

September 12, 2016

Lindy Gustafson
Federal Insurance Office
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: Monitoring Availability and Affordability of Automobile Insurance

Dear Ms. Gustafson:

The affordability of auto insurance is a critical concern for low- and moderate-income Americans who rely on their car to get to work, take care of family needs, and, broadly speaking, manage and improve their lives. Over the past two years, consumer, community and civil rights groups have urged the Federal Insurance Office (FIO) fulfill its mandate to monitor "the extent to which traditionally underserved communities and consumers, minorities..., and low- and moderate-income persons have access to affordable insurance products."¹

The undersigned consumer, community and civil rights organizations support FIO's working definition of affordable personal automobile insurance and urge that it implement that definition in a series of annual reports that clearly articulate the cost of auto insurance in lower-income communities and communities of color. The central purpose of this letter is to respond to FIO's July 12, 2016 request for comments concerning the importance of collecting data and the most appropriate methods for collecting data in support of the adopted framework for monitoring availability and affordability of auto insurance.

FIO's adopted framework for monitoring auto insurance affordability

FIO has taken an important step by, for the first time, by formally defining affordability for auto insurance. FIO has provided a well-reasoned and fully supported basis for its determination that auto insurance can be considered affordable in a community when the premium for the basic liability policy mandated by the state law is no more than two percent of the median household income for that community.²

The two percent standard does not imply that every driver in an underserved community will be able to afford auto insurance where the Affordability Index is less than two percent or that no one in a ZIP code determined to be unaffordable will be able to purchase coverage. Rather, the working definition of affordability provides an important and useful guidepost for regulators, policymakers and the public as they try to determine both the extent of the unaffordability problem and the best approaches to addressing it.

Every state but New Hampshire requires drivers to purchase auto insurance. When average premiums exceed two percent of the median income in lower-income communities and communities of color, that is a clear indication that state insurance departments and policymakers must act to improve affordability and accessibility so that drivers can comply with state insurance mandates. The FIO reports that will be

¹ 31 U.S.C. 313(c)(1)(B).

² 81 Fed Reg. at 45380

produced using this working definition will add new depth to the discussions and debates that should take place in every state where communities face unaffordable auto insurance.

In addition to the two percent standard adopted by FIO, we concur with FIO's approach to defining the underserved communities in which auto insurance prices should be monitored. By focusing on ZIP Codes in which either the median household income "is less than 80 percent of the median household income of a metropolitan statistical area or state" or the resident population is "majority minority" (or in which both are true), FIO has limited the scope of the data call required while still addressing the experience of the vast majority of Affected Persons.³ We also support the Framework's inclusion of data from the non-standard market in the FIO analysis.⁴ The exclusion of these premiums, as originally contemplated, would have substantially reduced the accuracy and reliability of the reports. Throughout the country, lower-income good drivers purchase policies from non-standard insurers, including non-standard affiliates of larger companies that operate in the standard market as well. FIO has properly determined that the standard and non-standard markets are, collectively, the "voluntary" auto insurance market that should be monitored for affordability.

Although we support the approach adopted by FIO, we disagree with the decision to consider only written premiums in the calculation of the affordability index.⁵ While using written premiums will provide a measure of whether the amount that drivers in a ZIP Code are spending on auto insurance is affordable in the context of this standard, it does not allow us to determine whether or not auto insurance itself is affordable. That is because a data set comprised only of the policies actually sold to people excludes the higher priced premiums that some companies are charging for coverage that is never obtained. Previous CFA research found that lower-income drivers are frequently quoted high and variable rates by major insurers.⁶

These high-priced but never purchased policies would not need to be included in FIO's analysis if consumers facing these high quotes purchased a different policy available to them in the market. However, in many lower-income communities around the country, the uninsured motorist rate is higher, sometimes significantly higher, than the national or state average. This is, at least in part, due to the fact that many drivers are forced to drive uninsured when confronted with high priced policies. Recent research by Consumer Federation of America shows that in many cities, market leaders refuse to provide online quotes to good drivers of lower socio-economic status, which means their only option might be the highest priced policies offered in the market.⁷ That the high-priced policies cause many people to choose not to drive or drive uninsured does not mean those prices can be ignored for this analysis. The fact that Affected Persons cannot afford to buy a policy is the precise reason those premium quotes should be included in FIO's affordability index. Excluding these quoted but unpurchased policies will skew the average premium lower and errantly imply that auto insurance is more affordable than it actually is in some communities.

³ 81 Fed. Reg. at 45378

⁴ 81 Fed. Reg. at 45377

⁵ 81 Fed. Reg. at 45376

⁶ See <http://consumerfed.org/cfa-studies-on-the-plight-of-low-and-moderate-income-good-drivers-in-affording-state-required-auto-insurance/> for links to several CFA reports on this subject.

⁷ Douglas Heller & Michelle Styczynski, *Major Auto Insurers Raise Rates Based on Economic Factors*, at 12-13 (Consumer Federation of America June 2016), available at http://consumerfed.org/wp-content/uploads/2016/06/6-27-16-Auto-Insurance-and-Economic-Status_Report.pdf

Comments on data collection

In its request for comments, FIO has asked that respondents address:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.⁸

It is our strong view that, in order to assess the affordability of auto insurance for Affected Persons, FIO has rightly concluded that it must collect data from insurance industry sources to ascertain the average premium charged to Affected Persons. Further, we believe that evaluating premiums at the Zip Code level allows FIO to acquire data efficiently and with sufficient precision to ensure that the affordability analysis accurately represents the cost of insurance for Affected Persons around the nation (our aforementioned critique of the exclusive use of written premium notwithstanding).

There is no question that policymakers, regulators, policy analysts, advocates, and the public generally will recognize the utility of the information derived from this process. While it is well understood that access to an automobile is critical to financial stability and upward mobility, for many lower-income working Americans the price of auto insurance presents a difficult and sometimes insurmountable barrier to economic well-being. However, there is no comprehensive data source for information about the cost of auto insurance, despite the fact that for all motorists in the country (except those in New Hampshire) the purchase of auto insurance is mandated by state laws. In order to understand the extent to which and where auto insurance is unaffordable, and in order to have a more informed public discussion regarding the auto insurance market, it is essential to collect this information. While we cannot predict what these data will show, we are certain that with this information in hand, decision-making related to a range of auto insurance and financial responsibility questions will be significantly more well-informed.

In addition to the utility of the information to be collected, FIO seeks comment on ways to enhance the quality, utility, and clarity of the information. Below we address the quality of data question first and then turn to the issue of enhancing their utility and clarity.

Enhancing the Quality of Data Collected

FIO has presented two methodologies for collecting the data necessitated by its monitoring obligations: one for its initial affordability study and a second for its 2017 study and all future studies, both of which could be improved in ways that would enhance the quality of information.

Initial affordability study

FIO has proposed the following data collection methodology for its initial affordability report:

For its initial affordability study, FIO will use data currently available from the Census Bureau, statistical agents, and certain states. In this regard, 20 states require insurers to report ZIP Code-level automobile premium data to one of three statistical agents (ISO,

⁸ 81 Fed. Reg. at 45382

*ISS, and NISS) who collect and aggregate this data.*⁹

It appears that FIO intends to release a report that will only provide information on affordability for the twenty states that require insurers to submit relevant data to statistical agents as well as any states that collect and maintain the data themselves. As such, the initial report cannot be described as a comprehensive affordability study, and FIO should clearly explain that beginning in 2017, the study will extend its reach to the remaining states and other jurisdictions not included in the initial study. Additionally, assuming that not all states' reporting requirements are the same, FIO should include a summary of the state rules or laws that determine the submission of data for each state as well as a state by state listing of each company whose data are included in the study and which, if any, subsidiaries of insurance groups that do business in a state are not included in the study.

As a matter of transparency and efficiency, we recommend that FIO include additional information about the data source in an appendix that includes a page for each state included in the study. Each of these "state pages" should incorporate the following information:

- Summary of state laws or rules requiring disclosure of ZIP Code-level premium data
- List of insurance groups operating in the state
- List of insurance group subsidiaries and affiliates that provided data included the study
- List of insurance group subsidiaries and affiliates that did not provide data for the study
- Identification of each subsidiary or affiliate as a standard or non-standard company

Figure 1 provides a sample of what a useful "state page" might look like.

Figure 1. Sample State Page for the Data Sources Appendix

State: _____		
Summary of relevant state disclosure laws and rules: _____		
Statistical Agent providing data to FIO (if appropriate): _____		
Data sources by group and company		
Insurance Group	Companies reporting ZIP Code-level premium	Companies not reporting ZIP Code-level premium
<i>Group Name (NAIC group #)</i>	<i>Company Name ("s" or "n" for standard or non-standard)</i>	<i>Company Name ("s" or "n" for standard or non-standard)</i>
Insurance Group X (777)	Group X Subsidiary 1 (s) Group X Subsidiary 2 (n)	Group X Subsidiary 3 (s)
Insurance Group Y (888)	Group Y Subsidiary 1 (s) [no other affiliates operating in state]	
Insurance Group Z (999)	Group Z Subsidiary 1 (s) Group Z Subsidiary 2 (s) Group Z Subsidiary 3 (n)	Group Z Subsidiary 4 (s)

⁹ 81 Fed. Reg. at 45381

In addition, we are concerned that the proposed methodology for the initial study relies heavily on statistical agents, that, in some cases summarize or modify the data for other purposes. It is possible, for example, that statistical agents, which primarily work for and are compensated by insurance companies, may remove data points that appear to be outliers or make other efforts to smooth the data in ways that may be appropriate for the existing uses of that data but not for FIO's affordability study. To address this concern FIO should receive the raw, unmodified ZIP Code level premium data from the statistical agents and states. With the raw data, FIO will be able to confirm precisely what is and what is not represented in its study. Should FIO be unable to acquire data in its raw form, it should require that the statistical agents providing data include a precise description of the manner in which the data were compiled and any alterations made to the raw data.

Future Affordability Studies

Beginning in 2017, FIO intends to produce a comprehensive affordability study that will include ZIP Code-level premium data for all states and other United States insurance jurisdictions. For these future studies, "FIO will request data from insurers who have a statutory surplus greater than \$500 million as of December 31, 2015, and who annually collect more than \$500 million of premium for personal automobile insurance."¹⁰ In particular,

FIO will request that large insurers who do not already report ZIP Code-level premium data voluntarily provide that data to the statistical agents with which the insurers typically work. FIO will ask that insurers covered by this request provide the statistical agents the following information: (i) ZIP Code-level premium data, (ii) for liability coverage at the financial responsibility limit, (iii) for the voluntary market.

We agree, as noted above, that ZIP Code-level premium data on liability coverage in the voluntary market are the best data to collect in order to ensure sufficient granularity for the purposes of study. Further, we accept that the premium data for coverage at the financial responsibility limit are appropriate to understanding the affordability of this state-mandated product. We note, though, that for many millions of lower-income Americans with car loans, the purchase of comprehensive and collision coverage is made mandatory by their lender. It would be useful to add the collection of these costs to future studies.

Additionally, as noted above, we agree that the voluntary market, defined as the standard and non-standard markets, will capture the vast majority of policies purchased by motorists. Yet, we also note that in approximately seven states, the residual markets represent at least one percent of the written premium in the state. We would advise that FIO include a note about the residual market and its potential impact on overall affordability, at minimum, in those states with significant residual markets.

To the extent that FIO continues to use statistical agents as the primary intermediary for its data call, the same concerns and recommendations described in the section regarding the initial study apply to future studies. Aside from that, our chief concerns with respect to future studies lie with 1) a lack of clarity about which companies are subject to the data call, 2) the size of companies to be included in the data, and 3) the voluntary nature of the data call.

1. In FIO's adopted framework for its affordability studies, FIO requests "that large insurers *who do not already report ZIP Code-level premium data* voluntarily provide that data..." As FIO has noted, companies are required to report some such data in at least 20 states, which makes it likely that many of the nation's larger insurers currently "report (some) ZIP Code-level premium data," even though they do not necessarily report it for every ZIP Code or every state. However, by nature of the request, it is

¹⁰ 81 Fed. Reg. at 45381

possible that some insurers might argue that because they do "report ZIP Code-level premium data," even if for only 20 states or fewer, they are not subject to the request for voluntary submission of other data. We assume that this was not the intent of FIO's framework and urge FIO to clarify that "large insurers who do not already report ZIP Code-level premium data *for every state in which they operate provide that data for all states in which they operate...*"

2. FIO's framework seeks data from all companies that "have a statutory surplus greater than \$500 million...[and] collect more than \$500 million of premium for personal automobile insurance." First, we believe that only the companies' premium volume should be used to determine which companies should be reporting data for this affordability study. Second, the \$500 million in premium threshold is too high. Assuming that the average auto insurance policy sold in the U.S. is approximately \$850 (the most recent NAIC report shows the average auto insurance expenditure countrywide to have been \$841 in 2013¹¹), a company with \$500 million in annual auto insurance premium would be covering nearly 600,000 customers. There are many communities throughout the country in which the auto insurance market is served, to a significant degree, by companies with books of business that do not meet this threshold, particularly with state-based or regional insurers. While we believe that all companies should be required to report the auto insurance premium data sought for this study, it is reasonable to set a threshold on premium volume. This threshold should be reduced to include all companies that collect more than \$100 million in premiums for personal lines auto insurance.

3. The most important change that should be made to FIO's data collection methodology is that insurers that meet the threshold for reporting (because they do not currently report for every state and meet the minimum premium volume) should be *required* to submit the data identified in the data call. Under the current framework, FIO requests that large insurers *voluntarily* submit data. This is unacceptable. Insurance companies, both directly and through their trade associations, have expressed in various ways their view that an affordability study is unnecessary. It is, therefore, almost certain that at least some insurers will simply refuse to participate in the study if given the option. Alternatively, some insurers may submit data for their lowest-priced preferred books of business but not their more expensive standard or most expensive non-standard books of business, even though those subsidiaries may sell a large share of the policies purchased by Affected Persons. There is, simply, no way to ensure that a voluntary submission of premium data by insurance companies will accurately describe the actual affordability of auto insurance in low- and moderate-income communities, communities of color, or, generally, in underserved communities.

The flaws in a 2007 report on credit-based insurance scores by the Federal Trade Commission are instructive. As *National Underwriter* reported at the time, several consumer groups criticized the study for its use of voluntarily submitted data.¹² The FTC did not require insurers to submit data, but, instead, relied on data hand-picked by the insurance industry. Pamela Jones Harbour, an FTC Commissioner at the time who refused to endorse the report, made clear that her dissent was driven by the data collection methodology: the "data collection and analysis fell short of the FTC's gold standard for rigor and completeness...better alternatives were available and should have been utilized."¹³ She wrote that "had this report been based on the real insurance marketplace--using actual, verifiable data on individual

¹¹ *2012/2013 Auto Insurance Database Report*, at 28 (National Association of Insurance Commissioners, 2015) available at http://www.naic.org/documents/prod_serv_statistical_aut_pb.pdf

¹² Arthur D. Postal, "Controversial FTC Report Reignites Fight Over Insurance Credit Scoring" (*National Underwriter Property Casualty* 360, August 6, 2007) available at <http://www.propertycasualty360.com/2007/08/06/controversial-ftc-report-reignites-fight-over-insurance-credit-scoring?&slreturn=1472591920>

¹³ DISSENTING STATEMENT OF COMMISSIONER PAMELA JONES HARBOUR: Study of Insurance Scores Pursuant to Section 215 of the Fair and Accurate Credit Transactions Act of 2003 ("FACTA") Commission File No. P044804, at 1 (July 2007), available at https://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804_facta_dissenting_harbour.pdf

policyholders, from a broad cross-section of insurance companies--reliable answers might have emerged."¹⁴ But, as Commissioner Harbour explained, the use of voluntary data fatally compromised the report:

[T]his report relies solely on two sources of information: data the insurance industry was willing to turn over voluntarily, and data that were publicly available. The data from the insurance industry came from a study of credit-based insurance scores that the industry sponsored. Not all of the firms that contributed to the study agreed to have their data forwarded to the Commission. Staff ultimately used a subset of the industry's data that came from five insurance companies.[] As the Smith letter cited in footnote 9 of the majority's statement confirms, these industry participants never provided the Commission with written verification of the accuracy, authenticity, or representativeness of the data.[] Moreover, records were stripped of identifying data, such that individual records could not be linked to specific companies. The data cannot be independently verified to determine whether any bias was introduced during the selection process. [footnotes removed]¹⁵

In order to avoid the errors of the FTC approach and ensure that the study can meaningfully meet the clear statutory obligation to monitor the affordability of insurance, FIO should *require* that all insurers meeting the reporting threshold provide the ZIP Code-level premium data described in the framework.

Enhancing the Utility and Clarity of Data Collected

In order for the affordability studies to be most useful to policymakers, regulators, policy researchers, advocates, and the public, and in order to ensure transparency of the research process, we offer the following recommendations for both the initial and future affordability studies:

- The raw data used by FIO should be made available to the public in a machine readable format;
- The study should analyze and disclose the Affordability Index and average premium by State, CBSA, county, city and Zip Code. The Zip Code level data should include the ZIP Code income, percent minority residents, median income and population of the ZIP Code.
- The study should include details on the source of data collected by states or statistical agents, as described in Figure 1, to assist in identifying the groups and companies included and not included in the data; and
- The study should include a detailed explanation of the methodologies used, the potential weaknesses of the data, and efforts that will be made in future studies to improve the methodology.

Conclusion

The Federal Insurance Office has set the course for an important and ongoing research project that will substantially increase understanding of the nation's auto insurance markets and, in particular, the affordability of auto insurance for low- and moderate-income drivers and people of color. The data to be collected for these studies are necessary to fulfill the mandate to monitor the availability and accessibility of auto insurance as mandated by Dodd Frank. Because all insurers maintain records of their written premium in every state and the residential address of virtually all their customers, providing the written premium by ZIP Code will not impose an undue burden. The fact is that most, if not all, insurers already can sort their premium by ZIP Code, because the garaging ZIP Code of an insured vehicle is a nearly universally used rating factor by auto insurers and because, for all policies, the ZIP Code identifies the

¹⁴, Ibid. at 8

¹⁵ Ibid. at 3-4

garaging address (and in the vast majority of policies, the billing address). In order to be sure that these studies are accurate, however, we urge that FIO require insurers to provide the data that are needed rather than rely on insurers that choose to submit data voluntarily in order to avoid a biased research result.

We applaud FIO for its work to complete this important effort and look forward to the increased public understanding of the auto insurance market that is sure to come from future FIO studies.

Sincerely,

Alaska Public Interest Research Group
Americans for Financial Reform
Americans for Insurance Reform
Arkansans Against Abusive Payday Lending
Center for Justice & Democracy
Citizen Action/Illinois
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers for Auto Reliability and Safety
Consumers Union
Delaware Alliance for Community Advancement
Delaware Community Reinvestment Action Council, Inc.
Florida Alliance for Consumer Protection
Fund 17
Georgia Watch
Indian People's Action
Indiana Assets & Opportunity Network
Kentucky Equal Justice Center
Maryland Consumer Rights Coalition
Massachusetts Consumers Council
Minnesota Asset Building Coalition
NAACP
Neighborhood Housing Services of Greater Cleveland
New Economy Project
New Jersey Citizen Action
North Carolina Consumers Council
North Dakota Economic Security and Prosperity Alliance
Oregon Consumer League
PICB INC
Rural Dynamics, Inc.
South Carolina Appleseed
Southern Poverty Law Center
Tennessee Citizen Action
United Policyholders
Vehicles for Change
Virginia Citizens Consumer Council
Virginia Organizing
Western New York Law Center
Woodstock Institute