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OFFICE OF
INSURANCE COMMISSIONER

June 14, 2021

The Honorable Gary Gensler, Chair
U.S. Securities and Exchange Commission
100 F Street, Northeast
Washington, DC 20549

RE: US Insurance Regulator Experience with Insurer Financial Disclosure on Climate Change

Dear Mr. Gensler,

In response to your agency's request for public input on climate change disclosures, I would like to offer some observations arising from my experience as the insurance commissioner for Washington State.

For 12 years, my fellow state insurance regulators and I have been requiring the largest insurers operating in the United States to report annually on the financial implications of climate change to their businesses as well respond to a question about their own greenhouse gas (GHG) emissions. In recent years, we have encouraged companies to submit a report aligned with the Task Force on Climate-Related Financial Disclosures (TCFD) in lieu of answering the eight questions in the annual Climate Risk Disclosure Survey. A growing number of companies are choosing to do so.

At the outset, I should say that I agree with the sentiment of SEC Commissioner Allison Herren Lee who, during an NYU Stern School conference in April, indicated that the likely outcome of the current effort to encourage greater disclosure regarding the impact of climate change on companies is that regulators will ultimately require "TCFD plus".

My perspective on required insurer financial disclosure on climate change largely stems from my direct experience working on this issue for more than a decade as Washington State Insurance Commissioner, a statewide elected position I have served in for over 20 years. I chaired the National Association of Insurance Commissioners (NAIC) Climate Change Working Group from its inception in 2006 until it was incorporated into a new executive-level NAIC Climate and Resiliency Task Force this year. Prior to my current position, I also served as a member of the U.S. Congress and as a state legislator.

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NAIC Climate Risk Disclosure Survey

Since 2009, virtually all insurers operating in the U.S. that write more than $100 million in net written premium annually in any one line of insurance are required to report. This requirement captures over 1,250 individual insurance lines, which in turn covers approximately 460 insurance holding companies. The NAIC Climate Risk Disclosure survey captures some companies that would not be covered by SEC guidelines, since several of these companies are not publicly traded – they are insurance mutuals or otherwise not publicly traded. We estimate the survey captures about 70% of the total U.S. insurance market. The NAIC is currently considering dropping the threshold to $50 million in net written premium, which we believe would capture roughly 90% of the insurance market in the U.S.

It should be noted here that the U.S. insurance market comprises about 6,000 individual companies. Currently, no consideration is given to requiring the smallest companies to report on their exposure to climate change, although, ironically, they may well be the companies most exposed to climate change.

A quick review of the insurance companies that have actually become insolvent due to catastrophic weather events over the past two decades – the Camp Fire in Paradise, CA, Hurricane Katrina, Hurricane Sandy and Hurricane Andrew – generate a list of very small insurers that were not geographically diversified.

The NAIC Climate Risk Disclosure Survey comprises eight yes/no questions, taken verbatim from a survey used by the Carbon Disclosure Project (CDP) in the late 2000s. While the CDP questions have changed, the Climate Risk Disclosure Survey questions remain the same, which is helpful for comparability over time.

NAIC Climate Risk Disclosure Survey questions

1. Does the Company have a plan to assess, reduce, or mitigate its emissions in its operations or organization?

2. Does the company have a climate change policy with respect to risk?

3. Describe your company's process for identifying climate change-related risks and assessing the degree that they could affect your business, including financial implications.

4. Summarize the current or anticipated risks that climate change poses to your company. Explain the ways that these risks could affect your business. Include identification of the geographical areas affected by these risks.

5. Has the company considered the impact of climate change on its investment portfolio? Has it altered its investment strategy in response to these considerations? If so, please summarize steps you have taken.

6. Summarize steps the company has taken to encourage policyholders to reduce the losses caused by climate change-influenced events.

7. Discuss steps, if any, the company has taken to engage key constituencies on the topic of climate change.

8. Describe actions the company is taking to manage the risks climate change poses to your business including, in general terms, the use of computer modeling.

When the survey began in 2009, some of my fellow insurance commissioners argued that information provided by insurance companies should be voluntary, and it should be aggregated before being made public. That view lost out, though some states dropped out of the process over these stipulations. Today, as the NAIC seeks to update the survey, the requirements that companies respond and individual responses are made public do not seem controversial. We have not heard any complaints from companies about these requirements since the survey began.

The survey has always been mandatory for the companies in scope, and annual compliance is typically 100%. Individual company responses are publicly available on the California Department of Insurance website, and a given company's responses over the duration of the existence of the survey can be compared.

http://www.insurance.ca.gov/01-consumers/180-climate-change/ClmtRskDsclsrSrvy.cfm

To our knowledge, the survey database has prompted four major research studies. The activist non-profit investor group Ceres conducted a comprehensive analysis of company results in 2014 and again in 2016. Last year, NAIC's Center for Insurance Policy and Research conducted a study, and the American Academy of Actuaries is just now completing its study of the same database.

Despite this activity, the survey results sometimes seem to be a little-known and underused resource. Individual insurance regulators sometimes refer to the survey results when conducting periodic audits of the companies that operate in their states.

Nonetheless, I am sometimes struck by the survey's relative anonymity. Very senior federal government officials who have been active in regulating the financial industry are not aware of it, neither are officials who manage newer iterations such as TCFD, or major investment companies that have stated they need more information about how companies they invest in address climate change. Even some senior insurance executives whose companies are required to report do not seem fully cognizant that their company is already submitting a required climate change response to their state regulators.

As the SEC considers next steps, I would encourage the agency to consider how to make this insurance industry survey requirements more well-known to the groups that seem most interested in seeing this type of regulation: government regulators, investors, consumers, and activist groups, for example.

Task Force for Climate-Related Financial Disclosure

As you know, the Task Force for Climate Related Financial Disclosures (TCFD) was the culmination of an idea that began with the G20, and came to fruition through the Financial Stability Board in 2015. The TCFD guidelines were developed by experts from the private sector preparers and users of financial disclosures from around the world, including BlackRock, Swiss Re, EY, Moody's, HSBC, PRI, Daimler, Unilever, Mitsubishi, JP Morgan, Bloomberg, Barclays, and others, who said at the time that the information is "needed by investors, lenders, and insurance underwriters to appropriately assess and price climate-related risks and opportunities."

The four pillars of the TCFD guidelines map neatly to the eight questions of the NAIC's Climate Risk Disclosure Survey. In fact, Ceres officials have indicated to me that the mapping is nearly exact, with the exception of a "scenario analysis", which our survey does not include.

Since the survey questions overlap so extensively with the TCFD guidelines, I believe that requesting companies that already complete our survey to switch over to a report following TCFD guidelines should not be a large task for them. For the past three years, we have encouraged companies that respond to our survey to submit a TCFD report instead, and we are beginning to see them do this.

Requiring TCFD

I strongly support making TCFD reports a requirement. The advantage of the TCFD guidelines is that they apply to all industries worldwide, so in theory, we would then be able to compare companies' preparedness for climate across industries and international boundaries in the future. TCFD has one great advantage over other voluntary standards such as CDP and SASB; it was created by governments, it has been endorsed by governments, and it is now beginning to be required by governments.

For example, in terms of the insurance industry, TCFD was endorsed in 2017 by two regulatory bodies of which I am a member: the International Association of Insurance Supervisors (IAIS) and the Sustainable Insurance Forum (SIF). In addition to our request that companies submit a TCFD report to U.S. regulators in lieu of the Climate Risk Disclosure Survey, some jurisdictions, notably the UK, New Zealand and Switzerland, are reportedly moving to require TCFD reporting. This government role is the reason why TCFD is gaining acceptance so rapidly, and I believe it's why other voluntary standards such as CDP and SASB are aligning their surveys to the TCFD.

TCFD Reporting Weaknesses
While the trend toward requiring TCFD reporting grows, it's important to be clear about the weaknesses of the TCFD process.

For one, I have not been able to find a single entity that collects completed TCFD reports. Because there is no single TCFD repository at the moment, it is difficult to compare reports. Notably, not even the TCFD Secretariat collects the reports. No one seems to know how many companies have actually written a TCFD report. Until this issue is resolved, there will be no way to compare TCFD reports across industries and borders. If the U.S. insurance regulators end up having the TCFD report supplant our survey, we could at least conduct this comparison across the largest insurers operating in the U.S.

Making the TCFD report a requirement will not ensure the quality of the report which is, after all, qualitative and not quantitative. Some who have tried to compare Climate Risk Disclosure Survey database have complained about the same thing – that it is difficult to compare the survey across insurance companies that respond to the survey. This result is, in some ways, inevitable when one considers that each company is in different markets, has different offerings, and is exposed in different geographic areas, always making comparisons difficult.

Suggestions
If the SEC makes TCFD reporting a requirement for publicly traded companies, this would cover a wide swatch of the U.S. economy. However, it would not address the pools of invested capital in the U.S. that are not managed by publicly traded companies, such as hedge funds, foundations and private equity funds. (A June 2 New York Times article on the top methane emitters in the U.S. captured this conundrum well: "…five of the industry's top ten emitters of methane…are little-known oil and gas producers, some backed by obscure investment firms…") How to capture whether these entities' investments properly take into account climate change may well be a public policy issue over time.

As it contemplates making TCFD a requirement, I would also encourage the SEC to meet with the original drafters of the TCFD guidelines (mentioned above) to get their feedback five years on regarding how the current TCFD reporting that they are now receiving matches with the expectations that they had when they first drafted the guidelines. It would be interesting to know whether these companies are now collecting and using the TCFD reports in a systematic way. This could be helpful if the SEC decides to require TCFD reports.

In my mind, the TCFD guidelines should be "living" and subject to improvements along the way. The SEC will also want to use care in selecting what information is really needed. For example, if the SEC receives recommendations by groups calling for the SEC to collect certain types of data from companies, the SEC could check to see whether this information is already collected by the Climate Risk Disclosure Survey. If so, the SEC could then ask the groups how they are currently using the information that is available through the survey to help understand how important this information is to that group. It should be kept in mind, too, that the original purpose of the TCFD guidelines was to collect information that private companies find important and valuable. Regulators need to ensure that regulatory needs are also met with the same information.

Scenario Analysis

A feature of the TCFD template especially unique is the requirement for a "scenario analysis," clearly a difficult requirement, given the fact that a very small minority of company TCFD reports that my office has reviewed actually even attempt to do a scenario analysis. Those that do choose to focus on something that they can measure. For example, the TCFD report produced by a global consulting company that advises its clients on how to prepare a TCFD report takes up a single issue in its scenario analysis – how changes in the price on carbon would affect the travel costs of its employees. Also, the overall report notes that many of the TCFD risks are not material or have a low potential impact, even in the long term.

In a sense, this reticence is understandable, since the potential impact of climate change varies so widely, depending upon how the effects manifest themselves inside a single company. I am aware of one insurer that has attempted to undertake a scenario analysis and was loathe to present the results publicly since it concluded that even very subtle changes to the climate scenario would result in vastly different outcomes for the company. As you know, a key principle of disclosure is that the company should be reasonably certain that the disclosure it makes is accurate. For this reason, regulators may not want to press companies to disclosure scenarios that they legitimately have little confidence in. That said, as companies get more comfortable with scenario analysis and the science on climate impact improves – in particular, attribution analysis – this issue of ambivalent outcomes of various climate scenarios may recede in importance.

As the SEC considers putting rules in place regarding public company disclosure of risks related to climate change, I encourage you to review the experience that U.S. insurance regulators have already garnered with the insurance industry, given our decade-long disclosure requirements along the lines that the SEC is now contemplating. I am pleased to offer any assistance you think might be of help as you consider disclosure requirements across the entire U.S002E economy.

Sincerely,

Mike Kreidler
Insurance Commissioner

Submitted electronically