

AMERICA'S HEALTH INSURANCE PLANS  
AMERICAN INSURANCE ASSOCIATION  
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES  
PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA

September 15, 2008

Via E-mail to Eric Nordman

Commissioner Sean Dilweg, Chairman  
Climate Change and Global Warming (EX) Task Force  
National Association of Insurance Commissioners  
2301 McGee Street – Suite 800  
Kansas City, MO 64108

Re: August 15, 2008 Climate Risk Disclosure Proposal

Dear Commissioner Dilweg:

This letter responds to the latest Climate Risk Disclosure Proposal, drafted August 15, 2008, and presents the consensus position of the undersigned trade associations. Together, we represent the vast majority of the property, casualty, life and health insurance companies doing business across the United States. Our members have expressed serious concerns about this Proposal, including whether it achieves the regulators' stated objectives.

The revised Disclosure Proposal and the expedited timeframe for its adoption do not address the core industry concerns that have been expressed by each of our associations since the proposal's first version. Though we appreciate the efforts of this Working Group to engage regulators, insurers, and the consumer public, we still have not heard reason to be confident of the proposal's feasibility, effectiveness, and benefit. We are therefore compelled to express our strong opposition to the advancement of the current proposal which is fundamentally flawed.

First, despite a significant consensus about the long-term trend of global warming, there continues to be growing uncertainty in how to translate the long-term trend into predictions for damage to insured risks from extreme weather and adverse health conditions. Opinions and projections as to the future state of our climate and its potential impact continue to evolve. As we heard at the September 11 Summit in Boulder, CO, there still exist limitations on insurers and scientists to forecast the timing, duration and severity of future weather events and climate conditions.

As industry associations, we can attest to the fact that where possible and relevant, an increasing number of our member companies are actively engaged in voluntary efforts to raise awareness of potential climate change implications, to encourage actions to prevent or mitigate the harm that may result, and their willingness to promote such efforts and

actions as they deem appropriate . A competitive marketplace will continue to incentivize insurers to consider relevant climate change implications in their business strategies. Given these voluntary efforts by industry, a constructive role for the NAIC would be to act as a clearinghouse of information on the insurance industry's climate change awareness activities.

Importantly, this Proposal is based on a questionable premise - that “[a] disclosure for climate change risks is necessary because of the potential magnitude of climate change on insurer solvency and insurance availability and affordability across all major categories of insurance: property-casualty, life and health.” To date, no evidence has been presented to support this assertion.

It is still unclear how a number of these interrogatories included within the Proposal address any perceived relationship between climate change and insurer solvency. It would be beneficial to all if the Working Group would produce a document setting the expectation of how responses to each interrogatory would be used to promote greater insurer solvency and insurance availability and affordability.

Second, we strongly urge the Working Group to consider that the Proposal's requirement for public disclosure of competitively sensitive information regarding risk to climate change places a premature emphasis on a single uncertain and developing risk. For example, while the long-term trend of climate change is largely agreed to be a significant global threat, the current scientific knowledge does not enable insurers to predict if there will be more, fewer, stronger or weaker US land falling hurricanes in the future. We recommend that the Working Group refocus its efforts on the financial stability of regulated insurers utilizing existing tools.

Third, the Proposal seeks to collect forward-looking financial and competitively sensitive information from insurers. For the collection of such data to be workable and informative, there have to be enforceable rules governing: the kind of information collected, the method(s) of data collection and storage, data usage, and the protection of the data collected.

Specifically, we continue to be very concerned about the protection of the forward-looking financial and competitively sensitive information that the NAIC intends to collect. Publicly traded companies disclosing forward-looking information in their SEC filings are given statutory immunity from private lawsuits for good-faith, forward-looking disclosures, but it is not clear that the individual states have comparable laws to immunize the insurance industry for the forward-looking statements the Proposal would require. And although the states and the federal government have statutes addressing

collection, confidentiality, and disclosure requirements of data in certain circumstances, various freedom of information acts and similar laws may significantly limit the ability of regulators to maintain the confidentiality of data and other information. Also, the ultimate determination of a state's ability to maintain confidentiality is made by the courts, not regulators. Despite regulators' good intentions and best efforts, we do not believe the case has been made that the NAIC or its member states have the ability to maintain the confidentiality of this information. Further, to our knowledge, no state has extended its confidentiality laws to data maintained by the NAIC. Accordingly, our concerns about confidentiality are amplified when the NAIC is a recipient or depository of such information.

While the acknowledgment of and attempts to achieve needed confidentiality and legal protection for disclosure of sensitive, forward-looking information are positive steps, the NAIC has not demonstrated that it has the authority to provide the essential legal protections. Thus, the industry cannot support the Proposal's "safe harbor" or confidentiality language alone as a viable solution to our stated concerns. We cannot over-emphasize our concerns that the planned expedited approval process may imperil the confidentiality of this competitively sensitive and forward-looking information.

We strongly encourage that a joint working group be formed that includes the members of the Financial Condition (E) Committee, due to their knowledge and understanding of the goals of the statutory accounting rules and requirements, before the proposal is considered for a vote by the Climate Risk Task Force. We believe that any proposal that calls for new disclosures with reference to the financial annual statement is a policy decision that must have input from the Financial Condition (E) Committee before it is voted on by the Working Group or Task Force. This process will ensure that it is consistent with the goals of the statutory accounting rules, solvency requirements, and blanks reporting.

Our associations are prepared to continue working with the NAIC to raise public awareness of insurers' actions regarding climate change, to encourage sound public policy for mitigating losses, and to assure appropriate solvency regulation. This proposal, however, fails to advance these worthwhile goals and may actually obstruct progress toward achieving them.

Thank you for this further opportunity to provide our comments and suggestions.

Commissioner Sean Dilweg, Chairman  
September 15, 2008  
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Sincerely,

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America's Health Insurance Plans

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