

*Memo from Availability and Affordability Subcommittee to FIO Director McRaith*

*Response to Questions from Regarding Availability and Affordability Activities of FIO*

*May 7, 2013*

At the March FACI meeting, Beth Sammis posed a set of questions regarding FIO's activities to fulfill its statutory charge to monitor the extent to which traditionally underserved communities and consumers, minorities and low- and moderate-income consumers have access to affordable insurance products regarding all lines of insurance, except health insurance. This memo is the Availability/Affordability Subcommittee's response to those questions.

- 1. Should we define underserved communities and if so how?*
- 2. Should we define access and affordability and if so how?*

Our March 8, 2013 memo addressed these questions and we cite from that memo:

In response to your requests, we start by defining, or at least describing, the terms availability and affordability of insurance products. Availability means that essential insurance products are offered by insurers in a particular market. Affordability means that the cost of these insurance products is a reasonable percentage of a consumer's income. We recognize that some consumers have incomes so limited that the consumers cannot afford the insurance products. We also recognize that some insurer practices may exacerbate the cost of insurance for low- and moderate-income consumers. Society more broadly needs to address the first problem, while we want to identify practices that lead to unfairly high premium charges for LMI consumers as one part of the solution to affordability problems.

In analyzing availability and affordability issues, we believe there is a hierarchy of analysis that starts with identifying the insurance product that provides the essential financial security consumers need. Once the product has been identified – say auto insurance or residential property insurance or life insurance or retirement income insurance – the features of the product necessary for the product to meet the consumer's need and expectations must be identified.

Once the essential insurance product has been identified, the next step is to research whether the product is available in various markets, which may be defined by geographic location, type of insurer, type of sales, types of consumers eligible for coverage or marketed to by insurers.

If the product is not available in certain markets, the next step is to research why this is the case. This research would look at barriers to insurers offering the product, if any, as well as the presence of demand for the product by consumers in that particular market. This research could lead to a variety of policy responses ranging from providing

information to insurers to address information gaps or misconceptions to legislative changes that lower costs to bring a product to market or increase the return from bringing a product to market or financial assistance to consumers who would otherwise not be able to afford the essential products.

If the research shows that insurers are making a product available, or would make a product available if consumers could afford the essential insurance product, but that consumers in that market are not purchasing the product, the next step is to examine the affordability issues, including the amount of income available for the purchase. There is no single number we can provide that defines “reasonable percentage of a consumer’s income.” Rather, the measure of affordability will likely vary across markets and products, particularly if the examination of availability and affordability is for various global markets and products and not just domestic markets and products.

The DFA identifies three specific characteristics of consumers and markets for monitoring availability and affordability of insurance: traditionally underserved communities, minorities and low- and moderate-income consumers. Consequently, the DFA identifies two specific and objective characteristics of insurance consumers for monitoring – race and income. The third characteristic – traditionally-underserved – is undefined, but we believe that such a phrase refers to minority and low- and moderate-income communities and consumers which have traditionally been underserved.

Using the methodology for analysis from our March 8, 2013 memo, we believe that FIO can identify different product markets and consumer segments – in addition to minority and low- and moderate-income communities and consumers – which are underserved for that product. For example, an analysis of residential property insurance markets is likely to identify availability and affordability issues for certain catastrophe perils in some communities.

In examining the availability of affordability of insurance products, we urge FIO to specifically evaluate the role of existing and new distribution channels for various products and the specific role of insurance producers. As insurance products become increasingly complex, any analysis of product offerings must consider how those products are presented to consumers and the ability of consumers – on their own or with the aid of intermediaries – to exert market power.

In summary, we urge FIO to utilize the methodology above for analyzing availability and affordability in specific product markets while always analyzing characteristics of race and income in that process.

### 3. *What insurance products should we monitor?*

The Dodd Frank Act created FIO and states:

- (d) SCOPE.—The authority of the Office shall extend to all lines of insurance except—
- (1) health insurance, as determined by the Secretary in coordination with the Secretary of Health and Human Services based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91);
  - (2) long-term care insurance, except long-term care insurance that is included with life or annuity insurance components, as determined by the Secretary in coordination with the Secretary of Health and Human Services, and in the case of long-term care insurance that is included with such components, the Secretary shall coordinate with the Secretary of Health and Human Services in performing the functions of the Office;

With this in mind, we suggest FIO monitor the availability and affordability of the following insurance products with specific attention to the availability of affordability of these products for minority and low- and moderate-income consumers.

- **Personal Auto Insurance:** All states and the District of Columbia require financial responsibility (almost always through personal auto insurance) for the operation of a motor vehicle. States vary in their enforcement of these insurance requirements, but the general trend is for greater enforcement through insurance databases and severe penalties for failing to maintain required insurance. Given that access to jobs for most workers is practically available only through use of a personal motor vehicle, the ability to legally operate a motor vehicle is a critical prerequisite for seeking and keeping a job.
- **Residential and Commercial Property Insurance:** Each catastrophe event in the United States reveals the limitations and failings of the hodge-podge of property insurance provision in our country. Given that consumer and business property investments have a long time horizon and that access to financing and maintaining these property investments requires meaningful property insurance coverage, residential and commercial property insurance should be monitored by FIO.
- **Life Insurance:** Life insurance is the archetype financial security tool for consumers seeking to protect the economic future of family in the event of death. Yet, the percentage of families with life insurance is on a long-term downward trend. FIO's monitoring of life insurance products and markets could greatly advance insurer, consumer and policymaker understanding of who purchases what types of life insurance products at what point in their lives and what characteristics of consumers and products are associated with lack of supply, lack of demand or both.

- **Retirement Income:** As the life insurance industry has transformed itself from principally supplying economic security in the event of death to a variety of investment-type products, life insurers are the principal suppliers of retirement income, generally, and lifetime income products, specifically. With the growth of consumer-directed retirement mechanisms displacing traditional pensions, workers must work most of their lives and have investment expertise to secure their retirement income. As with life insurance, FIO's monitoring of retirement income products and markets could advance insurer, consumer and policymaker understanding of what characteristics of consumers and products are associated with lack of supply, lack of demand or both.
- **Hybrid Long-Term Care:** It appears that insurers are moving away from the sale of stand-alone LTC products and towards hybrid LTC products which combine some form of long-term care benefit with a life insurance policy or annuity contract. Stand-alone LTC products have caused significant problems for insurers, consumers and regulators. Given this history, FIO should work with state insurance regulators to monitor sales of the new and more complex hybrid LTC products.
- **Credit-Related Insurance Products:** Credit-related insurance products are those insurance sold in connection with a loan and include consumer credit insurance, force-placed insurance, collateral protection insurance, mortgage guaranty insurance, bond insurance and contractual liability insurance sold in connection with debt cancellation contracts and debt suspension agreements. These products are typically at the intersection of insurance and banking and, consequently, fall under the jurisdiction of both insurance and banking regulators. Historically, gaps in regulatory oversight of many credit-related insurance products have occurred. By monitoring the availability and affordability of these products, FIO can serve a critical role in fostering communication among insurance and banking regulators to ensure regulatory gaps do not occur.

#### ***4. What issues should FIO consider to move us beyond past debates?***

It is unclear what is meant by past debates, but we suggest that the best way forward is through data-driven analyses of the availability and affordability of insurance in specific product markets. This requires the collection of more detailed data and more robust analyses of these detailed data than has historically been the case.

In addition, given FIO's role in international insurance regulatory activities and negotiations, FIO is well positioned to identify global trends, events and trade agreements affecting domestic availability and affordability of insurance products and the on-going abilities of state insurance regulators to impact insurance markets in their states.

**5. *What activities should FIO engage in to monitor access to affordable insurance?***

Building on our basic recommendation that FIO's efforts to monitor availability and affordability of insurance should be data-driven, we suggest that FIO start by working with and building upon existing initiatives and activities. The first step is to identify existing data collection activities by statistical agents, state insurance departments, federal agencies and commercial organizations which could be shared with FIO and which provide sufficient data to analyze at least some aspects of availability and affordability in some product markets. For example, the Texas Department of Insurance collects detailed data from auto insurers and residential property insurers suitable for some availability and affordability analyses. FIO should also identify gaps in the data necessary for monitoring availability and affordability of specific products and product markets.

To the extent that FIO identifies gaps in data necessary for monitoring products and product markets, we recommend that FIO work with state insurance regulators and federal agencies to develop needed data collection. Examples of such collaborative efforts might include:

- Work with the NAIC Auto Study (C / D) Group examining auto insurance issues for low- and moderate income consumers to develop a routine data collection mechanism and statistical plan for monitoring the characteristics of availability and affordability in small geographic areas.
- Work with state insurance regulators to develop a meaningful survey of all risk classifications used by insurers and the relative impact of these risk classifications on insurance premiums.
- Work with state insurance regulators and federal agencies responsible for catastrophe insurance, including the NFIP and TRIA, to develop an efficient and comprehensive vehicle for data collection to monitor availability and affordability of property insurance markets
- Work with the federal regulatory agencies to add credit-related insurance information to various mortgages and other types of lending databases, including the new National Mortgage Database and the Home Mortgage Disclosure Act.