

**U.S. Department of Treasury
Federal Insurance Office**

Federal Advisory Committee on Insurance

By-Laws and Operating Procedures

The following By-Laws and Operating Procedures (the “By-Laws”) will govern the operations of the Federal Advisory Committee on Insurance (the “FACI”), whose funding and administrative support will be provided by the U.S. Department of the Treasury (the “Department”) and its Federal Insurance Office (“FIO”).

Section I: Authority

The FACI has been formed by the authority under 31 U.S.C. §313(h) which authorizes the Secretary of the Treasury to issue orders, regulations, policies, and procedures to implement the Federal Insurance Office. In addition, the authorities of FIO are carried out pursuant to the direction of the Secretary of the Treasury.

The Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 2 §1-16, as amended) (“FACA”), governs the creation and operation of advisory committees. In the event of any inconsistencies between the By-Laws and FACA (including its implementing regulations), the FACI will act in accordance with FACA (including its implementing regulations), as the same may be amended from time to time.

Section II: Functions, Objective, Organization and Operation

The functions of the FACI are advisory only.

An objective of the FACI is to provide advice and recommendations to FIO to assist the Office in carrying out its duties and authorities.

FIO was established in Subpart A of the Federal Insurance Office Act of 2010 ((31 U.S.C. § 313, *et seq.*), Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, 12 U.S.C. 5301 *et seq.* (July 21, 2010)). FIO’s authorities extend to all lines of insurance except health insurance, long-term care insurance (except that which is included with life or annuity insurance components), and crop insurance. Generally, FIO’s duties and authorities are:

- Advise the Secretary of the Treasury on major domestic and prudential international insurance policy issues.
- Serve as a non-voting member of the FSOC in an advisory capacity. FIO has the authority to recommend to the FSOC that FSOC designate an insurer (including affiliates) to be an entity subject to regulation as a nonbank financial company supervised by the Board of Governors of the Federal Reserve.

- Monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the U.S. financial system.
- FIO’s Director also plays a role in authorizing the resolution of any insurance companies subject to regulation as a nonbank financial company.
- Coordinate and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity), and assisting the Secretary (with the United States Trade Representative) in negotiating certain written bilateral or multilateral agreements regarding prudential insurance measures with respect to the business of insurance or reinsurance. FIO assists the Director in determining whether State insurance measures are preempted by such agreement or agreements.
- Monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons have access to affordable insurance products regarding all lines of insurance, except health insurance.
- Assist the Secretary of the Treasury and other officials in administering the Terrorism Risk Insurance Program.
- Perform such other related duties and authorities as may be assigned to it by the Secretary of the Treasury.
- In carrying out these functions, FIO may receive and collect data and information on and from the insurance industry and insurers; enter into information-sharing agreements; analyze and disseminate data and information; and issue reports regarding all lines of insurance except health insurance.

The FACI shall provide its advice and recommendations directly to FIO. The FACI will conduct its work in coordination with FIO. The Director of FIO will decide what information will be disseminated to the FACI for its use and consideration.

Section III: Membership

The FACI shall consist of not more than 21 members, who shall be appointed by the Department, from among individuals not employed by the Federal Government. A significant portion of the membership shall be reserved for past and present State and Tribal insurance regulators¹ and/or state officials, and may include the current and immediate past state insurance commissioner member of the FSOC. The remaining members will represent a diverse set of expert perspectives from the various sectors of the insurance industry (life, P&C, reinsurance, agents

¹ The term “State and Tribal insurance regulators” means the insurance regulators of the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and federally-recognized tribes.

and brokers), as well as from among academics, consumer advocates, or experts in the issues facing underserved insurance communities and consumers.

The composition of the FACI will reflect a diverse set of perspectives from across regulatory jurisdictions and industry sectors. The Director of FIO shall designate a Chairperson from among the members. The first term of a member that begins after August 1, 2014 may be for a one, two, or three year term, to provide staggered terms. Thereafter, each member is appointed or reappointed for a term of three years.

In conformity with the Presidential Memorandum of June 18, 2010,² no member of the FACI shall be a Federally-registered lobbyist. The Director of FIO reserves the ability to replace any member who is unable to fully participate in the FACI. Alternate members will not be permitted to represent those individuals appointed by the Director of FIO without prior written agreement.

Section IV: Meetings

(A) **In General.** The FACI shall meet at such regular intervals as necessary to carry out its duties. The FACI is expected to meet generally four times per year, in Washington, D.C., at the call of the Chairperson and with the approval of the Designated Federal Officer (the “DFO”), or at the call of the DFO. An official FACI meeting consists of a quorum of the members (including the Chairperson) then serving on the FACI. The DFO shall ensure compliance with the requirements of FACA. The Chairperson will preside at all meetings of the FACI, unless the DFO presides in accordance with FACA. The presiding officer of the FACI may specify the use of rules of parliamentary procedure consistent with the By-Laws. Subject to such reasonable guidelines and procedures as the presiding officer of the FACI may adopt, members may participate in a meeting by means of conference telephone or similar communications equipment if all members can hear or similarly communicate with one another at the same time and members of the public entitled to observe such communication can do so.

(B) **Notice.** The Department will publish a notice of each meeting in the Federal Register at least 15 calendar days before the meeting, unless there are exceptional circumstances in which case the reason will be included in the Federal Register notice. The notice will include (1) the name of the Committee; (2) the time, date, place, and purpose of the meeting; (3) a summary of the agenda and/or the topics to be discussed; (4) a statement as to whether all or part of the meeting will be open to the public and, if any part is closed, a statement as to why, citing the specific statutory provision that serves as a basis for closure; and (5) the name and telephone number of the DFO or FIO or Treasury official who may be contacted for additional information concerning the meeting.

(C) **Agenda.** The Chairperson of the FACI will draft an agenda for each meeting of the FACI sufficiently in advance of the meeting to permit a copy or summary of the agenda to be published with the notice of the meeting, if required. The DFO or the FIO designee will approve the agenda for all meetings. The DFO, the Director of FIO (or his or her designee), or support staff will distribute the agenda to the members before each meeting and will make available copies of

² <http://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions>.

the agenda to members of the public attending the meeting. Items for the agenda may be submitted to the Chairperson by any member of the FACI or by any member of the public.

(D) **Quorum.** A quorum will consist of a simple majority of the members (including the Chairperson) then serving on the FACI.

(E) **Voting.** A member must attend a FACI meeting either in person, by telephone or other electronic means, to cast a vote. When a decision or recommendation of the FACI is required, the presiding officer will request a motion for a vote. Any member may make a motion for a vote and vote. No second after a proper motion will be required to bring any issue or recommendation to a vote. FACI action based on a vote requires a simple majority of the votes cast at a meeting at which there is a quorum, except that formal advice or recommendations to FIO requires two-thirds of the votes cast at a meeting at which there is a quorum.

(F) **Open Meetings.** Unless otherwise determined in advance, all meetings of the FACI will be open to the public either in person as space permits or via electronic means. Once an open meeting has begun, it may not be closed for any reason. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussion, the presiding officer of the FACI will order such discussion to cease and will schedule the matter for closed session in accordance with FACA. All materials brought before, or presented to, the FACI during an open meeting will be made available to the public for review during the meeting. All such materials also will be made available on the Department's web site as soon as practicable afterwards. The Chairperson of the FACI may decide in advance to exclude oral public statements during a meeting in which case the meeting notice published in the Federal Register will invite written statements as an alternative. Members of the public may submit written statements to the FACI at any time.

(G) **Activities Not Subject to Notice and Open Meeting Requirements.** Consistent with FACA regulations, the following activities are excluded from the procedural requirements contained in Sections (B) and (F): (a) Preparatory work; meetings of two or more FACI members or subcommittee members convened solely to gather information, conduct research, or analyze relevant issues and facts in preparation for a meeting of the FACI, or to draft position papers for deliberation by the FACI; and (b) Administrative work; meetings of two or more FACI Members or subcommittee members convened solely to discuss administrative matters of the FACI or to receive administrative information from a Federal officer or agency.

(H) **Closed Meetings.** All or parts of meetings of the FACI may be closed in limited circumstances in accordance with applicable law. Requests for closed meetings must be submitted by the DFO to the Director of FIO (or his or her designee) under FACA, generally at least 30 days in advance of the publication of the meeting notice in the Federal Register. The appropriate official must determine that closing the meeting is consistent with the provisions of the Government in the Sunshine Act. Consistent with and Section III (B)(4), the notice of the FACI meeting published in the Federal Register must include information on the closure.

(I) **Hearings.** The FACI may hold hearings to receive testimony or oral comments, recommendations, and expressions of concern from the public. The FACI may hold hearings at

open meetings or in closed session in accordance with FACA and the standards in the By-laws for closing meetings to the public. The Chairperson of the FACI may specify reasonable guidelines and procedures for conducting orderly hearings, such as requirements for submitting requests to testify and written testimony in advance and placing limitations on the number of persons who may testify and the duration of their testimony.

(J) **Minutes.** The DFO will prepare minutes of each meeting of the FACI and submit them to the Chairperson of the FACI for certification of their accuracy. The minutes must be certified by the Chairperson of the FACI within 90 calendar days of the meeting to which they relate. The DFO will distribute copies of the certified minutes to each Member. Minutes of open or closed meetings will be made available to the public, subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act. The minutes will include a list of the persons who were present at the meeting, and a complete and accurate description of the matters discussed and the resolution, if any, made by the FACI regarding such matters; and copies of all reports or other documents received, issued or approved by the FACI at the meeting.

Section IV: Officials

(A) **Chairperson.** The Chairperson of the FACI is designated by the Director of FIO and Treasury officials and serves at the sole discretion of the Director of FIO to perform the duties specified in the Charter and the By-Laws.

(B) **Designated Federal Officer.** The DFO is designated by the Director of FIO and serves as the Department's agent for matters related to the FACI's activities. Under FACA, the DFO must, among other things, call all meetings of the FACI, attend meetings, and adjourn meetings when he or she determines such adjournment is in the public interest. In addition, the DFO is responsible for providing adequate staff support to the FACI, DFO and the Chairperson of the FACI in performance of the administrative functions, such as: (1) notifying Members of the time and place for each meeting; (2) maintaining the roll; (3) preparing the minutes of all meetings of the FACI and its subcommittees, as required by FACA; (4) attending to official correspondence; (5) maintaining official FACI records, including subcommittee records (if any), as required by law; (6) maintaining a webpage for the FACI; (7) acting on behalf of the FIO to collect, validate, and pay all vouchers for pre-approved expenditures of the FACI authorized by law; and (8) preparing and handling all reports (except those required by section 6 of FACA), including the annual report of the FACI required to be submitted to the General Services Administration under the FACA regulations.

(D) **Support Staff.** The Director of FIO (or his or her designee) may determine that FIO staff or staff from the Department's Office of Domestic Finance and other offices within the Department may be available to the DFO to provide adequate staff support for the FACI.

Section V: Subcommittees

The FACI, with the approval of the DFO, may establish such subcommittees as it deems necessary to support the FACI's functions and may appoint members to, and the chairpersons of, any subcommittees so convened. The Chairperson of the FACI will be an *ex officio* member of each subcommittee. Each subcommittee shall be established by means of a FACI vote, which shall be recorded in writing, whether in the minutes of a meeting or otherwise. Only members of the FACI will have the right to vote and make a motion for a vote in a subcommittee. No subcommittee will have any authority to provide advice or recommendations (1) directly to FIO or any other agency or officer of the Federal Government or (2) to be adopted by the FACI without discussion or consideration at an open meeting of the FACI. All activities of the subcommittees will be in compliance with FACA, as applicable.

Section VI: Records

All documents, reports and other materials prepared by or submitted to the FACI constitute official government records and must be maintained and made publicly available in accordance with applicable law.

Section VII: Expenses

Expenses related to the operation of the FACI that are authorized by law will be borne by the Department. Expenses of any kind must be approved in advance by the DFO.

Section VIII: Amendments

The By-Laws may be amended from time to time by the affirmative vote of a majority of two-thirds of the members (including the Chairperson) then serving.