

**DEPARTMENT OF THE TREASURY  
FEDERAL INSURANCE OFFICE (FIO)  
FEDERAL ADVISORY COMMITTEE ON INSURANCE (FACI)**

**MINUTES – 18 APRIL 2019**

The Federal Advisory Committee on Insurance (FACI) convened at 1:50 pm on 18 April 2019 in the Cash Room at the U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, D.C., with Dan Glaser, Chair, presiding.

In accordance with the Federal Advisory Committee Act, the meeting was open to the public.

**Committee Members Present**

DAN GLASER, Chief Executive Officer, Marsh & McLennan  
ERIC ANDERSEN, Co-President, Aon  
AMY BACH, Executive Director, United Policyholders  
BIRNY BIRNBAUM, Executive Director, Center for Economic Justice  
QUINCY BRANCH, Chief Executive Officer, Branch Benefits Consultants  
GREG CRABB, President & CEO, Amerisure  
JOHN FRANCHINI, Superintendent, New Mexico Office of Superintendent of Insurance\*  
MARK GRIER, Vice Chairman, Prudential  
GEORGE KEISER, Representative, North Dakota House of Representatives  
JIM KELLEHER, Executive Vice President & Chief Legal Officer, Liberty Mutual  
SEAN MCGOVERN, General Counsel, AXA XL  
ANDREW STOLFI, Administrator, Oregon Division of Financial Regulation\*  
CHRIS SWIFT, Chairman and CEO, The Hartford  
MARK THRESHER, Executive Vice President and Chief Financial Officer, Nationwide\*

\*Present via teleconference

**Also Present**

STEVEN SEITZ, Director, Federal Insurance Office (FIO)  
LINDSEY BALDWIN, Senior Policy Analyst, FIO (Designated Federal Officer)  
CRAIG PHILLIPS, Counselor to the Secretary, Treasury  
KIPP KRANBUHL, Acting Assistant Secretary, Financial Institutions, Treasury  
TYLER WILLIAMS, Deputy Assistant Secretary, Financial Institutions Policy, Treasury

## **Welcome and Introduction**

Chairman Glaser welcomed the public to the meeting and thanked the Federal Insurance Office (FIO) for its important work on the insurance industry and for working with Marsh to convene the meeting.

Chairman Glaser thanked Treasury officials Kipp Kranbuhl, Acting Assistant Secretary for Financial Institutions, and Tyler Williams, Deputy Assistant Secretary for Financial Institutions, Policy, for attending the meeting and their continued support of FACI.

Chairman Glaser noted that this was Director Seitz's first meeting as FIO Director.

Chairman Glaser welcomed members of the Committee and announced three new members: Eric Andersen, Co-President, Aon; Greg Crabb, President and CEO, Amerisure; and Andrew Stolfi, Administrator, Oregon Division of Financial Regulation.

Chairman Glaser described FACI as a forum for members to continue to openly share and debate critical issues, and noted that the Committee is tasked with thinking strategically about issues impacting their organizations and the clients they serve, and providing advice and feedback to FIO on the state of the insurance marketplace.

Chairman Glaser announced that the Committee was revising its subcommittee structure to encourage an interactive forum of active dialogue between members and provide FIO with tangible feedback and recommendations on priority issues facing the industry. He noted that the industry is rapidly evolving, and having a diversity of views on important issues ensures the Committee's ability to provide substantive advice and recommendations to FIO for consideration.

Chairman Glaser acknowledged the demands on the members' schedules and thanked the members for taking the time to attend the meeting, as well as devoting organizational resources to the Committee's work. He added that he looks forward to working with the Committee this year and complimented the depth of expertise among its members.

## **Update on Federal Insurance Office Activities**

Director Seitz thanked the attendees as well as Chairman Glaser for his comments. He expressed excitement about the renewed opportunity for FACI's subcommittees to provide FIO with advice and recommendations related to the Office's priorities.

In order to inform the Committee's discussion at the meeting, Director Seitz highlighted FIO's current work and provided suggestions on ways that FACI could provide beneficial feedback.

Beginning with FIO's domestic work, Director Seitz described a long-term care insurance interagency task force convened to develop policies that complement reforms at the state level.

The task force consists of representatives from: Treasury (including FIO), the Department of Health and Human Services, the IRS, the Department of Labor, and the Office of Management and Budget. The task force is holding regular meetings, has scheduled stakeholder feedback sessions, and expects to conclude its work later this year.

The task force's work includes reviewing federal policy options identified in 2017 by the NAIC's Long-Term Care Innovations Subgroup, and considering other recommendations for federal policy and regulatory changes to improve access and consumer choice in long-term care insurance. Director Seitz recognized this issue as a top priority for the National Association of Insurance Commissioners (NAIC) leadership and states, as highlighted at the recent NAIC meeting in Orlando, Florida.

Director Seitz next discussed the administration of the Terrorism Risk Insurance Program, which is currently set to expire on December 31, 2020. In preparation for the upcoming reauthorization discussion, FIO has engaged in stakeholder outreach to obtain views on the potential reauthorization of the Program and any reforms that could be enacted.

Director Seitz stated that FIO anticipates the Advisory Committee on Risk-Sharing Mechanisms will meet soon to provide further analysis and recommendations in this area. He noted that although that the Advisory Committee on Risk-Sharing Mechanisms is a dedicated advisory committee focusing on the TRIP, FIO believes that FOCI can play an important role in this discussion, given its interest in public risk transfer.

Director Seitz highlighted FIO's annual data calls and Program effectiveness reports produced under the 2015 Terrorism Risk Insurance Program Reauthorization Act. The 2019 data call is currently underway, and a report on the role of small insurers in the Program will be published by the end of June. He added that FIO's prior reports on this topic have established that the Program is working as intended by making terrorism risk insurance available and affordable.

Director Seitz stated that FIO is also focusing on InsurTech, and noted that FIO has addressed insurance technology-related issues in its Annual Reports, FOCI meetings, and discussions with international policymakers. The Treasury Nonbank Financials, Fintech, and Innovation Report (published in July 2018) directly tasked FIO with further exploring InsurTech issues. Director Seitz elaborated that FIO is in the process of engaging with stakeholders on four broad topics related to InsurTech:

1. Market overview, including: the availability of capital; and the tradeoffs between building, buying, or partnering with startups.
2. Regulatory frameworks, including: the impact on innovation and consumers; sandboxes and insurance accelerators; and regulators' ability to keep pace with technological developments.

3. Data management, including: big data; artificial intelligence (AI) in risk modeling and underwriting; and effects on consumers.
4. New technologies and the future of insurance, including: how the use of new technologies could transform the sector.

Director Seitz described FIO's involvement in mitigation and resilience efforts throughout the federal government, which not only attempt to reduce the likelihood of loss in the first place, but lessen the severity of losses after a natural catastrophe occurs. FIO participates in the Mitigation Framework Leadership Group, the coordinating structure that organizes mitigation efforts across the federal government. In May 2018, FIO, FEMA, and NOAA co-hosted a financial sector stakeholder session. The event resulted in several takeaways of actions the insurance sector needs to take: better highlight the return on investment for mitigation projects; increase the size and scale of investment opportunities to attract investors; and provide better data, information, and knowledge on U.S. mitigation efforts.

Director Seitz said that FIO has also advised FEMA on risk transfer to the private sector. In 2017, FEMA negotiated a reinsurance agreement that paid over \$1 billion to the National Flood Insurance Program (NFIP) to help cover the cost of claims filed by the victims of Hurricane Harvey. He added that FEMA purchased additional reinsurance and catastrophe bonds in 2018 and 2019 to transfer more flood risk to the private sector.

Director Seitz then discussed FIO's international work. He first described Treasury's and the United States Trade Representative's (USTR) efforts to continue to promote the U.S. regulatory system abroad and enhance opportunities for the U.S. insurance industry through FIO's authority to enter covered agreements. In 2017, the United States started the U.S.-EU Covered Agreement, which resolved several long-standing prudential issues affecting the activities of U.S. and European insurers and reinsurers that operate on both sides of the Atlantic.

Director Seitz stated that this mechanism allows for agreement on a path forward that advances the U.S. process to reduce the collateral reform efforts at the NAIC and resolves difficult issues faced by multi-national insurers as a result of the EU approach to group supervision under Solvency II.

Director Seitz added that Treasury and USTR signed a separate agreement with the United Kingdom in December 2018. The agreement essentially replicates the terms of the U.S.-EU agreement, and will assist in providing regulatory certainty and market continuity as the United Kingdom prepares to leave the European Union.

Director Seitz described the current state of activities related to these agreements. The U.S. states, through the NAIC, have been working to amend the Credit for Reinsurance Model Law and Regulation as a basis for the states to conform their laws to the commitments made in the U.S.-EU covered agreement. FIO has been monitoring this process and engaging with state regulatory colleagues and the NAIC on this work.

FIO is also closely following the NAIC's ongoing efforts to develop the group capital calculation, which is currently in field testing. Director Seitz encouraged the NAIC to continue its work in this area.

Director Seitz described the April 2019 joint committee meeting between the EU and the United States to discuss implementation of the agreement. The meeting was attended by the President of the NAIC, Eric Cioppa, as well as the incoming president, Ray Farmer. Director Seitz reported that, at the meeting, both sides reaffirmed their commitment to the timely and full implementation of the agreement.

Director Seitz stated that both sides of the U.S.-UK covered agreement have completed their internal processes, and the United States is maintaining close contact with its UK counterparts on next steps. He said that by virtue of this agreement, insurers and reinsurers from both jurisdictions can have the same benefits they would have if the UK had remained within the EU.

Director Seitz added that FIO will be starting a collaborative project with the UK to increase mutual understanding and enhance cooperation between the United States and the UK. The project is modeled after the EU-U.S. Insurance Project.

Director Seitz described FIO's work to develop a mutually-beneficial working relationship with the Indian Insurance and Regulatory Development Authority (IRDAI) as an example of FIO's work to strengthen bilateral relationships with certain insurance jurisdictions. FIO recently held a webinar with Indian colleagues on risk-based financial supervision, which is one of IRDAI's key priorities. This webinar is expected to be the first in a series of engagements with India, and Director Seitz welcomed FOCI member input on these dialogues.

Director Seitz provided updates on the EU-U.S. Insurance Project, which FIO works on with state regulators and the NAIC, EIOPA, the European Commission, and member states of the EU. Throughout 2018, the project looked at topics such as cyber risk, big data, and cross-border intra-group transactions. The project published a series of papers on these topics at the end of 2018 and held a public forum after the International Association of Insurance Supervisors (IAIS) meeting in Luxembourg. In 2019, the project will continue to review big data and cyber risk, with a focus on both the EU and U.S. cyber insurance market as well as each market's approach to cybersecurity within the insurance sector.

Director Seitz next reviewed a number of the issues currently being addressed by the IAIS. He identified several critical issues: the development of the International Capital Standard (ICS); the holistic framework (also known as the activities-based approach for assessing systemic risk); and completion of the Insurance Core Principles (ICPs) and ComFrame. He added that the IAIS is aiming to achieve milestones on each of these projects at its Annual General Meeting in Abu Dhabi in November 2019.

At last year's Annual General Meeting, the IAIS membership approved a new governance structure. As a result, FIO and the United States now have a permanent seat on the Executive Committee for the first time. By statute, FIO represents the United States at the IAIS, and in this role, Director Seitz said that the office is actively engaged with its state and federal colleagues as part of "Team USA."

Director Seitz highlighted FIO's participation in several key projects that FIO is currently working on at the IAIS, and noted that a complete description of FIO's participation on multiple IAIS committees, working groups, and task forces at the IAIS is provided in FIO's annual report to Congress.

With respect to the ICS, FIO is continuing its work to advocate that the IAIS begin to focus more on comparability of outcomes with the ICS in order to enhance compatibility with the U.S. domestic framework (including the NAIC's work on the group capital calculation and the Federal Reserve's work on the Building Block Approach).

Director Seitz said that FIO is also advocating for an ICS that is appropriately designed so that U.S. insurers can continue to offer long-term savings and protection products that are critical to Americans' financial security. He noted that many U.S. insurers are active around the world in places where some version of the ICS could be adopted.

Director Seitz said that FIO is continuing to push for the IAIS to better develop the parameters of the work that will be conducted during the monitoring period of 2020 to 2024. In particular, he said there are a number of outstanding ICS design and calibration issues that are still unresolved, and emphasized that some level of field testing, analysis, and participation must occur by stakeholders, supervisors, and the industry.

Director Seitz concluded his discussion of the ICS by noting that FIO is monitoring the Federal Reserve's implementation of the Building Block Approach for its supervised entities, and the NAIC's work on the group capital calculation. He identified this domestic work as critical to the United States' advocacy at the IAIS.

Director Seitz summarized FIO's efforts on the work to shift towards an activities-based approach (holistic framework) to assess potential systemic risk. This approach focuses on insurance activities and products rather than individual insurance entities. Director Seitz said that Treasury believes entity-based evaluations at the IAIS are not the best approach for mitigating risk in the insurance sector, and FIO supports the IAIS work to develop a credible framework for the shift away from entity-based approach to the activities-based approach. Director Seitz specifically highlighted FIO's support for liquidity management practices and the need to improve cross-sectoral analysis across the financial system, and approve sector-wide monitoring. He added that this is a priority project for the IAIS in considering the tight timeframes in 2019.

Director Seitz said that a member of FIO's senior staff chairs the IAIS's Financial Crime Task Force, which drafted the first issue paper on insurer cybersecurity last year. This work complements a range of Treasury's domestic work. FIO also chairs the Resolution Working Group, which recently completed revisions to the ICPs and ComFrame to address recovery planning and resolution.

Director Seitz noted the engagement of FIO and its U.S. colleagues at the Organisation for Economic Cooperation and Development (OECD). The OECD services as a source of advice for the G-20 and the public on various policymaking and implementation matters, and it collects and publishes data and analysis on a range of topics.

Director Seitz summarized FIO's annual reporting requirements. FIO must submit an annual report to Congress on September 30 which describes the industry's financial activities and analyzes various insurance topics.

In addition, in May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (also referred to as S. 2155), which placed additional reporting requirements on FIO. Among these, Treasury and the Federal Reserve submitted a joint report in November 2018 describing efforts to increase transparency at IAIS meetings. FIO and the Federal Reserve are also required to submit an annual report to Congress on global insurance regulatory and supervisory forums, including a description of regulatory or supervisory standard-setting issues under discussion, the effects that these proposals could have on consumers and insurance markets in the United States, and positions taken in international discussions. FIO and Federal Reserve staff are currently working on this year's report. S.2155 also requires a study and corresponding report on the impact to U.S. consumers and markets before supporting or consenting to a final international insurance capital standard. Work on this study has not started because the ICS is not yet final.

Director Seitz reiterated his belief that these are areas where the Committee could be valuable and expressed his hope that it would serve as a starting point for the meeting's discussion. He added that once each subcommittee finalizes its topics for review, FIO will be happy to engage with each subcommittee on those issues.

Director Seitz closed by thanking Committee members in advance for their expertise and insights.

### **Re-Establishment of FACI Subcommittees**

Chairman Glaser welcomed Counselor Craig Phillips to the meeting, and reported that Counselor Phillips led a closed administrative session before the day's meeting. Chairman Glaser summarized Counsellor Phillips' comments as focusing on the importance of FACI's mission as an advisor to FIO, due to its makeup of industry leaders and experts. Chairman Glaser reiterated that a diversity of views offers the opportunity for rich discussion, and helps FACI and FIO fully

grasp complex issues and develop a roadmap to navigate the dynamically changing insurance industry.

Chairman Glaser emphasized that member participation in FACI meetings has a material influence on the Committee's work as well as new initiatives resulting from the meetings, and encouraged members to express their opinions in the discussion. Chairman Glaser expressed a desire to move the meetings from the presentation-focused structure used over the past several years to a more dialogue-focused structure that focuses on outcomes over information-sharing.

Chairman Glaser expressed the subcommittee structure as a way to effectively examine a broad range of industry priorities, encourage a strong dialogue, and provide substantive recommendations for FIO's consideration. He stated that the subcommittees will report directly to FACI and the format of their recommendations could come in a variety of formats.

Three subcommittees were announced:

1. The Availability of Insurance Products
2. FIO's International Work
3. Addressing the Protection Gap

Chairman Glaser stated that empowering Americans to make independent and informed financial decisions is a key theme in Treasury's core principles. One important aspect of this principle is retirement security and how the private sector can play a leading role in facilitating the availability of retirement products for Americans. Therefore, Chairman Glaser said that the first subcommittee will examine the availability of insurance products and take a closer look at the role that life insurers (and the private sector as a whole) can play in addressing current and future retirement security challenges.

He said that the second subcommittee will focus on FIO's international work, which is a key part of its mission to represent the United States in international forums. He highlighted FIO's international work at standard-bodies such as the IAIS, the covered agreements signed with the EU and UK, and S.2155's requirement for FIO to produce annual reports to Congress describing its activities at the IAIS and other international forums. Chairman Glaser stated that he believes the subcommittee can provide valuable feedback on this year's report, which Director Seitz noted is currently in process.

Chairman Glaser said that the third subcommittee would address the U.S. insurance protection gap, specifically examining effective strategies to manage the federal government's risk exposure. He expressed his hope that the subcommittee would initially explore opportunities to expand public sector risk transfer opportunities and build on successful programs already in place. He added that the third subcommittee would also consider other ways in which the public and private sectors could coordinate on innovative ways to adequately prepare for the ever-changing risks to our nation.



## **Subcommittee Membership Selection**

Chairman Glaser opened the subcommittee membership selection process by informing members that they were not required to serve on a subcommittee, nor were they restricted to serving on only one subcommittee. He expressed the goal of having a representative balance of membership on each subcommittee.

Chairman Glaser noted that several new FOCI members should be joining the Committee in the near future, pending completion of their background checks. The membership of the subcommittees will therefore grow, and FOCI decided that subcommittee work should not commence until the membership of these individuals (and therefore subcommittee membership) is finalized.

Chairman Glaser asked members to volunteer for each subcommittee, after which any resulting imbalances on the subcommittees could be addressed, if necessary.

Subcommittee membership was finalized as follows:

### **The Availability of Insurance Products**

Amy Bach  
Birny Birnbaum  
Quincy Branch  
John Franchini  
Mark Grier  
George Keiser  
Jim Kelleher  
Mark Thresher  
Kent Sullivan  
Chris Swift

### **FOCI's International Work**

Mark Grier  
Jim Kelleher  
Sean McGovern  
Andrew Stolfi

### **Addressing the Protection Gap**

Eric Andersen  
Amy Bach  
Birny Birnbaum  
Greg Crabb  
John Franchini  
Dan Glaser  
George Keiser  
Sean McGovern

In response to a question from Mr. Andersen about the type of work that would be undertaken by the International Work subcommittee, Director Seitz replied that the focus of this work could go a variety of ways, due to the standard-setting work at the IAIS, which is important to large multinational firms and related to market access and bilateral relationship issues (such as with the Indian authority). He said it could also include work related to the EU-U.S. Insurance Project and the U.S.-UK Insurance Project, so the focus would not necessarily be solely on standard-setting work (which is not relevant to certain Committee members). Mr. Andersen said Aon would likely have resources that it could offer to the International subcommittee, if needed.

Chairman Glaser said that the subcommittee balance would be reviewed again upon finalization of the pending memberships. Chairman Glaser asked if each member would send a note to Director Seitz and himself if they were interested in serving as a subcommittee chair. He suggested that there may ultimately be co-chairs to help distribute the workload.

Chairman Glaser dismissed the Committee for a short break.

### **Committee Priorities for 2019**

Chairman Glaser opened discussion on topics for the subcommittees' attention, noting that the discussion as not meant to be final, but rather a starting point for identifying the members' interests.

Chairman Glaser asked Ms. Bach for her ideas related to the availability of insurance products. Ms. Bach identified three areas. She replied that state regulators have been having challenges with long-term care rates for many years, which demonstrates the pressing need to address long-term care insurance as a topic. She noted that this topic would also relate to the subcommittee on addressing the protection gap, because a large government risk exposure is created when individuals have not established safety nets for end-of-life care. She added that retirement security has been another area of focus in which a lot more needs to be done, and concluded by identifying the availability of home insurance as another big challenge.

Mr. Grier said the subcommittee should focus on outdated regulations that are impediments to the availability of products. Specifically, there are restrictions that don't reflect contemporary availability of information, technology, product design, and capabilities. Therefore, he said the subcommittee should think about what is preventing more accessible markets (on the company side) and more accessible products (on the consumer side). Mr. Grier said this subject would have many applications, including retirement, auto insurance, and long-term care.

Mr. Swift suggested there may be a need for two separate workstreams/subcommittees for life/health and property/casualty (P&C) due to differences in the markets. He said that there are more private market solutions for P&C to apply its capital, whether to flood or other broad-based catastrophes where take-up rates are too low and insurers are not collecting enough premiums to fund losses. Chairman Glaser responded that this could be applicable to the subcommittee on the protection gap.

Mr. Swift raised the question of how to distinguish the missions of the first (availability) and third (protection gap) subcommittees. He suggested that the first subcommittee could be anchored around more private market activities, as opposed to government-sponsored programs. Ms. Bach added that a possible theme to examine would be existing public-private partnerships that deliver insurance products to the public. She said this could serve as a unifying theme because of the attempts to create a long-term care partnership, as well as the existence of residual market mechanisms.

Mr. Sullivan suggested that this be undertaken by examining best practices, and looking at the current state based on historical decisions and practices and determining what has/has not succeeded in terms of fulfilling the original expectations for those programs.

Mr. McGovern agreed with Ms. Bach and Mr. Sullivan, and referenced a study performed by AXA XL within the past year which found nearly 500 different types of public-private partnerships globally. Based on this, he believes there is something that FOCI can learn from existing programs both in the United States and elsewhere. He suggested that many companies have performed thought leadership in this area, and they could be tapped as resources.

Mr. Swift referenced prior conversations with the Treasury Secretary about the concept of using infrastructure money (if available) to help risk mitigation and remediation. He suggested the committee could look at the fundamental generational things that would need to occur to begin remediating risk.

Mr. Birnbaum said that availability of insurance products and addressing the protection gap are effectively the same thing. He suggested the committee needed to be more precise, and that regulatory impediments is a broad topic; it would be more clear to define the insurance gap subcommittee as looking at government programs and risk transfer issues.

Mr. Birnbaum said he would not recommend focusing on long-term care insurance, because state regulators are already closely looking at the issue. However, he said broader retirement security needs attention because many products are in the market, and the Center for Economic Justice's work has identified issues related to consumer understanding and value. He said this is relevant whether an individual wants retirement income to pay for long-term care or to pay for household items.

Mr. Birnbaum said he would also recommend focusing on the P&C track addressing the issues mentioned by Ms. Bach and building on FIO's previous work on auto insurance availability, since there is already a foundation to that work.

With respect to addressing the protection gap, Mr. Birnbaum recommended focusing on specific government programs that can be improved, such as the NFIP.

Chairman Glaser responded that it would make sense to have some clarification that protection gap issues would be P&C related, focus on government programs, and identify how private sector solutions could be used to improve outcomes.

With respect to availability, Chairman Glaser suggested the subcommittee itself should decide the best approach. He added that initial subcommittee discussions may want to select two or three areas of focus, because a wider focus would likely spread the subcommittee too thinly.

Chairman Glaser also agreed that the first and third subcommittees should not have convergence, and the third subcommittee should focus on government programs and P&C matters, as stated by Mr. Birnbaum.

Mr. Birnbaum added that his primary reason for serving on FOCI is to help FIO carry out its responsibilities, and recommended that the subcommittee work should be driven by FIO's work needs. Chairman Glaser agreed and said that he would work with Director Seitz to ensure that the subcommittees are aligned with FIO's priorities.

Acting Assistant Secretary Kranbuhl encouraged the Committee to put all items of discussion on a list of topics to cover, and from meeting-to-meeting, select a specific topic to prioritize for a discussion and presentation. He noted that this approach is taken by other Treasury advisory committees. Acting Assistant Secretary Kranbuhl suggested that Chairman Glaser and Director Seitz would assist in selecting the topics that should be detailed at each meeting. He supported the Committee's approach of discussing many topics, which FIO can then distill down and provide direct feedback on.

Mr. Crabb said the availability discussion reminded him of InsurTech and changes in distribution and products. He questioned whether this was something the Committee was interested in examining. Director Seitz replied that this topic could fit with the availability subcommittee, particularly when examining distribution channels and new market entrants. He suggested there was an opportunity to discuss InsurTech both with respect to consumers as well as how the broader market effects could impact the sector. He added that InsurTech is a near-term focus of FIO.

Mr. Keiser identified consumer confidentiality, privacy, and transparency as an emerging trend that will impact access and affordability. He referenced the EU's General Data Protection Regulation (GDPR), and added that similar legislation is emerging in the United States. Mr. Keiser said businesses and insurers will need to address this risk factor, because failure to comply will make them vulnerable to legal action. He suggested that the compliance costs associated with these measures will eliminate small emerging regional insurance companies, citing small community banks as an example (unable to write mortgages anymore, the business transferred to larger banks). Mr. Keiser said that the federal government should be looking at this to ensure there is a consistent standard across the country. Chairman Glaser agreed that this is a critical topic to address, and suggested that Director Seitz could determine whether it would fit into one of the three subcommittees, or require a separate workstream.

Mr. Andersen suggested that Mr. Keiser's point fits into the concept of new products, because so much product development is built around understanding risk characteristics which are generally either personal or property driven. If the ability to access this information is restricted, the ability to create a new product that meets a policyholder's needs is very limited.

Chairman Glaser asked Ms. Bach and Mr. Birnbaum for a consumer interest perspective on the issue of data privacy.

Ms. Bach discussed how InsurTech factors into the topic of data privacy. She noted that climate change is a clear driver of change in the availability of insurance products. In California (where United Policyholders is located), consumers fear the combination of access to data and an insurer's ability to purchase data that segregates risk at a microlevel. She said this is already beginning to reduce availability.

Ms. Bach said this reduced availability is showing up in some new products. In a mobile distribution channel which issues micro policies with parametric products (e.g., \$10,000 if you are in the epicenter of an earthquake or near a flood), the payments are generally not sufficient to allow people to recover from the loss. She suggested that a tangible topic of discussion for the subcommittee on availability would relate to technological challenges to affordability.

Mr. Swift suggested that availability should not be conflated with price, and that from a data analysis side, a more precise measure of risk translates, theoretically, into a more precise price. When price and risk aren't aligned, a long-term mismatch results.

Ms. Bach responded that in California, there is a concern that brand-name P&C companies are pulling out of areas, making it an availability issue rather than a pricing issue. Mr. Swift countered that availability is driven by price, because when a price is suppressed, the insurer can't earn an adequate return on capital and thus faces a constraining factor. Mr. McGovern added that the distortion in government programs occurs because they do not permit risk-based pricing.

Mr. McGovern raised cyber as an issue that could be addressed by the third subcommittee, stating there is a natural partnership between government and the industry in addressing the growing risk of cybersecurity issues. He added that insurance can incentivize individuals, businesses, and others to become more resilient, in addition to serving as a solution when cyber events occur.

Mr. Birnbaum compared auto safety loss mitigation efforts to loss mitigation for homes, noting that although auto manufacturers finance auto safety improvements, individual homeowners, businesses, and communities (rather than home builders) are responsible for financing loss mitigation. He suggested that this creates a role for government to partner with consumers, business, and industry to finance loss mitigation.

Mr. Birnbaum stated that no insurance program (public or private) will be able to finance losses from ever-increasing frequent and severe storms resulting from climate change. He said effective loss mitigation is the only long-term solution, which requires effective use of government resources (which in turn requires leveraging consumer, business, and insurer resources). He suggested that addressing the National Flood Insurance Program would be a way to implement massive change very quickly.

Chairman Glaser suggested that the subcommittee would need to select from the options discussed as they would not have the capacity to address every subject at once.

Moving to discussion of the second subcommittee on FIO's international work, Chairman Glaser suggested that FIO could help U.S. insurers level the playing field in other countries by raising issues with foreign regulatory counterparts.

Mr. Kelleher commended FIO for its role on Team USA in providing transparency and the giving affected insurers the opportunity to provide input on international issues (specifically in Europe). He identified the international capital standard (ICS) as having technical flaws with no clear resolution, and said it would have significant ramifications to internationally active insurance companies, given the difference between a capital standard driven out of Europe versus capital standards based upon state laws (which would be the only restrictions that a non-internationally active insurance company would need to comply with). He said that this topic is not getting sufficient attention and suggested that this, and other sub-issues within the ICS, could be addressed by the subcommittee.

Mr. Kelleher stated that cyber is an international problem, and the international aspects of building cyber resilience and the availability of cyber insurance should be a component of the work being performed by the first subcommittee. Chairman Glaser added that finding common agreement on the treatment of war exclusions as applied to cyber incidents could be a related topic to discuss.

Mr. Andersen noted that many FACI members have relationships with international regulators and would be able to provide insight to FIO if the office needs to prepare to meet with a regulator in another country. Mr. McGovern added Treasury could help promote the industry's ability to access international markets through reinforcing messages (e.g., issues of market access protectionism) through its own relationships with those regulators and governments.

Mr. Grier agreed with Mr. Kelleher's assessment of the challenges with the ICS and global capital standards, and noted there is also bilateral importance, because a local country could seek to model its own standards after the ICS even if a global standard is not adopted. He said local standards modeled after the ICS could be very painful for U.S. companies.

Director Seitz said that the subcommittee could be helpful in providing FIO with clarity on the numerous facets of ICS, such as those described by Mr. Kelleher and Mr. Grier, to help FIO prepare for decision points happening in November.

Mr. Birnbaum expressed interest in the IAIS's proposed holistic framework, and suggested that Team USA should encourage the IAIS to focus resources on matters other than the ICS, because those other resources could have tangible benefits. He said the holistic framework provides an opportunity to learn from the causes of the (2008) financial crisis, and noted that the failure of private mortgage insurers and bond insurers was not due to insufficient capital, but rather a failure to engage in risk management. As a result, he suggested that the holistic framework

should address defective products and company fraud, because they lead to systemic risk. Chairman Glaser responded that insufficient capital could be the cause of the next financial crisis.

Mr. Kelleher added that traditional property and casualty insurance is not systemically risky, and he did not see any fallout in the financial crisis with respect to P&C operations. However, he did observe financial guaranty products (falling outside of traditional P&C insurance) that did create problems, and suggested that it would be interesting to review these products.

Chairman Glaser framed the discussion for the subcommittee on addressing the protection gap around topics related to P&C insurance and interactions between the private sector and government programs. He suggested that the protection gap in a broader sense (such as with matters like retirement) should be handled by the first subcommittee, and the third subcommittee should focus on topics such as flood and cyber.

Mr. Birnbaum stated that his prior comments on financing loss mitigation fit primarily into the third subcommittee.

Mr. McGovern expressed a desire to have the subcommittee provide feedback on the Terrorism Risk Insurance Act (TRIA).

Ms. Bach suggested that the concept of best practices and interaction between public and private programs seems to be a better fit for the first subcommittee, because lack of private sector availability drives the creation of government programs. She also noted that the Rutgers School of Law recently held a conference entitled “The Protection Gap” and said she would review the agenda to see what topics were discussed.

Mr. Andersen suggested that many of the Committee’s discussions had been focused on risk insight/risk-based pricing and where the private market helps or the government steps in. He said that understanding the overall dynamics of why a private market enters the market, and how adequate pricing impacts availability, would offer underlying conclusions to address a variety of risks. He clarified that although risks may be localized (flood, earthquake, or wildfire, for example), there are similar underlying factors that can be used for analysis.

Mr. Glaser added that the subcommittee should explore whether lack of non-insurance / underinsurance is driven primarily by price or education. He asked Mr. Sullivan for feedback based on Texas’s experience with Hurricane Harvey. Mr. Sullivan suggested it was important to discuss adequacy of communication, disclosure, and explanation of insurance products, particularly in the intersection with financial literacy. He stated that intelligent, well-informed financial decisions include decisions about the purchase of insurance.

Mr. Sullivan added that he has an ongoing dialogue with the industry about plain language and finding better ways to interact with consumers. He said that Texas has had “form freedom” in a number of areas which has resulted in the proliferation of different products. The subject matter for these is frequently dense and hard to navigate, and consumers tend to reflexively look for the

cheapest price. He said that the industry is doing itself a disservice for not taking the next step in this area.

Mr. Sullivan said that an informed consumer is the best form of consumer protection. When a regulator engages after-the-fact through an enforcement action or litigation, the result is ineffective and a “lose-lose” situation. He has attempted to implement a more proactive model that begins with better, more effective, and more user-friendly communication.

Mr. Birnbaum stated that TRIA is an important subject because FIO is the entity delivering the product. He added that although he is interested in reforming the NFIP, he is not sure what FIO’s role is with respect to the NFIP’s work; but there are many opportunities to improve people’s lives so it would nonetheless be worthwhile to explore. He also added that cyber is a major topic as is the related topic of insurance use of big data. He said that all three topics are equally important and it would be difficult to choose between them.

Mr. Glaser concluded the discussion and asked Committee members to notify Director Seitz and him if they had an interest in serving as a subcommittee chair. He also asked that members identify any organizational resources that might be helpful to any of the subcommittees (even if they are personally not serving on that subcommittee). He expressed his belief that it is important for FIO to have access to these resources.

Mr. Glaser announced that the next meeting would be a call in June, and in the meeting the committee would provide updates on the subcommittees, name subcommittee chairs, and develop agendas. He added that the subcommittees would report to the full FOCI on stated objectives, agenda, and mission throughout the year.

Director Seitz agreed with Mr. Glaser’s proposed plan of action and thanked the members again for their engagement on topics which will help FIO map out its work in upcoming years.

Mr. Keiser said that he found great value in many of the presentations that were made during previous meetings. He suggested that subcommittees could identify topics appropriate for programs and refer these topics to Director Seitz and the FIO staff, so that both the subcommittee and all members have access to additional information. Chairman Glaser agreed and suggested that presentations will be driven by the work done by the subcommittees.

### **New Business and Closing Remarks**

No new business was presented.

Chairman Glaser announced that the next FOCI meeting will be held via teleconference on June 18, 2019 at 2:00pm eastern time. This will be a public meeting with open attendance, and FIO will provide details on accessing the meeting in its Federal Register Notice and on its website.



Chairman Glaser said that before this meeting, he and FIO would work to ensure each subcommittee is fully populated, and FIO will issue information on the subcommittee chairs and membership. In June, the subcommittee will outline their project plans and develop timelines for the remainder of the year.

At 3:29 pm, Chairman Glaser concluded the meeting.

I hereby certify these minutes of the April 18, 2019 Federal Advisory Committee on Insurance public meeting are true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Dan Glaser", is written over a horizontal line. The signature is stylized and cursive.

Dan Glaser  
Chair