Attorneys General of New York, Massachusetts, Connecticut, Maryland and Oregon

November 15, 2021

VIA ELECTRONIC SUBMISSION

Federal Insurance Office
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RE: Insurance Sector and Climate-Related Financial Risks, 86 Fed. Reg. 48,814 (Aug. 31, 2021)

Dear Ms. Brown:

We submit this letter in response to the request of the Federal Insurance Office ("Office") for public input on climate-related risks and the insurance sector.[1] We support President Biden's Executive Order No. 14,030 on Climate-Related Financial Risk issued on May 20, 2021 ("E.O. 14,030") and welcome the opportunity to provide input into the Office's initial assessment of this important topic.

Climate change harms our states' communities and businesses in increasingly costly and devastating ways, with important implications for the insurance sector. For instance, climate-related weather events have become more damaging and frequent in recent years in the United States, a trend that is expected to continue for the foreseeable future. The number of billion-dollar disasters in 2020 was twice the average number of annual billion-dollar disasters in the 2010s, and more than three times the corresponding figure in the 2000s.[2] As described further below, these disasters and other climate change impacts have significant effects on the insurance industry. And the actions of the insurance industry, in turn, influence our ability to mitigate and adapt to climate change. We support the President's initiative, as set out in E.O. 14,030, to assess climate-

[1] *See* 86 Fed. Reg. 48,814 (Aug. 31, 2021).

[2] *See* National Oceanic and Atmospheric Administration, *Billion-Dollar Weather and Climate Disasters: Overview*; https://www.ncdc.noaa.gov/billions/ (2021) (amounts indicated are adjusted for inflation).

related issues relevant to the insurance sector. Maintaining insurers' financial stability is critical to building long-term climate resilience in the United States. Consideration by states of new policies requiring insurers to assess and plan for climate-change-related risk (including physical, transition, and liability risks) is critical. The insurance industry also has key roles to play in facilitating achievement of national and state climate change and clean energy policies. The Office can help with these tasks by gathering, analyzing, and publicly providing relevant data.

A core focus of our letter today is to urge the Office to consider the role of insurance in assisting individuals and communities that bear the brunt of climate change harms. As the Environmental Protection Agency found recently, low-income communities, communities of color, and Tribal and Indigenous communities are disproportionately impacted by the climate crisis.[3] It is essential that the Office consider the need for insurance products for vulnerable communities as part of its initial assessment of climate-related risks, long-term supervision of the insurance sector, and development of federal policy in this area. A focus on vulnerable communities is both consistent with E.O. 14,030 and the Administration's broader commitment to addressing environmental justice in the climate change context, as set forth in Executive Order 14,008, entitled "Tackling the Climate Crisis at Home and Abroad."[4]

Our response generally addresses the following requests: 1 (implementation of E.O. 14,030), 2 (initial climate-related priorities), 3-6 (climate-related data), 12 (strategies to mitigate impact and build resilience), 14 (assessing affordability and availability of insurance products to underserved communities and minorities), and 19 (general comments on climate-related risks).

Targeted Policies Are Needed to Address the Unique and Significant Climate Financial Risks Facing the Insurance Sector

The insurance sector is doubly exposed to climate financial risks: insurers maintain significant investments in carbon-intensive and climate-vulnerable industries, while at the same time facing climate liability risks in their capacity as underwriters.

According to an S&P Global Sustainable1 analysis, the U.S. insurance industry as a whole held $582 billion in fossil-fuel-related investments in 2019, representing 9% of total assets, with some insurers maintaining fossil-fuel-related

[3] *See* EPA, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts* (Sept. 2021), available at https://www.epa.gov/cira/social-vulnerability-report.

[4] *See* 86 Fed. Reg. 7,619, 7,629-32 (Feb. 1, 2021).

investments that exceeded 30% of their portfolios.[5] This level of investment exposure creates risk of asset stranding and devaluation as the global economy decarbonizes, threatening those portfolios and the financial stability of the industry.

On the underwriting side of the balance sheet, climate-change-related extreme weather events in the United States such as wildfires, hurricanes, and floods are increasingly causing loss of human life and severe damage and destruction to homes, businesses, and other property covered by the insurance industry. From 1987 to 2004, property insurance losses due to natural disasters averaged $23 billion per year; in 2005, losses rose to $83 billion, of which $60 billion was due to hurricanes Katrina, Rita, and Wilma alone.[6] In 2012, a single storm, Superstorm Sandy, caused an estimated $60 billion in property damage.[7] Sandy severely damaged 340,000 homes and apartments in New York and New Jersey.[8] And in 2020, the United States experienced a record number of billion-dollar extreme weather disasters, which collectively resulted in at least $95 billion in damages.[9] Increasing, and increasingly costly, climate harms threaten consumers' access to affordable private insurance options, putting greater pressure on states and the federal government to act as insurers of last resort or to cover uninsured losses. Rising premiums and withdrawn coverage could also have ripple effects that adversely affect the U.S. financial system as a whole.[10]

The severity of climate financial risks facing the insurance sector demands targeted policy approaches. The Office plays an important oversight role in monitoring regulation of the insurance sector and collecting and analyzing industry data. The Office should fully exercise its authority to assess and help mitigate climate-related financial risks to the insurance sector, offer assistance to states

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[5] *See* Ross, Hailey, *Climate Risks for Insurers: Why the Industry Needs to Act Now to Address Climate Risk on Both Sides of the Balance Sheet,* S&P Global (Aug. 27, 2021), https://www.spglobal.com/esg/insights/climate-risks-for-insurers-why-the-industry-needs-to-act-now-to-address-climate-risk-on-both-sides-of-the-balance-sheet.

[6] *See* Natural Catastrophes and Man-Made Disasters 2005: High Earthquake Casualties, New Dimension in Windstorm Losses (Swiss Re 2006), Sigma No. 2/2006. Costs of property damage cited in this paragraph are not adjusted for inflation.

[7] *See* Strauss, Benjamin et al., *Economic Damages from Hurricane Sandy Attributable to Sea Level Rise Caused by Anthropogenic Climate Change*, in Nat Commun 12, 2720 (2021), available at https://doi.org/10.1038/s41467-021-22838-1.

[8] *See Remembering Sandy Five Years Later*, FEMA Press Release (2017), available at https://www.fema.gov/press-release/20210318/remembering-sandy-five-years-later.

[9] *Record Number of Billion-Dollar Disaster Struck U.S. in 2020*, Nat'l Oceanic & Atmospheric Admin. (Jan. 8, 2021), https://www.noaa.gov/stories/record-number-of-billion-dollar-disasters-struck-us-in-2020.

[10] *See* Financial Stability Bd., *The Implications of Climate Change for Financial Stability* 11-12, 17 (2020), https://www.fsb.org/wp-content/uploads/P231120.pdf.

planning regulation of those risks, and evaluate how the sector can contribute to achieving federal and state climate mitigation and adaptation goals.

States have already begun to enact laws and take other regulatory actions requiring the consideration of climate change risks on the insurance industry. This past June, Connecticut became the first state to pass climate-related risk legislation in the U.S.[11] The law requires the state insurance commissioner to submit a report to the legislature every two years that discloses the state insurance department's:

- progress toward addressing climate change-related risks, including integrating such risks into risk-based capital requirements, regular supervisory examinations, and own risks and solvency assessments;
- progress toward incorporating the reduced levels of greenhouse gas emissions required under Connecticut law into the department's regulatory and supervisory actions by, among other things, addressing the impacts of thermal coal, tar sands and Arctic oil and gas; and
- regulatory and supervisory actions to bolster the resilience of insurers to the physical impacts of climate change.

On November 15, 2021, the New York Department of Financial Services issued its final Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change to assist domestic insurers in managing climate risks.[12]

Climate Change Disproportionately Impacts Vulnerable Communities

The most severe environmental and health harms from climate change, such as worsening heat waves, flooding, and poor air quality, fall disproportionately upon underserved communities—including people of color and/or with low incomes—with the most barriers to preparing for and recovering from those harms.[13] Heat waves and extreme heat events disproportionately impact communities of color and people in poverty who are more likely to live in urban centers with less tree cover to reduce

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[11] Connecticut Public Act 21-2, § 312 (incorporating provisions of S.B. 1047, An Act Concerning Insurance and Climate Change), available at https://www.cga.ct.gov/2021/TOB/S/PDF/2021SB-01202-R00-SB.PDF.

[12] *See Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change*, available at dfs-insurance-climate-guidance-2021_1.pdf (ny.gov).

[13] *See Climate Change and Social Vulnerability in the United States; A Focus on Six Impacts*; USEPA (Sept. 2021), available at https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf; *see also* U.S. Global Change Research Program, *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*, ch. 9: Populations of Concern (Crimmins, A., et al., eds., 2016), https://health2016.globalchange.gov/.

heat.[14] Those communities also have less access to air conditioning and are less likely to own cars to facilitate escape from extreme weather events. Severe precipitation and tropical storm events likewise disproportionately impact low-income populations that are more likely to live in areas susceptible to flooding.[15] The deaths of low-income residents who drowned in their basement apartments in Queens during extreme storms caused by Hurricane Ida provides a tragic recent example.[16]

Building Climate Resilience: Increasing Insurance Available to Vulnerable Communities

Vulnerable communities have less capacity to anticipate and respond to the direct and indirect effects of climate change. For example, a study commissioned by the Joint Center for Political and Economic Studies found more than 30% of Black New Orleans residents did not own cars when Hurricane Katrina hit in 2005, making it difficult for them to leave ahead of the storm.[17] The aftermath of Hurricane Katrina also shined a spotlight on how socially and economically vulnerable communities have been pushed into areas that are now susceptible to the worst impacts of climate change.[18]

Environmental racism has historically forced people of color to reside in areas at greater risk of flooding and other dangerous conditions. Those historic forces now expose vulnerable communities to new risks resulting from climate change.[19] Low-income individuals—who are often underinsured—have a more difficult time

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[14] *See* Morello-Frosch, Rachel et al., *The Climate Gap, Inequalities in How Climate Change Hurts Americans & How to Close the Gap* (May 2009), available at https://dornsife.usc.edu/assets/sites/242/docs/The_Climate_Gap_Full_Report_FINAL.pdf; EPA, *Climate Change Indicators: Heat-Related Deaths* (Apr. 2021), https://www.epa.gov/climate-indicators/climate-change-indicators-heat-related-deaths.

[15] *See* Collins, Timothy et al., *Environmental injustice and Hurricane Harvey: A household-level study of socially disparate flood exposures in Greater Houston, Texas, USA*, in 179 Envtl. Research 1 (2019), https://par.nsf.gov/servlets/purl/10132227.

[16] *What We Know About the People Who Died in the Flooding*, New York Times (Sept. 2, 2021), available at https://www.nytimes.com/2021/09/02/nyregion/ida-new-york-city-deaths.html.

[17] *See* Morse, Reilly, *Environmental Justice Through the Eye of Hurricane Katrina*, Joint Center for Political and Economic Studies, Health Policy Institute (2008), available at (https://inequality.stanford.edu/sites/default/files/media/_media/pdf/key_issues/Environment_policy.pdf).

[18] Morse, n. 17.

[19] *See, e.g.*, Hoffman, Jeremy et al., *The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas*, in 8 Climate 12 (2020); Katz, Lily, *A Racist Past, a Flooded Future: Formerly Redlined Areas Have $107 Billion Worth of Homes Facing High Flood Risk—25% More Than Non-Redlined Areas*, Redfin News (Mar. 14, 2021), https://www.redfin.com/news/redlining-flood-risk/.

recovering from property damage related to an extreme weather event.[20] Where housing has been destroyed, some may be pushed into permanent homelessness.[21] We therefore fully support the Office's commitment to "assess the availability and affordability of insurance coverage in high-risk areas, particularly for traditionally underserved communities and consumers, minorities, and low- and moderate-income persons."[22]

Insurance is an invaluable resource for low-income communities to lessen the impacts they inevitably will experience from climate change. Insurance is a fundamental tool of risk management and one of the financial tools that can help build climate resilience in vulnerable communities.[23] Households that have home or renter's insurance, for example, can more easily recuperate and resume normal living following a disaster.

Although insurance can play a critical role in building financial resilience, those who need insurance the most are often the least able to afford it.[24] Recent research suggests that the manner in which post-disaster aid and insurance recoveries are allocated exacerbates social inequalities and income disparities—economically marginalized communities fare worse than economically privileged ones following natural disasters.[25] And if the insurance sector does not develop solutions to serve these communities, their risk of harm will only increase, as climate change makes it harder to procure personal and commercial property insurance.[26]

Increasing the availability of insurance to low-income communities to address the increased risks associated with climate change is, at its core, an environmental and climate justice issue. Low-income individuals are more likely to

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[20] *See* Morello-Frosch, n. 14.

[21] *See* Fothergill, Alice et al., *Poverty and Disasters in the United States: A Review of Recent Sociological Findings; in Natural Hazards* 32:89-110 (2004), available at https://hazards.colorado.edu/uploads/publications/49_2004_Fothergill_Peek%20.pdf.

[22] *See* 86 Fed. Reg. at 48,817.

[23] *See Fact Sheet: Strengthening Financial Resilience to Climate Change: The Role of Insurance*; Environmental and Energy Study Institute (Aug. 2018), available at https://www.eesi.org/papers/view/fact-sheet-strengthening-financial-resilience-to-climate-change.

[24] *See* Kousky, Carolyn et al., *Can Parametric Microinsurance Improve the Financial Resilience of Low Income Households in the United States?* (Sept. 2020), available at https://riskcenter.wharton.upenn.edu/policy-incubator/innovative-disaster-insurance-tools/.

[25] *See* Howell, Junia et al., *Damages Done: The Longitudinal Impacts of Natural Hazards on Wealth Inequality in the United States* (2019), in Social Problems, available at https://academic.oup.com/socpro/article/66/3/448/5074453.

[26] *See The Potential Impact of Climate Change on Insurance Regulation* (2008), NAIC, available at https://www.naic.org/documents/cipr_potential_impact_climate_change.pdf.

be at risk for harm from floods, strong winds, or heavy precipitation.[27] Insurance can provide, at a minimum, a short-term financial tool for helping these individuals recover from a climate-related disaster. In this sense, insurance can protect at-risk individuals who cannot afford the costs of taking preemptive mitigation measures, such as home remodeling or relocation to safer housing.

Assessing the insurance gap in relation to vulnerable communities, and in particular how the insurance sector develops and makes insurance available to those communities, is an essential part of the Office's role in supervising the insurance sector as it relates to climate change. The Office should assess the availability of insurance to vulnerable communities and implement and support policies aimed at increasing climate resilience in those communities. This effort should include further investigation of policies that could ensure affordable coverage to residents, including those in low-income and other vulnerable communities.[28]

Importance of Gathering and Disseminating Information Concerning Climate Risk in the Insurance Industry

The Office has acknowledged the need for the federal government to play a coordinating role in compiling and assessing reliable information from the insurance sector concerning climate-change-related risks, noting that only six states have regularly collected data from insurers focused on climate-related risks.[29]

We urge the Office to exercise the full extent of its data collection and dissemination authority to expand the availability to states and the general public of information about climate-related financial risks to the insurance sector. Such information would be extremely valuable to state planning and policymaking as states consider, e.g., climate change adaptation strategies, the appropriateness of new regulations specific to the insurance industry, and whether state programs should be redesigned or retooled in light of financial risks. Financial risk information will be most useful to states if it is standardized and comparable across

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[27] Fothergill, n. 21.

[28] For example, Kousky et al. provide a useful study on how parametric microinsurance may assist low-income households in the United States. (*See* n. 24) Microinsurance refers to low-coverage, low-premium insurance policies that are designed to cover low-income people with specific risks. Parametric insurance pays the insured a set amount based on an objective measure of a particular event, instead of based on the amount of damage sustained. The Office should investigate ways for insurers to lower administrative costs and ensure much quicker payout times to insureds following a covered loss. Such policies have been developed and implemented worldwide to serve low-income communities and facilitate an affordable, quick-paying insurance backstop in a critical time of need following a disaster. Exploration of such products should not, however, substitute for rigorous oversight of insurance rates in order to keep rates from being excessive or discriminatory.

[29] *See* 86 Fed. Reg. at 48,815.

industry actors, and freely available through a verified, centralized federal database. The database should compile information about all types of climate-related financial risks and activities of the insurance sector, including insurers' investment holdings, underwriting activities, and business models and operations.

In particular, there is presently a dearth of information available from insurers or states assessing or evaluating the availability of insurance to vulnerable communities, how climate change may impact the availability of insurance to such communities, and the potential implications of those impacts for state and federal programs, including public insurance, disaster relief, and other governmental programs. Thus, there is a clear need for the Office to gather and assess information concerning the availability of insurance to vulnerable communities in its task of addressing the financial risks associated with climate change. For these reasons, we urge the Office to focus on how insurers and insurance products are being made available (or less so) to our most vulnerable communities and to facilitate and expansion of insurance products to help these communities build financial resilience to climate change.

We stand ready to work with the Office to obtain information that would be helpful in this effort.

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We thank you for the opportunity to provide input into the Office's assessment and monitoring of the insurance sector and encourage efforts to promote resilience and financial stability through the insurance sector, with a particular focus on the most vulnerable communities in our states.

Sincerely,

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