December 4, 2023

Mr. Steven Seitz
Director, Federal Insurance Office
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: Proposed Climate-Related Financial Risk Data Collection
ICR Reference Number: 202311-1505-001

Dear Director Seitz:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to comment on the Federal Insurance Office's (FIO) proposed revised climate-related financial risk data collection. APCIA is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

APCIA is committed to working collaboratively with FIO and state insurance regulators to help ensure that any review of climate-related financial risk in the insurance market is done thoughtfully. We appreciate the focus that Congress and the Administration have placed on climate change resiliency in recent years and understand the specific importance that the Administration has highlighted recently regarding climate-related financial risk.

Coordination with State Regulators

In August 2023, the National Association of Insurance Commissioners (NAIC) announced that state regulators are developing a comprehensive, Zip Code-level data call to assist regulators in better understanding property markets and coverage and protection gaps related to increasing frequency and severity of weather events, rising reinsurance costs, and inflationary pressures. The development of the NAIC homeowners data call is moving rapidly and is likely to be implemented in short order – giving FIO a less burdensome avenue for receiving this data in a timely manner.

APCIA is disappointed that FIO and the NAIC failed to adequately work together on their respective forthcoming data calls for homeowners insurers in order to coordinate the collection of the data each is respectively seeking. As proposed, the NAIC's data call will be seeking to collect each of the data elements from homeowners insurers that FIO is seeking under its revised proposal, and the NAIC is planning to conduct this data call on an annual basis. Given the obvious similarities between these data call proposals, APCIA respectfully urges FIO to work with state regulators to develop a single data call or joint data call.

If FIO's proposed data collection becomes an annual exercise as mentioned in the revised proposal, APCIA would remind FIO of its obligation under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to seek to collect such information from state insurance regulators (as opposed to directly from individual insurers) for future years. By collecting this information from the NAIC – who will soon have the data – FIO would reduce the administrative burden on both companies and regulators.

Additionally, while the Dodd-Frank Act requires FIO to coordinate with the state insurance commissioners in any data collection effort, we do not believe that is where the coordination should end. Once FIO has obtained the data that it is seeking, APCIA believes that state regulators would be an invaluable resource for FIO to utilize when analyzing and developing conclusions from the data. Working with insurers' primary regulators will place FIO in the most advantageous position to effectuate the proposed data call's goal of assessing the impact of climate-related risk on the availability and cost of homeowners insurance in the United States because state regulators are better positioned to evaluate and understand the local complexities at play in their respective states' insurance markets. For example, state regulators will be able to assist FIO in distinguishing the climate-related impacts caused by other market forces often not associated with climate change. State regulators can also assist with contextualizing non-renewal data, as there is a myriad of potential reasons for non-renewals beyond those related to climate impacts.

Time-Consuming Nature of the Proposal

APCIA appreciates that FIO recognizes the substantial effort that this proposed data call will have on impacted insurers and extended the time period that the Representative Sample Insurers will have to submit the requested information to 90 days. This extra time is necessary because companies will need to manually retrieve and review for accuracy and completeness significant amounts of data to comply with the proposed data call.

Given the time-consuming nature of the proposal, FIO should also consider the competing reporting requirements that insurers are subject to in the earlier part of the calendar year when determining when to begin this proposed effort. Insurers are subject to numerous financial reporting requirements that must be completed annually during the first quarter, and requiring Representative Sample Insurers to comply with the proposed data call at the same time would have an exponential impact on that burden and place a strain on company resources.

Additionally, while we appreciate the proposed extra 30 days, it is important to note that until the final template is issued, it will be impossible for insurers to know how long the data collection effort may take. Therefore, we recommend that FIO check in with the Representative Sample Insurers following publication of the final template to see if an extension of the 90-day deadline is needed and appropriate.

Geographic Scope

The proposed data call template includes Zip Codes from U.S. territories (e.g., Puerto Rico and Guam). APCIA would appreciate clarification in the instructions regarding whether data from U.S. territories is intended to be included in the data call.

Open Books of Business

APCIA recommends limiting the proposed data call to homeowners insurance products that are open for new business, as opposed to closed books of business. Open products represent the industry's most current and forward-looking strategies around pricing, underwriting, and coverage. There would be little, if any, value in evaluating affordability and availability in relation to products that are not open for new business. Instead, including closed-book products could undermine any conclusions that FIO is seeking to reach regarding the current marketplace.

Confidentiality

APCIA appreciates that FIO recognizes the sensitivity of the data it proposes to collect from insurers, including by deeming the information nonpublic trade secrets and therefore exempt from public release under the Freedom of Information Act. APCIA agrees with this designation and believes that the public release of such proprietary data to the public or competitors could have a significant negative market impact. While APCIA recognizes the addition of certain confidentiality provisions in the revised proposal, we believe that many of these new provisions are overly broad and could lead to confusion or misunderstanding of the protections being afforded to this data.

While we are reluctant to have differing confidentiality protections over the same data (i.e., FIO confidentiality versus state statutes), APCIA recommends that FIO enter into individual signed written agreements with each of the 14 Representative Sample Insurers detailing the respective obligations of FIO/Treasury and the Representative Sample Insurer. These agreements should formally lay out all confidentiality provisions in depth in order to ensure that all participants have a full and common understanding of these protections. This will not only provide more sense of ease for the 14 insurers submitting data, but as this will likely be the first time that FIO will be collecting individual company data under the authorities granted by the Dodd-Frank Act, entering into written agreements could set a beneficial precedent for future data calls, including the potential annual collection of data related to climate-related financial risk under this proposal.

While it will be important for FIO to work directly with the 14 Representative Sample Insurers to draft such a written agreement, APCIA recommends that the following provisions be included in any such written agreements:

- Although the sharing of some aggregated, anonymized data with other federal agencies may be appropriate, FIO should agree to use their best efforts not to share any individual company data it receives with any other body with the exception of the company's regulator. Even in such cases, in order for insurers to maintain an understanding and record of who is in possession of their proprietary trade secrets, a written agreement should include a provision that would require FIO to notify any company at least 14 days prior to sharing any company-specific data beyond FIO or Treasury and provide the insurer an opportunity to object to the sharing of that information.
- If individual company data is shared beyond FIO or Treasury, FIO should also be required to provide the individual insurer an assurance that the receiving regulatory body is aware that the information is nonpublic, confidential information that is not authorized to be released in any form. Additionally, prior to providing any data, FIO should outline

the specific legal, regulatory, or other requirements to which the receiving body is subject to ensure compliance with the relevant confidentiality requirements.

- Finally, a written agreement should also expand upon the general statements made in the revised data collection notice that FIO will be prohibited from releasing or sharing any company-specific data with any non-regulatory body or any non-full time government employee or individual (including individuals serving on federal advisory committees).

Data Collection Template

We offer the following comments and questions on the specific data elements FIO is seeking to collect.

Total Dollar Value of Coverage for Dwelling, Other Structures, Personal Property, and Loss of Use

This data field would require carriers to aggregate Coverages A, B, C, and D. APCIA is concerned that aggregating these coverages will fail to provide value since these coverages are typically derived as percentages of Coverage A and not based on actual replacement costs. This data will not provide FIO with meaningful insight into market trends related to other structures (Coverage B), personal property (Coverage C), or loss of use (Coverage D). Further, depending on the carrier's systems, aggregating the coverage limits may require manual review or processing, which further increases the burden associated with compliance. Therefore, FIO should amend this data element to seek information related to Coverage A only.

Furthermore, with respect to coverage for loss of use, there are some programs in the country that have no dollar limit or percentage limit for this coverage. Instead, the coverage is based on a time duration, e.g., 24 months, with no dollar limit. We would appreciate clarification regarding how insurers should report this coverage for these instances.

APCIA would also appreciate confirmation that the total dollar value data field should be assessed as of December 31 of each reported calendar year. That expectation is explicit elsewhere but is not clear for this data element.

Number of Policies Not Renewed or Retained

The proposal states that insurers are currently reporting the "number of company-initiated non-renewals during," the "number of cancellations for non-pay or non-sufficient funds," and the "number of cancellations at the insured's request" as part of the NAIC Market Conduct Annual Statement (MCAS), and these fields collectively sum to the number of policies not renewed or retained. However, unlike FIO's proposed data call, MCAS reporting includes policy forms other than HO-3. As a result, FIO should be aware that the values reported in MCAS likely will not match the number reported for this data field.

Further, as discussed above, it is critical that FIO closely collaborate with state regulators before drawing conclusions from non-renewal data. There is a myriad of potential reasons for non-renewals beyond those related to climate impacts, and the state departments of insurance are in the best position to understand the local complexities at play in their respective states' insurance markets.

Direct Written Premiums

Similarly, the proposal asks companies to report direct written premium data "as defined for state regulatory purposes on the Annual Statement". However, unlike FIO's proposed data call, Annual Statement homeowners premium data includes policy forms other than HO-3. As such, the direct written premium reported on Line 4 of the Annual Statement will not match direct written premium reported for this data call.

Additionally, APCIA would appreciate clarification regarding whether the pro-rata amount of canceled premiums should be reported in this data field. We would also appreciate clarification regarding whether premium for earthquake, Personal Articles Floater (PAF), homeowners Plus, or watercraft endorsements should be included or excluded from this data field.

Total Direct Losses Paid

APCIA would appreciate clarification regarding whether losses paid for liability, PAF, watercraft endorsements, or defense and cost containment expense (also known as allocated loss adjustment expenses (ALAE)) should be included or excluded from this data field.

Total Direct Incurred Losses

Like the preceding data field, we would appreciate clarification regarding whether losses incurred for liability, PAF, watercraft endorsements, or ALAE payments should be included or excluded from this data field.

Moreover, reporting total direct incurred losses would require the allocation of incurred but not reported (IBNR) losses to the ZIP Code level. Insurers typically do not estimate IBNR at this level of detail, but instead estimate IBNR by forming credible yet homogenous groups, such as at a company-wide, state group, or state level. Allocating to a Zip Code level of detail will require additional effort and introduce uncertainty on the credibility and comparability of the data. To address this concern, the instructions should provide a preferred method or options for allocating IBNR at the Zip Code level, such as by case incurred loss, open claims, or premium.

Cumulative Number of Claims Closed With Loss Payment

APCIA would appreciate clarification about whether a claim should be reported in this data field if the claim was closed with loss adjustment expense payments only.

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Conclusion

Thank you for considering the points addressed above, and we look forward to continuing engaging with FIO in a collaborative and substantive manner going forward on this important work.

Sincerely,

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