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November 28, 2023

Janet Yellen
Secretary, U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: FIO Data Collection

Dear Secretary Yellen,

As the lead regulator for insurers in the state of Florida, the Florida Office of Insurance Regulation (OIR) is providing written comments to address our concerns with the proposed data call released by the U.S. Treasury's Federal Insurance Office (FIO). Our concerns echo comments previously shared by the National Association of Insurance Commissioners (NAIC) and individual state insurance regulators, which we believe FIO has yet to adequately address. FIO has [made it clear](#) that the goal of this proposed data call is to assess climate-related financial risk to consumers in the insurance market, without taking into consideration the realities of the insurance industry, the strong regulatory framework in place to regulate it, or the limitations of FIO's own authority. Instead, FIO is acting as if it is a noble explorer venturing into uncharted territory ripe for the broad expansion of federal authority. Because FIO insists on proceeding with the flawed proposed data call, we must state that we are concerned with federal intervention in a state insurance regulatory process, the collection methodology and usage of the data, the potential for erroneous conclusions that could ultimately harm Florida's insurance market, and the use of Hurricane Ian impacts as a reason for the proposed data call.

Federal Intervention in a State Insurance Regulatory Process

States have been entrusted with the authority and responsibility of regulating insurance activities since the passage of the McCarren-Ferguson Act of 1945. For nearly 80 years, it has been universally recognized that insurance is a critical part of each state's economy, with direct consumer impacts varying greatly from one state to another. The risks, underwriting, and market participants in each state's market are not uniform, but instead representative of the demography and geography of each individual state. As FIO itself has noted, "insurers generally price policies based on the risk in a localized area and such risk assessment may not be uniform," even within an individual state.¹ However, the proposed data call goes directly against these principles by duplicating efforts of state insurance regulators. Additionally, FIO's lack of transparency raises concerns whether FIO is operating in good faith.

¹ Agency Information Collection Activities; Proposed Collection, Comment Request; Federal Insurance Office Climate-Related Financial Risk Data Collection, 87 Fed. Reg. 64,134, 64,138 (October 21, 2022) (October 2022 FRN).

State insurance regulators work to address disaster mitigation by utilizing the NAIC's task forces, working groups, committees, and the Center for Insurance Policy Research to address questions related to climate and resiliency. Regulators throughout the nation and in Florida also collaborate with research organizations, public universities, and other experts to advance these efforts. States also independently engage in unique programs and initiatives to ensure the affordability and availability of property insurance for their homeowners. For example, Florida is the only state in the country to have a catastrophic fund that provides reimbursements to residential property insurance companies for a portion of their catastrophic hurricane losses. Florida is also one of two states in the country to have its own state-run property insurer, capable of rapidly expanding and shrinking depending on market conditions, to ensure affordable access to insurance. Additionally, Florida has a public catastrophe model run by one of our premier public institutions of higher learning, has its own public modelling commission which evaluates models used by insurers and reinsurers, and provides nearly half a billion dollars in funding for consumers to harden their homes against hurricane threats through the My Safe Florida Home Program.

Aside from disregarding existing efforts by state insurance regulators, FIO has also disregarded concerns regarding lack of transparency. For instance, FIO has released the data fields, but not the methodology for evaluating the data. Moreover, it is unclear if FIO intends to leverage the expertise of state-based regulators to discern the meaning of any data collected, especially given statements that the results of this data call will be used by FIO to seek further regulatory authority. Additionally, FIO has not made clear whether they plan to take into consideration any of the aforementioned efforts by state insurance regulators. In short, this seems less like a fact-finding mission and more like a power grab by an upstart federal bureaucracy.

Flawed Data Collection Methodology and Usage

The proposed data call is not just federal overreach, but it is also a flawed process for collecting the information FIO claims it needs to examine climate change. The belief that six years of data will provide any meaningful information regarding the effects of climate change reveals a fundamental misunderstanding of the insurance marketplace. Absent temporary market disruptions, insurance markets change gradually, year over year, and these changes are driven by slow processes incorporating complex modelling and actuarial science.

By design, the proposed data call ignores the diverse composition of Florida's insurance market by only collecting data from a small fraction of over 120 market participants, many of which only write insurance in Florida and each of which have their own unique exposure and underwriting requirements. Additionally, further exacerbating the potential for distorted data is the fact that the largest carrier identified, and thus the largest sampling in the proposed data collection, is Florida's state-owned insurer of last resort, Citizens Property Insurance Corporation (Citizens). Citizens operates under statutory and regulatory limitations and underwrites risks not typically taken in the admitted or surplus lines market, often at a lower cost than what is actuarially sound. Using Citizens' data in this skewed proportion will lead to inaccurate representations of Florida's market and fail to capture private market coverage.

The proposed data collection template also inadequately allows insurers to identify factors impacting overall costs, such as reinsurance costs, fraud, litigation, social inflation, and economic inflation. This implies FIO believes climate-related risks are the sole factor for rising costs to policyholders, which we know to be inaccurate. In fact, some of the largest cost drivers in Florida's insurance market have

been excessive litigation and fraud, both of which can greatly influence the cost of any claim but neither of which are considered in the proposed data collection. By focusing solely on climate change data and ignoring the multitude of factors influencing insurers, FIO fails to recognize historic legislative reforms and mitigation efforts implemented in Florida to bring about a sustainable and affordable market, leading to a potentially inaccurate interpretation of data.

The template's cherry-picked fields do not capture key nationwide market trends impacting insurance affordability and availability. Notably, it overlooks Florida's recent status as the fastest growing state in the United States, ranking first in net in-migration.² Critical aspects like population growth, including the increasing number of homes covered by insurance policies, are absent from the data collection. This oversight fails to account for the potential impact on the total insured value of properties in the state, a significant factor in higher insurer losses after a catastrophe. FIO's omission of these factors, exacerbated by trends such as record inflation, inaccurately and irresponsibly attributes cost increases to the broad category of "climate."³ Increased estimated replacement costs have direct impacts to policyholders, but FIO is choosing to disregard those impacts through this data collection.

Additionally, FIO's proposal omits the impact of reinsurance from the proposed data collection, stating that reporting will focus solely on direct business by insurers to avoid double counting. While acknowledging the influence of reinsurance on insurance availability and pricing, FIO has chosen to exclude pertinent information on reinsurance, which may be the strongest and most unpredictable cost driver in Florida's insurance market. Reinsurance is a vital component of Florida's insurance market, because Florida is the most catastrophe-prone region in the United States with 8,436 miles of shoreline. Florida's domestic property insurance industry, which heavily relies on reinsurance to finance catastrophe losses and spread risk beyond the state, is highly sensitive to fluctuations in the global reinsurance market. By omitting the impacts of reinsurance on insurance rates, the FIO's data collection willfully ignores a substantive aspect of Florida's property market.

Ultimately, OIR is greatly concerned that the proposed data collection template fails to take into consideration the full scope of a state's market trends, all costs associated with written premiums, the differences in state laws, and the omission of reinsurance information. Florida is apprehensive that a distorted and imprecise data collection could be similarly problematic in other states, and these concerns should be accounted for in any uniform nationwide data call. Florida's property insurance market, following historic reforms, is slowly recovering from years of capital inadequacy. Data drives the investment of capital and the exposure risk of private insurers and reinsurers and as a result, it is vital that Florida is able to continue to provide honest information about the state of its market to these stakeholders and its residents without fear of the federal government circumventing Florida's

² <https://www.census.gov/library/stories/2022/12/florida-fastest-growing-state.html>.

³ For example, the number of housing units in Florida has increased more than 200% since 1980, from 4,378,867 to 10,257,426. *Compare 2022 Quick Facts: Florida, UNITED STATES CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/FL/PST045222>* (last visited Nov. 11, 2023) with U.S. Census Bureau, 2000 Census of Population and Housing, *Population and Housing Unit Counts*, PHC-3-11(RV), Florida, Washington, D.C. 2003. Furthermore, the average value of a Florida home has increased by almost \$300,000. According to data collected by the U.S. Census Bureau, the median value of a home in Florida in 1980 was \$89,300, when adjusted for inflation. *See UNITED STATES CENSUS BUREAU, HISTORICAL CENSUS OF HOUSING TABLES: HOME VALUE, <https://www.census.gov/data/tables/time-series/dec/coh-values.html>* (last visited Nov. 20, 2023). In comparison, the most recent data collected by the St. Louis Federal Reserve Bank shows that the typical home value in Florida is about \$392,904 as of October 2023. *See Zillow Home Value Index (ZHVI) for All Homes Including Single-Family Residences, Condos, and CO-OPs in Florida, FEDERAL RESERVE BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/FLUCSFRCONDOSMSAMID>* (last visited Nov. 20, 2023).

conclusions. OIR strongly believes that dissemination of FIO's flawed data or any of FIO's conclusions from that flawed data could adversely impact the affordability, reliability, and availability of insurance for Florida consumers.

Hurricane Ian

In demonstrating the need for this data call, FIO specifically cited the impacts of Hurricane Ian despite failing to coordinate with Florida on readily available claims data and failing to recognize the protections Florida has put in place to protect against coverage gaps and disruptions. OIR has serious concerns with FIO's motivation for targeting a catastrophic event in Florida and willfully ignoring actions taken by the state to respond to and recover from the catastrophic event.

It is impossible to immediately determine the long-term impacts of Hurricane Ian because Florida policyholders impacted by Hurricane Ian have up to two years to file claims following landfall. In designing the proposed data call, FIO has also disregarded OIR's enhanced data calls following Hurricane Ian, which are designed to collect additional claims and other relevant information from insurers following a natural disaster catastrophic damage in Florida. FIO also preemptively disregarded the steps taken by OIR to protect policyholders in the aftermath of Hurricane Ian. In addition to issuing an [Emergency Order](#) to protect the public health, safety, and welfare of all policyholders, OIR has remained in close communication with its regulated entities, including property and casualty insurers, to ensure companies have all necessary resources to assist policyholders.

OIR recognizes the need for a stable and competitive insurance market for consumers and takes seriously its obligation to regulate insurance products – especially given our state's high exposure to weather-related catastrophes. For this purpose, the state has taken historic steps to address the strength and affordability of its insurance market. However, OIR strongly believes the proposed data collection is an abuse of the authority granted to FIO, fails to capture the true costs of insurance, misrepresents each state's individual property insurance markets, and will ultimately draw inaccurate conclusions regarding the impact of climate risk and weather-related exposures on the availability and affordability of the homeowners' insurance market.

We are happy to provide additional clarification if requested and encourage FIO to reconsider this proposal and preserve the authority granted to each state to regulate insurance by leveraging the expertise of state-based regulators, who have shown an unparalleled ability to collaborate with one another to analyze any data collected.

Sincerely,



Michael Yaworsky
Commissioner, Florida Office of Insurance Regulation

CC: Steven Seitz, Director, Federal Insurance Office