

**Comments of Consumer and Environmental Organizations
on the August 15, 2008 Climate Risk Disclosure Draft**

September 9, 2008

A list of the consumer and environmental organizations supporting these comments is found at the end of the comments.

Ceres, the Center for Economic Justice and Natural Resources Defense Council have worked with the NAIC since 2004 on climate change and insurance issues. Our organizations urged the NAIC to not only take on the issue, but to develop a climate risk disclosure framework to better inform regulators, investors and consumers about insurer knowledge of and response to climate change risks. The disclosure was also intended to prod insurers to become more aware of an issue that many experts consider to be the most significant risk facing insurers in the years ahead.

When we proposed the climate change disclosure, we set out three core principles for the disclosure to be useful. The disclosure must be **substantive, specific and public**. We have seen in other venues that generic requests for disclosure typically provide no useful information to regulators or the public. This can be seen, for instance, in the Management Discussion and Analysis (MD&A) of the annual statement, which requires insurers to identify material events that may affect their business, but which seldom, if ever, contains anything other than boiler plate phrases devoid of useful information. We urged specific questions not only to ensure substantive responses but also to encourage insurers to examine climate risk in a serious way. And, finally, we urged the disclosure be public so investors and consumers could utilize the information in their investment and purchasing decisions and, in this way, leverage market forces to spur insurers to address climate change risks.

Prior to the release of this most recent draft, we had been pleased with the progress of the NAIC disclosure working group. We believed that previous iterations of the disclosure framework did a good job balancing the need of regulators, consumers and investors for better information with a desire to not unnecessarily burden the industry or expose it to liability.

In that spirit, we support the decision to add safe harbor language to the current draft as a way of allaying industry concerns about potential liability associated with increased disclosure. However, we are disappointed to see that the latest version of the Climate Risk Disclosure proposal departs from earlier drafts by making the responses to questions 7, 8 and 9 confidential. Because we believe that these questions represent the substantive heart of the disclosure framework, rendering these responses confidential calls the value of the entire proposal into question. As a result, **we oppose the August 15, 2008 climate risk disclosure proposal.**

We urge the Working Group to revise the current proposal by making the responses to all questions, including questions 7, 8 and 9, public information. If the Working Group is unwilling to make the responses to all questions public, we then urge the Working Group to take no action on climate risk disclosure and leave any such activity to individual states.

We oppose the current proposal primarily because it provides for no substantive disclosure of climate change risks and responses. While we appreciate the work of the regulators on the working group and the difficulty you face convincing your colleagues to take an action opposed by industry, we cannot support a proposed regulatory action that will not accomplish the necessary results.

We urge you to revise the proposed disclosure to make the responses to questions 7, 8 and 9 public information because there is no rationale for making these responses confidential.

First, these questions provide the substantive information about what an insurer understands its climate risks to be and what actions the insurer is taking in response to that understanding. This is the critical information needed by consumers and investors.

Second, the responses do not warrant any trade-secret or confidential treatment. Question 7 is almost exactly the same question as is found in both the MD&A and SEC filing instructions – the responses to which are public information. We cannot envision any reason to ask about material events in the MD&A and declare those responses public while proposing that a question about material impacts of climate change be confidential. The idea that companies might provide one response in their public filings, and a different response in a private disclosure to regulators, is troubling and could place companies at significant risk for liability.

Here are the instructions from the Annual Statement Management Discussion and Analysis:

5. The discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include descriptions and amounts of (a) matters that would have an impact on future operations and have not had an impact in the past, and (b) matters that have had an impact on reported operations and are not expected to have an impact upon future operations.

8. Reporting entities should describe any known trends or uncertainties that have had or are reasonably probable to have a material favorable or unfavorable impact on premiums, net income or other gains/losses in surplus. If the reporting entity knows of events that will cause a material change in the relationship between expenses and premium, the change in the relationship shall be disclosed.

And here is Question 7 from the Climate Risk Disclosure proposal:

Are there any known trends, events, demands, commitments, and uncertainties stemming from climate change that have had, or are reasonably likely to have, a material effect on the company's financial condition or operating performance? What are these events and what are the material effects?

The instructions for the MD&A ask for precisely the same type of information as the Climate Risk Disclosure question 7. Consequently, it is not reasonable for industry to argue that question 7 will cause them problems. It should be noted that even though, in theory, the MD&A should contain the same type of response as Climate Risk Disclosure 7, the MD&As reported by insurers routinely fail to provide relevant information. We have previously described how the MD&As from bond insurers in 2007 and 2008 failed to mention risks associated with the massive share of business these firms did in insuring collateralized debt obligations. The lesson is that question 7 is necessary to ensure that insurers actually provide the necessary information to regulators, investors and consumers.

Question 8 asks:

Are there geographic locations or specific perils or coverages for which the company has increased rates, limited sales, limited or eliminated coverages because of sudden or longer-term catastrophic events? If yes, what were these actions in the past two years, which of these actions was influenced by your assessment of climate change impacts and what was the assessment? Are there geographic locations or specific perils or coverages for which the company expects to increase rates, limit sales, limit or eliminate coverages because of sudden or longer-term catastrophic events over the next year?

The importance of this question is highlighted by the attached article describing Allstate's pullback from East Coast property exposures:

It wasn't just those losses, however, that prompted Allstate to make the well-publicized—and in some quarters, much criticized—decision to stop renewing or writing homeowners' policies in a number of coastal markets. It was climate change, and the accompanying threat of future losses, that made Allstate change how it does business.

“We didn't wake up and say, ‘The Earth is getting warmer, and so therefore we must do something about it,’” says Treviño, who left Allstate after this interview was completed. “Instead, what we saw was that the climate was changing, and by climate we mean the waters in the Atlantic and the Gulf are warmer and sea and air currents have changed to cause the climate for hurricane activity to be different. ... What we've done is come to the conclusion that the climate is changing, and we have to manage our business in reaction to that.”

This is a perfect example of an insurer publicly stating its understanding of the impacts of climate change on its business and its response to that understanding. That is the precise purpose of the Climate Risk Disclosure proposal.

Clearly, historical actions are not trade secrets. The forward-looking statements in question 8 cover the same period as the MD&A, which, as we noted earlier, is a public document. As for future actions, insurers already announce their plans about future writings. For example, Allstate prominently announced to investment analysts that it would scale back its exposure to limit any single event loss to \$1 billion dollars.

The final reason why questions 7 through 9 should not be confidential is that the new draft provides safe harbor language about forward-looking statements in the same way that the MD&A does. This safe-harbor language provides insurers with the protection they have argued they need. It is redundant to then make information confidential on top of the safe-harbor language.

We strongly support disclosure requirements that are substantive, specific and public. We urge the working group to adopt a revised climate risk disclosure proposal which makes the responses to all nine questions public information. If the working group is unable to adopt such a disclosure, we then urge the working group and the NAIC to take no action on climate risk disclosure. Adoption of the August 15, 2008 proposal is worse than no action because it will not accomplish the goals of disclosure and will make the adoption of a meaningful and useful disclosure more difficult in individual states. In the absence of a substantive, specific and public climate risk disclosure, we ask the NAIC to take no action and we will work with individual states to develop the substantive and public climate risk disclosure needed by investors, consumers and insurers themselves.

Thank you for providing us with the opportunity to comment.

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