December 4, 2023

By electronic submission via www.regulations.gov

Mr. Richard Revesz
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Re: Federal Insurance Office Climate-Related Financial Risk Data Collection for U.S. Homeowners Multi-Peril Underwriting Data

Dear Director Seitz:

We write on behalf of the Insurance Coalition (the Coalition), a group of insurance companies that share a common interest in federal policy affecting the industry. As a group representing a diverse cross-section of the life and property & casualty insurance industries, we hope that our perspective is useful as you consider the proposed collection of climate-related financial risk data. We appreciate this opportunity to respond to the request for comment.

Executive Summary

We are committed to understanding and addressing the effects climate change may have on our businesses and policyholders. The Coalition will continue to serve as a constructive and critical partner for the Federal Insurance Office (FIO) as it advances its work. Insurers have been adapting and will continue to adapt to a climate that is in a constant state of change. We believe that insurers are likely to remain highly resilient to the effects of climate change and can serve as a source of strength for our policyholders and the broader economy.

The Dodd-Frank Act (in 31 U.S.C. § 313(e)(2)(A)) states that FIO may require an insurer to submit “such data or information as the Office may reasonably require” in carrying out its statutorily authorized functions. While the proposal indicates that the data collection is intended to assist FIO’s assessment of climate-related risks and their effects on insurance availability for policyholders, it does not set out a clear objective for the data collection or identify a data gap that must be filled for that purpose. We believe that before moving forward with a data collection which would impose significant compliance costs on the industry, FIO should first identify a problem statement and work with experts to determine what data elements are reasonably required for FIO to carry out its efforts.

Additionally, the Dodd-Frank Act (in 31 U.S.C. § 313(e)(4)) requires the FIO to collaborate with state insurance regulators prior to any data collection. In its comment letter on the proposed data collection, the National Association of Insurance Commissioners (NAIC) argued that “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.”[1] In

[1] National Association of Insurance Commissioners Comment Letter - FIO Climate-Related Financial Risk Data Collection Comments – November 22, 2022

light of these statements, the Coalition has concerns that the FIO failed to meet its statutory obligations.

As noted in our previous comment letter, given the robust ongoing work of the NAIC and state regulators, among others, we believe that before moving forward with collecting additional data, FIO should work with the NAIC to minimize the burdens on insurers. Any data collection proposed by FIO should take into account existing statutory reporting requirements imposed by state insurance regulators.

The NAIC recently announced its intent to move forward with its own data call regarding property markets, coverages, and protection gaps in light of increasing climate risks, reinsurance costs, and inflationary pressures.[1] Given the similarities of these data calls, we urge FIO and the NAIC to harmonize their data collection efforts in order to avoid imposing additional, costly burdens on the industry. As currently proposed, the two separate data calls are unnecessarily duplicative, and the organizations should seek to maximize their efficiency moving forward.

The Insurance Coalition commends the FIO's efforts to streamline its proposed data collection, in order to reduce the compliance burdens on insurers. However, several outstanding issues, outlined below, continue to make the proposed data collection overly burdensome and may lead to inaccurate conclusions about the state of the marketplace.

Discontinued Lines.

FIO appropriately chose to narrow the group of covered insurers to those with 1 percent or more of the more share of the homeowners insurance market based on direct premiums written in 2022, in order to reduce the burdens on smaller insurers.

In this vein, we would urge the FIO to take similar action to remove discontinued lines from the scope of the data collection. Insurance Coalition members presently have several discontinued lines in runoff. While these lines have minimal impact, they would push the covered companies beyond the estimated 200 hours of compliance time under the Paperwork Reduction Act (PRA) and should be excluded.

Beyond the related compliance burdens, inclusion of these discontinued lines would create misleading and inaccurate effects within the collected data. Data for migrated policies will create anomalies as a non-renewal on one subsidiary became a new policy on its sister company. Additionally, high non-renewals may be interpreted to imply an action by the insurer leaving the policyholders uninsured which is not the case.

Under the data collection as currently structured, insurers would be unable to provide the relevant context underlying these data effects. Regarding the Number of Policies Not Renewed or Retained, the proposed instructions state to follow the Market Conduct Annual Statement (MCAS) instructions for these counts. Within the MCAS, insurers have the ability to explain unusual values in the tool. However, within the FIO's proposed data collection, which provides solely quantitative data, insurers would not be able to explain such anomalies.

Surplus Lines.

Similar to discontinued lines, the inclusion of surplus lines will also provide misleading data, and thus they should be excluded from the data collection.

The notice discusses the use of the data call to understand availability, disproportionate price increases, and impacts to lower income consumers. These policies underwritten by surplus lines carriers are for specialty cases and are for unusual underwriting circumstances which are not the target of the data call. The targeted market of underserved and disadvantaged communities for which this data call is being developed for would go to state FAIR plans and not the surplus lines carriers if they cannot obtain coverage.

Coverage D: Additional Living Expense.

The Coalition recommends that the FIO exclude Coverage D (Additional Living Expense) from the data collection. The Coalition questions whether the collection of Coverage D information is necessary to meet the intent of the data collection and urges that it be excluded, to further reduce the burdens on covered insurers.

Data Fields.

While the Coalition commends FIO's decision to narrow the number of required data fields from fifteen to seven, it is our belief that additional improvements could be made to reduce the burdens on covered insurers.

As currently drafted, the instructions for Total Direct Incurred Losses will require significant programming on behalf of covered insurers in order to achieve compliance. The instructions require insurers to report this field in accordance with Statutory Accounting Principles (SAP). SAP contains Incurred But Not Reported Reserves (IBNR). IBNR is an actuarial estimate of losses that is allocated at the state & product level but not at the Zip Code level. As such, reporting of IBNR at the Zip Code level would be a new requirement for everyone in the industry, and would impose a significant compliance burden.

Additionally, the treatment of Coverage E under the proposed data collection may result in misleading data and cause confusion. While insurers would be able to exclude liability from their loss data, because homeowners insurance is sold as a package, they would be unable to separate and exclude liability from other types of coverage in underwriting data.

Further, we would also raise concerns with The Cumulative Number of Claims Closed With Loss Payment. As proposed, insurers would only report the first-time closure of a claim. However, reopens and subsequent payments would not be counted but the dollar amounts of the payments would.

Finally, the Coalition recognizes that data calls develop and change over time. While the FIO has scaled the number of required fields back to seven metrics, historically additional fields have been added in subsequent years. The industry needs to know the updates as soon as possible to ensure the data can be captured and allow for the creation of a mechanical means to report it.

In the revised draft, the FIO provides an estimate of total annual burden hours of 60 to 200 hours per homeowners insurance entity within a respondent group. Any new fields would add additional hours not contemplated in the initial estimate.

The Coalition would urge that if the FIO chooses to move forward with any subsequent data collections, those new collections should be subject to a separate notice and comment period under the Administrative Procedures Act (APA), which would allow for an assessment of the costs and burdens associated with any additional data fields.

Reporting Period.

The proposed instruction states “For all fields reported on an accident year (AY) basis that are associated with homeowners businesses divested prior to the 2022 Annual Statement filing, data should be provided up to the last year that results for that business were reported.”

In order to provide greater clarity, we recommend that the instructions be revised to state “For all fields reported on an accident year (AY) basis that are associated with homeowners businesses divested prior to the 2022 Annual Statement filing, data should be provided up to 2023.”

Submission of Data.

In its revised data collection, the FIO extended the period in which covered insurers will have to submit the required information from 60 days to 90 days. While we view the 90-day period as an improvement, we remain concerned that it is an insufficient period to gather and provided the requested data.

As previously noted, the proposed data collection would require insurers to create new reporting mechanisms, including around IBNR. Additionally, the revised data collection would expand the number of years of data requested from five to six, creating additional compliance burdens.

Given these challenges, and the potential for unknown obstacles to arise in dealing with a new data request, we believe that additional time is required to allow insurers to comply with the data collection without facing undue burdens.

Paperwork Reduction Act.

The Coalition is concerned that the proposed data collection does not comport with PRA as required of FIO under 31 U.S.C. § 313(e)(4). For instance, PRA requires a determination that “the collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.”[2] Coalition members have expressed concern that the granular nature of the proposal will result in data that is unreliable and unfit for use in drawing larger conclusions about the effect of climate change on property and casualty insurance. As a result, it is possible the data will not have sufficient “practical utility” for FIO.

Additionally, PRA requires agencies to both fully inform respondents about how it will use collected data and protect the privacy of that data.[3] FIO’s proposal neither fully explains how data collected from insurers will be used, now or in the future, nor outlines a process by which proprietary information (including customer data) will be protected. The Zip Code level data being requested by the FIO is trade secret and the Coalition is concerned that if this data is made public, it could be reverse-engineered such that it offers a window into insurers’ proprietary business models.

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[2] 44 U.S.C. § 3508.
[3] 44 U.S.C. § 3506(e)(1).

These questions must be adequately answered before any proposed data collection goes forward.

Conclusion

The Coalition appreciates the opportunity to comment on this important topic. We would be happy to provide additional information and look forward to continuing to engage on this issue as your work on the proposed data collection progresses.

Sincerely,

Chris Brown and Lisa Peto, The Insurance Coalition