

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

**MINUTES – December 8, 2022**

The Federal Advisory Committee on Insurance (FACI) convened at 1:00 pm on 8 December 2022 via Zoom, with Dan Glaser, Chair, presiding. A quorum existed for the meeting. In accordance with the Federal Advisory Committee Act, the meeting was open to the public.

**Committee Members Present:**

DAN GLASER, Marsh McLennan, Chairman  
ERIC ANDERSEN, Aon  
AMY BACH, United Policyholders  
BIRNY BIRNBAUM, Center for Economic Justice  
QUINCY BRANCH, Branch Benefits Consultants  
KERMITT BROOKS, Guardian Life Insurance Company of America  
BILL CHURNEY, Verisk  
MICHAEL CONWAY, Colorado Division of Insurance  
BETH DWYER, Rhode Island Insurance Division  
ROB FALZON, Prudential  
LUCY FATO, AIG  
JOHN FIELDING, Proxy for Joe Wayland, Chubb Group  
DAMON HART, Liberty Mutual  
DOUG HELLER, Consumer Federation of America  
EDMOND JORDAN, Louisiana House of Representatives  
PETER KOCHENBURGER, University of Connecticut School of Law  
LAURA LAZARCZYK, Zurich North America  
KATHY QUERFELD, Proxy for Sean McGovern, AXA XL  
JULIE SPORE, Transamerica  
JOANNA SYROKA, Proxy for John Seo, Fermat Capital Management  
ANDREW STOLFI, Oregon Department of Insurance  
BETSY WARD, MassMutual

**Department of Treasury Staff Present:**

STEVEN SEITZ, Director, FIO  
STEPHANIE SCHMELZ, Deputy Director, FIO  
JOHN GUDGEL, Senior Insurance Regulatory Policy Analyst, FIO  
SILAB MOHANTY, Senior Insurance Regulatory Policy Analyst, FIO  
ELIZABETH BROWN, Senior Insurance Regulatory Policy Analyst, FIO

**Also Present:**

NEAL ARKLIE, Lloyds

## **Welcome and Opening Remarks**

Chairman Glaser opened the meeting and welcomed two new FACI members: Michael Conway, Commissioner, Colorado Division of Insurance; and John Doyle, Chief Operating Officer and Incoming Chief Executive Officer, Marsh McLennan Companies (not in attendance). Chairman Glaser also noted that this would be his last meeting with FACI, and that he appreciated the opportunity to work with everyone and to serve as FACI chair.

## **Update on FIO Activities**

Director Seitz welcomed the new members and thanked Sean McGovern, Quincy Branch, and Beth Dwyer for their service, this being their last meeting. He also thanked Dan Glaser for his long service as FACI chair. Director Seitz then provided an update on FIO Activities.

On September 29th, FIO published a notice in the Federal Register seeking public comments on the adequacy of cyber insurance for catastrophic cyber incidents for U.S. critical infrastructure, whether a federal insurance response is warranted, and if so, what form such a response might take. FIO extended the comment period until December 14, 2022. FIO, in coordination with the Cybersecurity and Infrastructure Security Agency (CISA) and the Office of the National Cyber Director (ONCD), currently anticipates completing its initial assessment of a federal insurance backstop for catastrophic cyber incidents by the end of 2023.

FIO is monitoring developments with respect to reinsurance and private equity. The increased use of offshore reinsurance by U.S. life insurers seems to be driven in part by activities linked to structural shifts in the sector, as well as other market developments. One aspect of this development is the increased migration of life insurance business to Bermuda through affiliated and non-affiliated reinsurance transactions. FIO has been engaged with Bermudan regulators on this topic, and appreciates the productive interactions concerning reinsurance trends they are seeing and efforts to share perspective on the relevant regulatory frameworks.

Regarding its work on the availability and affordability of personal auto insurance in the United States, FIO is continuing to work on updating the 2017 study. FIO is making good progress on drafting a report with an update, along with some expanded analysis, and a likely discussion of components that influence premiums paid for personal auto insurance, such as underwriting, ratemaking, state regulation, advances in technology, costs, and other factors. Member Heller asked for more details on the timeframes for issuance of the Auto Insurance Affordability Report. Director Seitz noted the team hopes to wrap up the report in early 2023.

FIO continues to engage at the international level, including at the International Association of Insurance Supervisors (IAIS) and the OECD Insurance and Private Pensions Committee (IPPC). On the Insurance Capital Standard (ICS), the IAIS will soon be moving into the fourth year of the monitoring period. U.S. members of the IAIS continue to focus on improving the ICS methodology to better align with U.S. markets, business practices, and products. FIO is also working internationally to highlight insurance perspectives for discussions around climate-related financial risk. This includes participation in the U.N. Sustainable Insurance Forum (SIF) and in the Network of Central Banks and Supervisors for Greening the Financial System (NGFS).

Director Seitz noted that addressing climate-related financial risk is a top priority for the Treasury Department and FIO, and that FIO has prioritized evaluating the potential for major disruptions of insurance coverage in U.S. markets that are particularly vulnerable to climate change. As previously addressed with FOCI, FIO published a Request For Comment in October on a proposed collection of data from property and casualty insurers regarding current and historical underwriting data on homeowners' insurance. The contemplated data would assist FIO in developing a nationwide understanding and assessment of how U.S. markets are being affected by climate-related events. The proposed data collection would, consistent with FIO's statutory authorities, further FIO's work to assess both the availability of insurance, as well as the affordability of such insurance. The comment period is open through December 20, and Director Seitz expressed his hope that FOCI members and the public would provide FIO with feedback on the proposal.

### **Presentation: Update on FIO's Climate-Related Work**

Silab Mohanty and Elizabeth Brown, FIO Senior Insurance Regulatory Policy Analysts, provided an update on FIO's climate-related work. The presentation addressed the rationale for, and details of, FIO's proposed data call.

During the presentation, Mr. Mohanty explained that FIO's proposal attempts to balance the need for granular information with the burden on insurers to provide such information.

Ms. Brown noted that the data collection is currently at the proposal stage and FIO is seeking public comment on the questions posed in the proposal. It is part of FIO's continued engagement process with state insurance regulators, the NAIC, the insurance industry, policyholder groups, academics, and others. This process includes the request for information that FIO published in August of 2021. In June 2022, FIO engaged with the 50 states, D.C., and the five U.S. territories regarding FIO's proposed data template. This engagement helped shape the scope of FIO's proposed data collection. FIO welcomes comments on the proposed data collection's underwriting focus, insurance lines of business covered, selection of insurers, the data elements, the reporting framework, the reporting period, the granularity and scope of the data, the burden on insurers and ways to minimize it, how frequently the data should be collected, and how FIO should assess the impact of climate-related risks on the availability or affordability of insurance.

Member Birnbaum noted that, in the presentation, FIO stated that it will not be publishing confidential or firm specific data from individual submissions. He asked what data FIO believes to be confidential. Ms. Brown noted that the Federal Insurance Office Act includes confidentiality restrictions regarding non-publicly available data or information that is submitted to FIO.

Member Birnbaum asked that assuming FIO obtains data on 80 percent of the homeowner's market from 2017 to 2021, whether the presenters would provide some examples of the insights FIO expects to glean from this data. Mr. Mohanty answered that the intent of gathering this data is to understand both the availability of insurance and also the affordability of insurance at a granular level, particularly for those lower and middle income and vulnerable populations.

Member Bach noted the NAIC's concerns about the data call, and asked whether FIO is engaged in ongoing discussion with NAIC leadership. Director Seitz answered that FIO is in close coordination with the NAIC leadership as well as the officers and looks forward to closely engaging with the NAIC and the states on the way forward.

Member Andersen noted that there is more to what makes a market than just data. He asked whether that is part of “burdens” referenced in the presentation. Director Seitz answered that this is something the FIO team has considered and FIO recognizes that there are a variety of other factors that may influence the cost of products.

### **Presentation on the Cyber Insurance Market**

Neil Arklie, Lloyds’ Head of Cyber Underwriting gave a presentation on the cyber insurance marketplace with a focus on Lloyds’ work to address silent cyber underwriting risks and Lloyds’ new cyber war clauses, which were introduced in 2021.

Mr. Arklie noted that Lloyds writes approximately 20 percent of global premiums of which approximately 50 percent comes from the United States, and from the UK and Canada. Lloyds is also seeing growing cyber interest in Europe and Latin America. He noted that Lloyds has had a non-affirmative strategy in place for a while. Lloyds is concerned about systemic exposures in cyber insurance markets. He noted that 2019 and 2020 were challenging years for the cyber market with loss ratios of 120 and 130 percent on a net combined basis.

His presentation highlighted the challenges in meeting Lloyds’ mandate that all policies either affirm cyber coverage or exclude it from the reinsurance policy. For 97.2 percent of all policies underwritten by Lloyds, however, the underwriters have now attested that they have clarified the non-affirmative side of coverage. Lloyds also stress tests individual insurers and the entire market once a year.

Mr. Arklie next discussed catastrophic nation state-backed attacks and the recently published Lloyds cyber war clauses. Lloyds issued a bulletin which got a lot of media coverage, much of this coverage contained some inaccurate information. Mr. Arklie noted that many of them were saying Lloyds was cancelling all coverage for state-backed attacks, which is clearly not the intent. What Lloyds did, he said, was clarify coverage, not mandate exclusions. There are over 40 different clauses being used with carvebacks for terrorism and various other items, which Lloyds strongly felt was problematic. He noted that Lloyds’ role is to support a competitive and resilient cyber insurance market but, at the same time, have a prudential duty to protect the market from large losses. Mr. Arklie further noted that Lloyds is now seeing greater commonality in the market without having standardization.

The exclusion for state-backed attacks is addressed to an event that significantly impairs the ability of a state to function, i.e., it is catastrophic whereby the security capability of the state is impaired. Further, Mr. Arklie emphasized, these are model clauses, and are not mandated.

Member Kochenburger asked if Lloyds knew the percentage of the premium that covered nation state backed attacks. Mr. Arklie responded that insurers probably have exposure in cyber

coverage that was not intended. He said that Lloyds and a couple of syndicates have explored having a separate cyber war market covering nation state-backed attacks.

Member Hart asked about methods that are used to determine attribution for an attack. Mr. Arklie responded that obviously that is one of the more challenging areas. It was put into the new model clauses because Lloyds wants the underwriters to assess it.

Chairman Glaser confirmed that FACI members had no additional questions and no new business, then adjourned the meeting.

**MEETING ADJOURNED AT 2:30 PM.**

I hereby certify these minutes of the December 8, 2022, 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 "John Doyle", written over a horizontal line.

**John Doyle, chair (on behalf of retired chair Dan Glaser)**