, it assesses fees up to 45 percent on its policyholders if reserves are insufficient to cover claims. The true cost of a Citizens policy can increase dramatically following a major disaster. After Hurricane Ian, even more homeowners are unable to find private homeowners' insurance or unable to afford it if they can find it, and so more are expected to be forced to obtain insurance from Citizens [5]

Florida's situation following Hurricane Ian is not unique. In other states, climate driven natural catastrophes have caused substantial insurance losses, and have resulted in insurers increasing prices and declining to write or renew insurance for homes and other properties facing more frequent and severe climate driven losses. Climate change driven natural catastrophes, like flooding and wildfires, and the resulting impact on insurance availability and pricing, disproportionately harm minority[6] and low-income communities[7] because these communities are disproportionately located in areas subject to risk of loss due to natural catastrophes.

We offer the following comments and recommendations in response to the FIO request for comments.

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[4] Swiss Re Institute, "Hurricane Ian drives natural catastrophe year-to-date insured losses to USD 115 billion, Swiss Re Institute estimates" https://www.swissre.com/press-release/Hurricane-Ian-drives-natural-catastrophe-year-to-date-insured-losses-to-USD-115-billion-Swiss-Re-Institute-estimates/2ab3a681-6817-4862-8411-94f4b8385cee December 1, 2022.

[5] Washington Post, " Florida's insurance woes could make Ian's economic wrath even worse," https://www.washingtonpost.com/climate-environment/2022/09/30/ian-florida-economy-insurance/ September 30, 2022.

[6] Thomas Frank, E&E News, "Flooding Disproportionately Harms Black Neighborhoods: The impacts of floods can exacerbate existing racial and social inequality", June 2, 2020. https://www.scientificamerican.com/article/flooding-disproportionately-harms-black-neighborhoods/

[7] Testimony of Matthew R. Auer, Dean and Professor at the School of Public and International Affairs in the University of Georgia, at the House Financial Services Subcommittee on Housing, Community Development, and Insurance hearing "State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market". September 28, 2022. https://insurancenewsnet.com/oarticle/house-financial-services-subcommittee-issues-testimony-from-university-of-georgia-school-of-public-international-affairs-professor

1. Focus on underwriting

This data call focuses on the impact of climate change on insurance underwriting and pricing. While collecting and analyzing data in this regard is critically important to better understand and address climate change driven risks to insurers as underwriters, it is also critically important to collect, analyze, evaluate, and address climate change related risks to insurance company reserves and investments.

United States insurers have $8 trillion in cash and invested assets. Insurance companies' investments face both climate change related physical and transition risks. FIO should also collect information from insurers in all market segments and from state insurance regulators to be able to analyze and evaluate which investments held by insurers face climate change related risks, and what steps insurers and state regulators are taking to evaluate, address and mitigate these risks. So as not to delay the implementation of the FIO data call, we urge FIO separately to undertake data collection and an evaluation of the climate change related risks to the asset side of insurance companies' balance sheets, as well as an evaluation of state insurance regulators' efforts to consider, evaluate and mitigate climate risks to both insurance company underwriting and investments.

2. Selection of Insurance Lines

We recommend adding to this data call the collection of information from insurers on multi-unit residential and small commercial lines policies, as well as fire, flood (non-NFIP private flood insurance), and wind policies, and state residual markets/FAIR plans, Adding multi-unit residential and small commercial lines insurance would shed light on insurance availability and affordability for lower and moderate-income households, communities of color, and others who disproportionately reside in multi-family housing. Collecting information on fire, flood, and wind policies will also provide meaningful information about the extent to which households are having to access stand-alone policies to insure against climate related risks Collecting underwriting data on state residual markets/FAIR plans for policies covering climate driven hazards (wind, flood, fire etc.) will also provide insight into the extent to which households are unable to obtain standard multi-peril home insurance and are forced to obtain insurance through residual markets/FAIR Plans to cover climate related hazards. This would provide further information on the broader insurance market and provide deeper insights into how consumers are being impacted.

While reinsurers have been excluded from this data call, understanding the impact of climate change and climate risks on the re-insurance sector is also critically important. We recommend that FIO undertake a separate data call from re-insurers to collect information regarding the utilization, availability, pricing, coverage limits, attachments points, etc. for reinsurance written for US property and casualty insurers to cover losses in the insurance lines which are the subject of this data call.

3. Selection of insurers

Collecting data from large insurers as well as additional insurers providing coverage in climate vulnerable states is a sound approach to make sure that sufficient data is collected to enable analysis of the impact of climate change on insurance pricing and availability. This approach will enable FIO to capture a representative share of the U.S. market, particularly in Potential Climate-Vulnerable States, while minimizing the collection burden on smaller insurers by focusing on the larger insurers. We also support FIO's use of the NAIC Climate Risk Disclosure Survey threshold of insurers with $100 Million or more of annual premiums, as the threshold to define large insurers for the FIO data call.

4. Inclusion of data elements

We believe it is critical to add data fields to the data call spreadsheet to collect by zip code not only the total number of policies written by the insurer each year, but also the number of new policies written, the number of policies renewed, the number of policyholder-initiated non-renewals, and the number of insurer initiated non-renewals. This additional data needs to be collected to provide a complete picture of changes in insurance availability related to climate change driven risks. The California Department of Insurance found it necessary to collect this additional information from insurers to be able to assess changes in wildfire insurance availability, in its report on Wildfire Insurance Availability and Affordability.[8]

5. Use of accident year information

We agree that accident year reporting is the best approach for reasons set forth in the FIO Notice of Request for Comments.

6. Selection of reporting period

There have been a substantial number of climate driven natural catastrophes prior to 2017, which have had an impact on insurance availability and pricing. A longer time horizon is important to better understand trends in availability and pricing. We recommend a period of ten years for reporting/data collection, which would include notable severe hurricane and wildfire experiences prior to 2017. The additional burden of data collection is outweighed by the benefits of having the data needed to analyze and evaluate trends in pricing and availability.

7. Collection at Zip Code level

[8] California Department of Insurance, "The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions", 2017. http://www.insurance.ca.gov/0400-news/0100-press-releases/2018/upload/nr002-2018AvailabilityandAffordabilityofWildfireCoverage.pdf.

FIO has thoroughly considered and supported the importance of collecting data at the zip code level. We agree that data should be collected by zip code area.

We believe data collection made only on a state-wide basis would both artificially subsume and exaggerate experience trends. We do not think state-wide data would be useful in this important exercise. Climate related risks and their acuity can vary widely across the geography and topography of a state. Collecting data at the state level will hide or mask more geographically specific impacts of climate change driven weather events and associated impacts on insurance pricing and availability, as well as impacts on communities of color or low-income communities.

8. Collection across all Jurisdictions

We agree that data should be collected across all jurisdictions in which the insurer is selling insurance, including nationwide for those insurers selling nationwide.

9. Methodology for Selection of Potential Climate-Vulnerable States

The use of FEMA's National Risk Index to identify climate-vulnerable states is sound. If the project becomes an annual exercise, the states identified as climate-vulnerable should be annually reassessed as experience develops, and FEMA's analysis evolves.

10. Burden Estimate

FIO's methodology used to calculate the cost burden is sound. The total cost burden is a fraction of the annual premiums collected by the Representative Sample Insurers and the cost is outweighed by the need to collect this information to analyze the impact of climate change on insurance markets, insurers, and consumers.

11. Annual Collection

The data in this data call should be collected annually and not just once. Climate change is not "stopping" this year. Nor are the impacts on insurers and insurance consumers. Global temperatures are projected to continue to rise due to the existing volume of greenhouse gases emitted and the failure to reduce greenhouse gas emissions globally. Scientists project that climate will continue to change and weather-related natural disasters become more frequent and severe. The FIO data call should be conducted annually to be able to understand and address the impacts of climate change on insurers, insurance markets and consumers over time as climate change continues.

12. Analysis of Availability

Additional data needs to be collected to undertake an analysis of the impact of climate change on insurance availability. We believe it is critical to add data fields to the data call spreadsheet to collect by zip code not only the total number of policies written by the insurer each year, but

also the number of new policies written, the number of policies renewed, the number of policyholder-initiated non-renewals, and the number of insurer initiated non-renewals. This additional data collection needs to be collected to provide a complete picture of changes in insurance availability related to climate change driven risks. It is important to note that the California Department of Insurance Report found it necessary to collect this additional information from insurers to be able to assess changes in wildfire insurance availability, in its Report on Wildfire Insurance Availability and Affordability.

FIO should use available data on the number of households and single family, and multi-family structures and units in each zip code, as well as demographic data on the race, ethnicity, and income of households, and compare and analyze that data with the data collected from insurers on insurance policies, renewals, and non-renewals in each zip code.

13. Analysis of Affordability

Whether or not insurance is affordable, like housing affordability generally, depends on household income. What is affordable to a wealthy household may not be affordable to a poor household. FIO could use the household income ranges commonly used in federal and state housing law to determine housing affordability (i.e. a very low-income household is one with income from 0 to 50% of median household income in the zip code; low income is between 50% and 80% of median household income; moderate income is 80% to 120% of median household income; above moderate income is 120% or more of median income) to analyze insurance affordability. Based on the data collected in the data call, FIO can calculate and compare average and median home insurance prices in a zip code to very low, low, moderate, and above moderate household incomes in the zip code. Affordable housing is generally defined in state and federal law as housing costing no more than 30% of household income. Home insurance cost is a part of the cost of housing. FIO could determine, for each household income range in the zip code, the maximum amount of income the household can afford for housing (based on a limit of 30% of household income) and then determine what share of that housing cost would have to be allocated to insurance at the average and median annual price of insurance in the zip code and how much would remain to cover other aspects of housing costs, versus the median and mean cost of housing in the zip code. This analysis would provide some insight into whether insurance pricing is “affordable”.

14. Additional Comments: Insurers Use of Risk Score Models in Underwriting

Home insurers are increasingly using risk score models to make underwriting decisions and to develop rates. To have a complete understanding of how climate change is affecting insurance underwriting and pricing, FIO needs to collect data on the extent to which insurers are using risk score models and the extent to which these risk score models consider climate change. FIO should add to this data call a question about whether and how the insurers are using risk score models in underwriting and pricing, what model or models are they using, whether these models are based on experience alone or also incorporate forward looking probabilistic modeling of risks, whether the models explicitly consider climate change driven changes in

perils and the risk of those perils, whether the models consider landscape scale or community mitigation and home mitigation, and whether they explicitly consider climate modeling or climate change scenarios.

Thank you for the opportunity to submit comments. If you have any questions about these comments, please contact me at davejones@berkeley.edu or at 916-804-2499.

Sincerely,

Dave Jones
Director, Climate Risk Initiative
Center for Law, Energy, and the Environment
UC Berkeley School of Law

cc: Steven E. Seitz, Director, Federal Insurance Office, U.S. Department of the Treasury