

NAIC Climate and Resiliency Task Force Adopts Revised Climate Risk Disclosure Requirements

March 24, 2022

The Climate and Resiliency (EX) Task Force (“Task Force”) of the National Association of Insurance Commissioners (“NAIC”) voted on March 21, 2022 to adopt a new form of the NAIC Climate Risk Disclosure Survey (“Survey”) to closely align with recommendations by the Task Force on Climate-Related Financial Disclosures (“TCFD”). The Task Force published proposed revisions to the existing survey in November 2021 and held meetings in February and March of 2022 to hear public comments and discuss adoption. The proposed revisions will be considered and voted on next at the NAIC National Meeting in April 2022 before they are implemented, but the Task Force signaled that insurers should expect the changes and plan accordingly.

The new Survey would replace the survey that participating states have requested from certain insurers for more than a decade, though participating states recently have permitted insurers to submit their TCFD reports in lieu of responding to the survey questions. The Survey as adopted by the Task Force gives some flexibility on deadline this year for insurers that have not made TCFD-level disclosures before, but the standard August 31 deadline is expected for reporting year 2023 (though each participating state regulator will continue to have discretion to grant extensions).

Prior NAIC Survey

If adopted at the next National Meeting, the revised Survey would replace the NAIC’s eight-question Climate Risk Disclosure Survey that has been administered annually since 2010 by several states (as of 2021, California, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington State).¹ The NAIC estimates that, by requiring responses in participating states for insurers collecting a minimum of \$100 million in annual premiums, nearly 80% of the insurance industry

¹ See Proposed Redesignated NAIC Climate Risk Disclosure Survey as adopted by the Task Force, https://content.naic.org/sites/default/files/call_materials/2022ProposedClimateRiskSurvey.pdf at 1-3.

provides public disclosure regarding climate change risk under the survey.² The California Department of Insurance administers the survey and insurers' responses to the survey are publicly available on its website. Since the survey's inception, the data have been used for analyses reported by Ceres in 2016,³ the NAIC Center for Insurance Policy and Research ("CIPR") in 2020,⁴ and the New York Department of Financial Services ("DFS") in 2021.⁵

The existing survey comprises eight questions that assess insurer strategy and preparedness in the areas of investment, mitigation, financial solvency, emissions and engaging consumers. Insurers are asked to describe their relevant plans and policies to identify, assess and mitigate or manage any current or anticipated climate-related risks. To streamline the process, insurers within the same group may submit uniform group responses if they have the same policies and practices and their answers would not be materially different from each other.

TCFD-Recommended Climate-Related Disclosures

The Financial Stability Board, an international body that monitors and makes recommendations about the global financial system, established the TCFD in 2015. The TCFD issued recommendations for disclosure of climate-related risks in 2017, and it has quickly become the global gold standard for climate-related risk disclosure, with thousands of supporters (including insurance companies, banks, government ministries and more) around the world endorsing its recommended disclosure regime.⁶ The TCFD's recommendations are structured around four thematic areas that are core elements of how organizations operate: governance, strategy, risk management, and metrics and targets.⁷

² See *id.* at 1–2.

³ For more on the Ceres survey analysis, see <https://www.ceres.org/resources/reports/insurer-climate-risk-disclosure-survey-report-scorecard>.

⁴ For more on the CIPR analysis, see https://content.naic.org/article/news_release_naic_assesses_provides_insight_insurer_climate_risk_disclosure_survey_data.htm.

⁵ For more on the DFS survey analysis, see https://www.dfs.ny.gov/system/files/documents/2021/09/naic-survey-analysis-report-2021_final_0.pdf.

⁶ For a complete list of official TCFD supporters, see <https://www.fsb-tcdf.org/supporters/>.

⁷ For the complete TCFD recommendations, see <https://www.fsb-tcdf.org/recommendations/>.

New NAIC Climate Disclosure Requirements

After comments by interested parties, including trade groups, the Task Force concluded that, because the TCFD-recommended disclosures are substantively aligned with the eight survey questions and several insurers were already submitting TCFD-recommended disclosures in lieu of the existing survey, the move to a TCFD-like regime will not impose overly onerous additional disclosure obligations.⁸ The Task Force also argued that, because the TCFD-recommended disclosures are used around the world across all industries, implementing the TCFD-recommended disclosures will aid with cross comparisons.

The Task Force published proposed revisions to the existing survey in November 2021 that tracked the TCFD-recommended disclosure requirements. There was some concern expressed by industry, such as requesting confidential treatment of climate risk disclosures,⁹ as well as pressure from sustainability advocates suggesting the Task Force could require some mandatory public disclosure as early as 2022.¹⁰ The requirements approved by the Task Force replicate the TCFD recommendations, with some variations to address insurance-specific issues and to include questions from the existing NAIC Survey. The requirements are attached as an [Annex](#).

The heightening of ESG-related disclosure requirements by the NAIC is consistent with recent moves by other regulators in the financial regulation space. The SEC released proposed rules on March 21, 2022 that would require the adoption of TCFD-like disclosure requirements,¹¹ and the New York DFS, in its final guidance on climate change issued on November 15, 2021, required New York domestic insurers to enhance the transparency of their integration of climate risks and stressed the importance of consistency of disclosures across jurisdictions, including internationally.¹² At the Task Force public meeting adopting the new Survey, some interested parties suggested and certain regulators agreed that in advance of the Survey's presentation at the NAIC National Meeting, the proposed revisions may be subject to some additional edits to better align with the SEC's newly proposed disclosure regime.

⁸ For a detailed comparison of the existing NAIC Climate Risk Disclosure Survey and the general TCFD framework, see <https://content.naic.org/sites/default/files/inline-files/Appendix%20C.pdf>. In addition, the questions marked with asterisks in the Annex are questions that were derived from the original, eight-question Climate Risk Disclosure Survey.

⁹ See a comment letter from APCIA, https://content.naic.org/sites/default/files/inline-files/APCIA_1.pdf.

¹⁰ See a comment letter from Ceres, https://content.naic.org/sites/default/files/inline-files/CERES_1.pdf.

¹¹ For a press release and link to the SEC's proposed rule, see <https://www.sec.gov/news/press-release/2022-46>.

¹² For more on the final guidance issued by the New York DFS, see <https://www.debevoise.com/insights/publications/2021/11/dfs-issues-final-climate-change-guidance>.

The proposed public disclosure of responses to the more detailed and expansive questions of the TCFD-like NAIC climate risk disclosure regime may give rise to governance concerns and additional expense for insurers, as boards and management begin to review and approve disclosures, and may give rise to increasing risk of litigation. Discrepancies between mandated regulatory disclosures and other corporate public disclosures could give rise to public accusations of “greenwashing” and potentially government examination questions or prosecutions.¹³ On the other hand, the increased public disclosures may also represent a marketing opportunity for insurers to reassure and attract ESG-conscious customers.

We expect that the likely adoption of the revised Survey by the NAIC, and forthcoming moves by other regulators, will require a significant amount of industry attention over the next few months, and we would be happy to consult on any of these issues.

For the latest updates and alerts on ESG matters, see the Debevoise & Plimpton LLP ESG Resource Center at <https://www.debevoise.com/topics/environment-social-and-governance>.

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¹³ For a discussion of greenwashing in consumer product brands, see <https://www.debevoise.com/insights/publications/2021/06/esg-for-consumer-product-brands>.

Annex – Proposed Redesigned NAIC Climate Risk Disclosure Survey

Included below is the Survey as adopted by the Task Force. Note that asterisks mark questions that are derived from the original Climate Risk Disclosure Survey.

Governance

1. *Disclose the insurer's governance around climate-related risks and opportunities.*

In disclosing the insurer's governance around climate-related risks and opportunities insurers should consider including the following:

- Identify and include any publicly stated goals on climate-related risks and opportunities.
 - Describe where climate-related disclosure is handled within the insurer's structure, e.g., at a group level, entity level, or a combination. If handled at the group level, describe what activities are undertaken at the company level.
- A. *Describe the board and/or committee responsible for the oversight of climate-related risks and opportunities.*

In describing the position on the board and/or committee responsible for the oversight of managing the climate-related financial risks, insurers should consider including the following:

- Describe the position on the board and/or committee responsible for the oversight of managing the climate-related financial risks.
- B. *Describe management's role in assessing and managing climate-related risks and opportunities.*

Strategy

2. *Disclose the actual and potential impacts of climate-related risks and opportunities on the insurer's businesses, strategy, and financial planning where such information is material.*

In disclosing the actual and potential impacts of climate-related risks and opportunities on the insurer's businesses, strategy and financial planning, insurers should consider including the following:

- Describe the steps the insurer has taken to engage key constituencies on the topic of climate risk and resiliency.*
 - Describe the insurer's plan to assess, reduce, or mitigate its greenhouse gas emissions in its operations or organizations.*
- A. *Describe the climate-related risks and opportunities the insurer has identified over the short, medium, and long term.*

In describing the climate-related risks and opportunities the insurer has identified over the short, medium, and longer term, insurers should consider including the following:

- Define short, medium, and long-term, if different than one to five years as short term, 5-10 years as medium term, and 10-30years as long term.
- B. *Describe the impact of climate-related risks and opportunities on the insurer's business, strategy, and financial planning.*

In describing the impact of climate-related risks and opportunities on the insurer's business, strategy, and financial planning, insurers should consider including the following:

- Discuss if and how the insurer provides products or services to support the transition to a low carbon economy or helps customers adapt to climate-related risk.
 - Discuss if and how the insurer makes investments to support the transition to a low carbon economy.
- C. *Describe the resilience of the insurer's strategy, taking into consideration different climate-related scenarios, including a 2 degree Celsius or lower scenario.*

Risk Management

3. *Disclose the actual and potential impacts of climate-related risks and opportunities on the insurer's businesses, strategy, and financial planning where such information is material.*

In disclosing how the insurer identifies, assesses, and manages climate-related risks, insurers should consider including the following:

- Describe how the insurer considers the impact of climate related risks on its underwriting portfolio, and how the company is managing its underwriting exposure with respect to physical, transition and liability risk.*
- Describe any steps the insurer has taken to encourage policyholders to manage their potential physical and transition climate related risks, if applicable.*
- Describe how the insurer has considered the impact of climate-related risks on its investment portfolio, including what investment classes have been considered.*

A. Describe the insurers' processes for identifying and assessing climate-related risks.

In describing the insurers' processes for identifying and assessing climate-related risks, insurers should consider including the following:

- Discuss whether the process includes an assessment of financial implications and how frequently the process is completed.*

B. Describe the insurer's processes for managing climate-related risks.

C. Describe how processes for identifying, assessing, and managing climate-related risks are integrated into the insurer's overall risk management.

In describing how processes for identifying, assessing, and managing climate-related risks are integrated into the insurer's overall risk management, insurers should consider including the following:

- Discuss whether climate-related risks are addressed through the insurer's general enterprise-risk management process or a separate process and how frequently the process is completed.
- Discuss the climate scenarios utilized by the insurer to analyze its underwriting risks, including which risk factors the scenarios consider, what types of scenarios are used, and what timeframes are considered.
- Discuss the climate scenarios utilized by the insurer to analyze risks on its investments, including which risk factors are utilized, what types of scenarios are used, and what timeframes are considered.

Metrics and Targets

4. *Disclose the metrics and targets used to assess and manage relevant collateralized risks and opportunities where such information is material.*

In disclosing the metrics and targets used to assess and manage relevant collateralized risks and opportunities where such information is material, insurers should consider including the following:

- Discuss how the insurer uses catastrophe modeling to manage the climate-related risks to your business. Please specify for which climate-related risks the insurer uses catastrophe models to assess, if any.
- A. *Disclose the metrics used by the insurer to assess climate-related risks and opportunities in line with its strategy and risk management process.*

In disclosing the metrics used by the insurer to assess climate-related risks and opportunities in line with its strategy and risk management process, insurers should consider including the following:

- In describing the metrics used by the insurer to assess and monitor climate risks, consider the amount of exposure to business lines, sectors, and geographies vulnerable to climate-related physical risks [answer in absolute amounts and percentages if possible], alignment with climate scenarios, [1 in 100 years probable maximum loss, Climate VaR, carbon intensity], and the amount of financed or underwritten carbon emissions)
- B. *Disclose Scope 1, Scope 2, and if appropriate, Scope 3 greenhouse gas (GHG) emissions, and the related risks.*
- C. *Describe the targets used by the insurer to manage climate-related risks and opportunities and performance against targets.*

Closed-ended questions directly correspond to the narrative above, allowing for explanation and qualification of the yes/no answers. Closed-ended questions are voluntary for reporting year 2022 and individual states may elect not to request them.

Governance

- Does the insurer have publicly stated goals on climate-related risks and opportunities? (Y/N)

- Does your board have a member, members, a committee, or committees responsible for the oversight of managing the climate-related financial risk? (Y/N)
- Does management have a role in assessing climate-related risks and opportunities? (Y/N)
- Does management have a role in managing climate-related risks and opportunities? (Y/N)

Strategy

- Has the insurer taken steps to engage key constituencies on the topic of climate risk and resiliency? (Y/N)*
- Does the insurer provide products or services to support the transition to a low carbon economy or help customers adapt to climate risk? (Y/N)
- Does the insurer make investments to support the transition to a low carbon economy? (Y/N)
- Does the insurer have a plan to assess, reduce or mitigate its greenhouse gas emissions in its operations or organizations? (Y/N)*

Risk Management

- Does the insurer have a process for identifying climate-related risks? (Y/N)
 - If yes, are climate-related risks addressed through the insurer's general enterprise-risk management process? (Y/N)
- Does the insurer have a process for assessing climate-related risks? (Y/N)
 - If yes, does the process include an assessment of financial implications? (Y/N)
- Does the insurer have a process for managing climate-related risks? (Y/N)
- Has the insurer considered the impact of climate-related risks on its underwriting portfolio? (Y/N/Not Applicable)*
- Has the insurer taken steps to encourage policyholders to manage their potential climate-related risks? (Y/N)*

- Has the insurer considered the impact of climate-related risks on its investment portfolio? (Y/N)*
- Has the insurer utilized climate scenarios to analyze their underwriting risk? (Y/N)
- Has the insurer utilized climate scenarios to analyze their investment risk? (Y/N)

Metrics and Targets

- Does the insurer use catastrophe modeling to manage your climate-related risks? (Y/N)
- Does the insurer use metrics to assess and monitor climate-related risks? (Y/N)
- Does the insurer have targets to manage climate-related risks and opportunities? (Y/N)
- Does the insurer have targets to manage climate-related performance? (Y/N)