American Property Casualty Insurance Association
INSURING AMERICA apci.org

January 10, 2022

Andrew Stolfi, Chair
Disclosure Workstream of the Climate and Resiliency (EX) Task Force
National Association of Insurance Commissioners

Re: Proposed NAIC Climate Risk Disclosure Survey

Dear Commissioner Stolfi:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to comment on the NAIC's redesigned Climate Risk Disclosure Survey. 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.

Regulators, APCIA, and its members have a long track record of adjusting to changing circumstances. Collectively we have created the largest, most competitive, and financially sound insurance market in the world. Our greatest climate-risk challenge is how we can best work together to mitigate the increasing climate-related losses while preserving our well-functioning and well-regulated insurance market that takes appropriate account of all material risks.

Purpose of Public Disclosures

APCIA believes the purpose of public climate disclosures should be for insurers to generally discuss their climate-related policies with regulators and other stakeholders, with adequate flexibility to reflect each company's unique business model. We are concerned the NAIC's redesigned Climate Risk Disclosure Survey at times asks prescriptive questions that are inappropriate for a public report because the information being sought includes proprietary and trade secret information. Instead of public disclosures, a company's Own Risk and Solvency Assessment (ORSA) Summary Report should be the only appropriate tool for regulators to use to monitor how insurers are assessing and managing climate-related risks. The ORSA is an internal assessment conducted by an insurer or insurance group of its material and relevant risks, including climate risks, and the *ORSA Model Act* includes strong confidentiality protections for companies' ORSA reports. As a result, the ORSA provides regulators with an insurer's own view of its climate exposure, without the possibility of public disclosure of proprietary information (or information that would be poorly understood by the public and liable to be misused). Therefore, the ORSA is the only vehicle for detailed analysis of how a company identifies, quantifies, and addresses its climate-related risk, and public disclosure of proprietary insurer information creates its own unacceptable risk.

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Since the Solvency Workstream of the Climate and Resiliency (EX) Task Force is already considering whether the NAIC should pursue enhancements to existing solvency tools, including the ORSA, we believe the Disclosure Workstream should allow further time for consideration of whether additional public disclosure requirements are needed and the risks these additional disclosures pose to insurers. Alternatively, we suggest adding a clarification that the redesigned public disclosures are not intended to be prescriptive nor are they intended to necessitate the public disclosure of propriety information. In any event, APCIA requests the deletion of question 2(B) under the Strategy section. This question asks companies to describe the impact of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning; however, we believe discussion of these issues should be limited to confidential ORSA reporting, rather than a public disclosure.

More broadly, the NAIC should ensure that any changes to the Survey questions are tailored to core insurance regulatory objectives. Public disclosure requirements should not go beyond what is necessary for insurers to generally discuss their climate-related policies with regulators and other stakeholders. Disclosure requirements beyond this scope would run counter to the long-established purposes of state-based insurance regulation of protecting policyholders and facilitating a stable insurance marketplace, while not exposing insurers to increased risk.

Materiality

The NAIC's Climate Risk Disclosure Survey should continue to be based on a materiality assessment. To be meaningful, materiality assessments must be based on a common definition of materiality, particularly since jurisdictions outside the United States have varying definitions of the term. It is critical that any disclosure requirements be flexible, limited to decision-useful information, and proportional to the relevant risk subject to disclosure. Therefore, the Survey should maintain the existing instruction related to materiality, which says, "there is no requirement to provide information that is immaterial to an assessment of financial soundness (insurers may choose to disclose such information voluntarily, with no implication that such information is in fact material)."

Deviating from materiality-based requirements for climate change disclosures would be inconsistent with the purpose of the disclosures and would impose significant new costs and risks for insurers, regulators, and the public. Extensive disclosure requirements not rooted in materiality run the inherent risk of obscuring material information by submitting users to a flood of irrelevant disclosures. Such expansive disclosure requirements would impose new costs on regulators and the public, who would need to filter out extraneous disclosures themselves, without a corresponding benefit for regulators or the public. Likewise, companies would face unnecessary compliance costs for disclosures that are not useful.

Companies Currently Filing TCFD Reports

The NAIC Climate Risk Disclosure Survey should preserve the ability of companies that choose to do so to submit a Task Force on Climate-related Financial Disclosures (TCFD) report without answering the additional questions in the proposed Survey. We believe the TCFD is a more than sufficient structure for insurers' climate-related disclosures. The TCFD provides a comprehensive framework for disclosures by companies impacted by climate change, including insurers. Advantages of the TCFD include that the framework is designed to be used across

industries, which can provide a helpful cross-industry view of climate risk, and that the TCFD seems to have established itself as the leading climate reporting framework across jurisdictions.

Most importantly, the TCFD includes supplemental guidance specifically for the insurance industry.[1] The Supplemental Guidance for the Financial Sector within the TCFD's Final Report Annex includes disclosure guidelines for insurers that are designed to support users' understanding of how insurance companies are incorporating climate-related risks into their strategy, risk management, underwriting processes, and investment decisions. This supplemental guidance includes two separate sections relevant to insurers. The first set of guidance applies to the underwriting side of insurance activities, while a separate section addresses disclosures for insurers' investment activities.

Given the comprehensive and wide-ranging TCFD framework, the NAIC should maintain the option for companies to submit a TCFD report in lieu of the Survey. The NAIC should be mindful of the proliferation of approaches making reporting and necessary comparisons more difficult. The plethora of existing frameworks already leads to competing and conflicting measurements of climate change risk, so the NAIC should not exacerbate this problem by requiring companies to complete multiple sets of public disclosures each year.

Companies Currently Responding Only to the Eight Question Survey

The proposed narrative questions add a great deal of burden to the existing questions. In many cases, smaller and mid-size companies may have no background or expertise to provide the narrative responses. Accordingly, we recommend the NAIC engage in a consultation with us and these companies to determine what additional closed-ended questions might be appropriate and necessary beyond the existing questions.

Further, the $100 million premium threshold for companies to be subject to the NAIC Climate Disclosure Survey should remain in place. This threshold already ensures most of the industry, including the largest companies, are required to complete climate-related disclosures. The Survey requires companies to expend significant time and resources, and smaller companies may face a disproportionate burden because they do not have the same resources to devote to answering the questions. We believe the $100 million threshold strikes the right balance.

Comments on Specific Questions

Question 1: Governance

APCIA recommends moving the second bullet under the Governance narrative questions to the Risk Management portion of the Survey. This question currently says, "Describe where climate risk disclosure is handled within the organization's structure, e.g., at a group level, entity level, or a combination. If handled at the group level, describe what activities are undertaken at the company level". This question, along with the corresponding multiple-choice question regarding whether climate risk is handled at a group or entity level, is better suited for the Risk Management section of the Survey.

[1] TCFD Final Report Annex, Supplemental Guidance for the Financial Sector (see pages 7-16): https://www.tcfdhub.org/Downloads/pdfs/E20%20More%20information%20on%20supplemental%20guidance%20for%20the%20financial%20sector.pdf

In addition, we recommend clarifying proposed question 1(A). This question asks companies to "describe the board's oversight of climate-related risks and opportunities" and to "describe who on your board or committees is responsible" for this oversight. It is ambiguous whether this question is asking companies to name the specific individual with this responsibility (e.g., Jane Doe) or just the role of the person (e.g., Chairperson of Risk Committee). We do not believe the granularity of providing the specific name of the individual is necessary for determining how climate risks are managed. Therefore, companies should be able to answer this question by providing the role of the person or people responsible for overseeing climate-related risks.

Question 2: Strategy

APCIA recommends deleting question 2(B) under the Strategy section. This question asks companies to describe the impact of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning; however, we believe discussion of these issues is more appropriate for confidential ORSA reporting, rather than a public disclosure.

More broadly, the mandatory questions contained in the Strategy section pursue highly sensitive and proprietary issues that are best not the subject of public disclosures. Rather, such questions should be asked and answered as part of a confidential dialogue among the company and its regulators. This section invites review, commentary, and even litigation without the fulsome knowledge, expertise, and information that insurance regulators possess. We note as well serious questions about the materiality and usefulness of questions and answers on long-term risk that are not relevant or material to the business of most property-casualty insurers, considering the ability of property-casualty insurers to adjust both underwriting and investing in short time frames.

Question 3: Risk Management

APCIA recommends clarifying the fifth closed-ended question under Risk Management. This question asks if the company has "taken steps to encourage policyholders to manage their potential climate-related risks" (Y/N). We recommend clarifying that the intent of this question is to ask whether a company encourages policyholders to purchase coverage to lessen the risks associated with climate change (e.g., whether a company is sending information regarding building grades, flood insurance, or earthquake insurance). Without clarification, this question can be interpreted as asking if the company is suggesting ways in which policyholders may minimize their own emissions.

Question 4: Metrics and Targets

A major challenge in assessing risks and making consistent public disclosures is the lack of available and reliable climate-related data from customers and investee companies. This is largely outside insurers' control and is a shared responsibility of the wider economy. The lack of available, reliable, and standardized climate-related data from these firms makes disclosure of Scope III emissions particularly difficult. Accordingly, companies should not be subject to disclosure of Scope III emissions.

Furthermore, the Metrics and Targets section asks about stress scenarios at a level of granularity that not all companies have yet developed, especially smaller companies. Some companies still have an immature risk program that has not focused on climate risk to date, or the material requirement does not exist at this point for a 2-degree Celsius or lower scenario. Scenarios of this type are a large leap from the requirements of the 2020 Climate Risk Survey. Therefore, some companies will need a significant amount of time and assistance to develop these types of scenario testing capabilities.

Closed-Ended Questions

As mentioned above, we recommend a further consultation to determine what additional closed-ended questions might be appropriate and necessary beyond the existing questions. We urge the NAIC to proceed with caution before implementing new closed-ended questions, particularly because some questions in the yes/no and multiple-choice formats may not be conducive to the nuanced answers that are often required for climate disclosures.

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To summarize, in addition to the comments on specific questions above, APCIA recommends the following:

- **Purpose of Public Disclosure:** The NAIC should ensure the Survey questions are tailored to core insurance regulatory objectives. The purpose of public climate disclosures should be for insurers to generally discuss their climate-related policies with regulators and other stakeholders. By contrast, the ORSA is the best regulatory tool for detailed and confidential analyses of how companies identify, quantify, and address their climate-related risks. Given the ongoing work of the Solvency Workstream, we believe the Disclosure Workstream should allow further time for consideration of whether additional public disclosure requirements are needed. Alternatively, we suggest adding a clarification that the redesigned Survey is not intended to be prescriptive nor is it intended to necessitate the public disclosure of confidential or propriety information.
- **Materiality:** The Survey should continue to be based on a materiality assessment, with a common definition of materiality. It is critical that any disclosure requirements be flexible, limited to decision-useful information, and proportionate to the relevant risk subject to disclosure. Therefore, the Survey should maintain the existing instruction stating "there is no requirement to provide information that is immaterial to an assessment of financial soundness".
- **TCFD-Filers:** The NAIC should maintain the option for companies to submit a TCFD report in lieu of the Survey. The TCFD provides a comprehensive framework for insurers' climate-related disclosures, and companies should not be subject to duplicative or overlapping disclosure requirements.
- **Non-TCFD Filers:** The $100 million premium threshold for companies to be subject to the NAIC Climate Disclosure Survey strikes the right balance and should remain in place.

We note that many insurers are still in the beginning stages of the journey of developing and implementing the disclosures contemplated in this exposure, especially with regard to strategy, metrics, and scenario analyses. Given the wide array of insurers' business models and sizes, some companies are further along on this journey than others. As a result, some companies will need more time and guidance to carry out the disclosures proposed here. That said, property-

casualty insurers have for many years confronted the physical risks associated with climate change in the normal course of their business, and state regulators have developed a number of well-established tools for monitoring and assessing insurers' exposure to climate-related risks.

In conclusion, we are anxious to continue to work with regulators on the all-important joint mission of mitigating climate-related losses. At the same time, we are committed to enhancing our innovative, competitive, and financially sound insurance market. We look forward to a continuing dialogue as the NAIC proceeds with its work on climate-related disclosures. Thank you for considering the points addressed above, and please do not hesitate to contact us if you have any questions.

Sincerely,

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