ACLI
Financial Security for Life

January 10, 2022

Andrew R. Stolfi, Director
Oregon Department of Consumer and Business Services
350 Winter St. NE, Room 410
Salem, OR 97309

Jennifer Gardner, Data Coordination and Statistical Analysis Manager
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO

Re: Draft Proposed Climate Risk Disclosure Survey
Request for Public Comment

Dear Ms. Gardner & Director Stolfi:

The American Council of Life Insurers (ACLI)[1] appreciates this opportunity to provide comments to the National Association of Insurance Commissioners' (NAIC) Draft Proposed Changes to the Climate Risk Disclosure Survey[2].

Life insurance companies are committed to working with regulators, policymakers and other stakeholders on climate change and its associated risks. As long-term investors and experienced risk managers, life insurers are inherently interested and actively engaged in understanding how climate change may impact the risks they assume and the supporting investments they make. ACLI members stand ready to share this uniquely informed perspective with the NAIC as it amends the annual climate risk disclosure survey.

The NAIC took early action on climate change, adopting the annual climate risk survey in 2010. We understand that the NAIC intends not only to incorporate aspects of the framework established by the Financial Stability Board's Task Force on Climate-Related Financial Disclosures (TCFD) but to broaden the scope beyond the TCFD framework. While it is entirely appropriate to consider updates and revisions to the now 12-year-old survey, ACLI members have reservations about the

[1] The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

[2] We note that the NAIC has exposed these amendments for comment. The current survey has been implemented by certain individual states and ACLI members are concerned that any consideration of implementing a revised survey by individual states also recognize the challenges and need for confidentiality and phase in set out in this letter. Any comments addressed to the NAIC would be equally applicable to individual states.

robust expansion of the survey's scope, the inclusion of closed ended-questions as well as the types of information that are to be publicly disclosed.

We urge the NAIC to take a more measured, deliberate and proportional approach to implementation of any proposed revisions. This would include the NAIC explicitly affirming that companies' process for analyzing climate risks for its business will evolve over time and the survey implementation will similarly evolve. For example, the NAIC should acknowledge that companies can continue qualitative climate-related assessments in the near term, and such assessments can become more quantitative over time, as climate-related methodologies and data evolve and insurer practices mature. In addition, given the risk of global fragmentation, ACLI members encourage the NAIC to continue to seek disclosure changes that are consistent with other climate risk reporting requirements being developed, including but not limited to the Securities and Exchange Commission (SEC). These steps will keep the NAIC well-positioned as a leader in this area.

Our members recommend the following:

1. Reporting under any revised survey should not begin until 2023 and be implemented in phases, starting with the Governance topic.[3]

   In the interim, insurance companies would continue to utilize the existing survey for filings submitted in 2022.

   Generally, member firms undergo lengthy processes when preparing and issuing corporate disclosure reports such as TCFDs and broader "economic, social and governance" (ESG) reports. These processes typically involve significant input and detailed reviews by various internal stakeholders (e.g., legal, audit, senior management and board disclosure committees). Insurance companies will have initiated the process for 2021 reporting early in 2022 which would not take into account the proposed revisions to the NAIC survey. Moreover, companies could face liability issues were they to publicly disclose additional and/or different information via the NAIC climate risk survey versus what they disclosed earlier in the year in their TCFD/ESG reports. Delaying reporting under any revised survey format by a year will provide

[3] A phased in approach would be broadly consistent with significant lead time provided by other jurisdictions', such as the United Kingdom and Canada. As noted in the Appendix of the February 2020 IAIS issues paper on the implementation of the TCFD, they highlight a practical phased-in approach that the Government of Canada proposed: "In June 2019, the Expert Panel on Sustainable Finance, commissioned jointly by the Minister of Environment and Climate Change and the Minister of Finance,...made several recommendations to the government, pertaining to the implementation of a Canadian approach to TCFD implementation. The Panel endorsed a phased approach under a mandatory "comply-or-explain" regime. Phase 1 will focus on wider-known aspects of the TCFD that many companies already disclose such as qualitative descriptions of governance, strategy and risk management. Phase 2 will cover aspects of the TCFD that will likely require better information accessibility and enhanced analytic capacity, such as climate metrics, targets and scenario analysis. The Panel recommends that larger companies and financial institutions be given a **five-year implementation timeline to allow sufficient time to develop internal controls and capacity, and that small and medium-sized companies be allotted an additional two years, to allow time for clearer precedents, more reliable and affordable information and more established professional support**." (emphasis added).

time needed to advance companies' capabilities to provide decision useful, qualitative and quantitative information the proposed questions will require. We expect that reporting will improve over time and therefore a phased implementation process will likely lead to better results from the perspective of the ultimate end users of the survey.

2. Participation in the survey should offer flexibility to the companies that participate.

   Given the evolving nature of climate-risk related reporting across the financial services sector, it will take insurance companies time before they are able to provide substantive answers to the proposed questions. A flexible approach will allow for continuous improvement in responses over time, and recognize that not all companies will be able to answer all questions in the first years the survey is administered.

3. Certain questions should be deleted as they go beyond concepts included in the TCFD, involve disclosure of highly sensitive information currently reported in, or are otherwise more appropriate for a company Own Risk and Solvency Assessment (ORSA).

   If, however, the questions are retained in the survey, we urge that the answers receive the same confidential protections as provided under the ORSA reports.

   Specifically, as examples, we refer the NAIC to:
   - Question Q 2 a)
   - The language in Qs 2 b) of the Strategy Section referencing the need for companies to describe the impact of climate-related risks on their financial planning.
   - Q 3) second bullet of the Risk Management Section asking for a description of any steps the company has taken to encourage policyholders to manage their potential climate-related risk.
   - The questions under Targets and Metrics Section describing the use of scenario analysis and 4 a) asking firms to describe the metrics used to consider the amount of [climate-related] exposure to business lines, sectors and geographies vulnerable to climate-related risks (e.g., PMLs, VaRs, or carbon intensity) and the amount of financed or underwritten emissions.
   - Moreover, to the extent that an insurance company identifies <u>any</u> non-public information in its responses to Questions 2 – 4, such information should similarly receive confidential treatment consistent with the ORSA.

4. Keep the answers to the closed ended questions confidential individually and only disclose them in aggregate form.

   We understand that the NAIC intends to use these questions for comparison purposes. However, at this point in time, the binary nature of the closed ended question is generally insufficient to capture rapidly evolving climate risk considerations or companies' development of policies and processes. We are concerned that without appropriate context, individually-identified closed-ended responses may become a de facto scoring system, creating an unlevel playing field between larger insurers and those with global operations, who are subject to ESG reporting requirements currently, and smaller companies.

5. Refrain from making disclosures of responses to the revised survey publicly available for the first two years following implementation.

   Given the significant changes being proposed by the NAIC, confidential filings will allow the NAIC and its members to treat the first two years as a field test. This will permit companies time to develop reporting processes and allow regulators the opportunity to review the responses to identify areas of improvement.

6. Qualify the questions that presume the current existence of metrics that may not yet exist and / or are currently under development.

   These questions may be initially addressed through qualitative analysis and, over time, move to quantitative analyses when appropriate.

   Specifically, please refer to pages 2 (bullet 1.A. at top and 2.A at bottom), 3 (item C) and 4-5 (the "Metrics and Targets" items) of the attached mark-up of the survey.

Timeline for Submission

We appreciate the NAIC's interest in moving the proposed changes forward expeditiously and we understand the NAIC is targeting a July 2022 implementation. However, as noted in Item #1, above, this timing would not provide insurance companies sufficient time given the breadth of the proposed changes and we recommend a phased in approach beginning in 2023. The current survey could continue to be utilized by participating states in 2022 as the revised survey is finalized.

As noted in more detail above, more broadly, as these proposed changes go beyond even current TCFD requirements, implementation should be phased in over time, starting with the Governance topic.

Use of Survey Responses

As noted above, ACLI urges the NAIC and its members not to publish the revised survey responses for the first two years following implementation. The NAIC and its member can utilize these first two years as a 'field test' to ensure that companies are able to complete the surveys and regulators are process the responses.

ACLI members request that the NAIC keep the answers to the closed-ended questions confidential individually and only disclose them in aggregate form such that they cannot be attributed to an individual company. As noted above, ACLI members understand that the NAIC intends the closed ended questions to be used for comparison purposes. However, even where the data and methodologies are available, closed ended question are generally insufficient to capture rapidly evolving climate risk considerations. Collecting the responses and aggregating them for publication will allow the NAIC to use these questions for the intended comparison purposes and to engage in data analytics without requiring companies to respond to nuanced and evolving questions that do not always lend themselves to a simple yes or no response.

Potential Engagement by Domestic Regulator

As noted above, ACLI suggests the NAIC build a process and timeline to allow companies the option to work with their domestic regulator. For states that have adopted the revised survey, the NAIC should accept submissions that meet that company's domestic regulator's requirements This would enable time for insurance companies who choose to have discussions with their domestic regulators, as necessary, to ensure results are properly interpreted, to consider the decision usefulness of the questions and determine if further changes to the survey are warranted in light of initial experiences of insurance companies and state regulators.[4]

Materiality

While the revised survey asks companies to disclose their definition of materiality, the survey questions themselves appear to provide little to no allowance for firms to rely on materiality considerations when deciding upon what climate risk-related information is responsive to the survey. Such an inflexible approach risks serious unintended consequences including conflicts with existing public disclosure requirements where materiality considerations have a central consideration.

The concern about being able to apply materiality consideration in considering answers to the survey is amplified with the introduction of certain closed-ended questions. As this letter notes, above, the data and methodology necessary to answer those questions is still new and often relies on third parties. Therefore, a company needs to be able to consider questions through the lens of materiality.

Feedback on Questions

Several questions in the survey seek answers that are not well-developed enough for the questions to be included in the survey at this stage. Specifically, we note the following:

- The impacts of climate change on the core business of life and health insurance companies are still being explored. Therefore, questions related to underwriting, for example, are not immediately relevant to the life insurance sector.
- While the survey does not explicitly require companies to conduct scenario analysis, as noted above, the inclusion of such questions is more appropriate through ORSA reporting.
    - While scenario analysis can be a useful management tool it should not be required to be publicly disclosed absent some set of common scenarios and assumptions that have yet to be agreed upon.
    - Methodologies for conducting scenario analysis are not sufficiently developed; and there are significant data gaps that limit the utility of publicly disclosed scenario analysis.

[4] This will be particularly important for companies whose domestic regulator has not implemented the survey.

- It is premature for companies to include Scope 3 emissions. Such calculations are complex and are currently limited by the lack of access to consistent and reliable data.

Thank you for permitting us to participate in this important matter. We look forward to continuing to engage with you. Please let us know if you have any questions.

Very truly yours,

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