CONSULTATION RESPONSE

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES - PROPOSED GUIDANCE FOR DOMESTIC INSURERS ON THE FINANCIAL RISKS FROM CLIMATE CHANGE

June 23, 2021

This consultation response represents the view of the PRI Association and not necessarily the views of its individual members.

THE PRINCIPLES FOR RESPONSIBLE INVESTMENT (PRI)

The PRI works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a menu of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system.

More information: www.unpri.org

ABOUT THIS CONSULTATION RESPONSE

The New York State Department of Financial Services (DFS) seeks public comments on draft proposed guidance for New York domestic insurers on managing the financial risks from climate change. DFS expects this proposed guidance "to serve as a basis for supervisory dialogue and to help insurers familiarize themselves with climate risks and develop their capacity and processes for managing them. DFS will continue to develop its supervisory approach to managing and disclosing climate risks over time, considering U.S. federal and state regulatory developments as well as evolving practices in the industry and in the national and international supervisory community."[1]

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[1] New York State, *Public Consultation Proposed Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change*, available at https://www.dfs.ny.gov/industry_guidance/climate_change#public-consultation.

THE PRI'S CONSULTATION RESPONSE

The Principles for Responsible Investment (PRI) welcomes the New York State Department of Financial Services (DFS) Proposed Guidance for Domestic Insurers on the Financial Risks from Climate Change.[2] As the insurance industry plays a key role as risk managers, risk carriers and investors, climate risk disclosure is essential to understanding the impact of climate change on the industry and on the portfolios they underwrite. The timing of the physical and economic effects of climate change are uncertain, but the risk is imminent. The California Insurance Commissioner's climate risk scenario analysis of the California insurance sector revealed misalignment between fossil fuel investments and limiting global temperature increases to two degrees Celsius.[3] A better understanding of climate risks for the insurance sector in New York State is needed. Therefore, the PRI supports the Department's recommendations that insurers integrate climate concerns into their governance structures, strategy and planning and risk management systems; conduct climate-related scenario analysis as part of this process; and disclose information related to these activities as part of their legally required Own Risk and Solvency Assessment (ORSA).

The PRI furthermore supports the Department's view that "insurers should recognize that certain risks may be material, regardless of their numerical impact, based on external factors such as the industries in which an insurer operates or investor expectations." Climate change is a systemic risk that impacts investment decisions. It is investors' duty to consider all value drivers which could influence their ability to deliver on their investment objectives.[4] The growth of demand for quantitative, standardized climate information that is reflects the growing understanding that climate factors are useful in investment decision-making as they relate to risks and opportunities.[5] In fact, evidence continues to mount that consideration of climate factors in investment decision-making leads to better financial outcomes, sustaining the fiduciary duty of investors to systematically consider this information.[6]

However, the PRI recommends the Department strengthen the reporting requirements' alignment with the Task Force on Climate-Related Financial Disclosures (TCFD) framework.[7] The TCFD framework has become the standard-setting body for climate risk disclosure globally, including in the European Union, the UK and Japan. The National Association of Insurance Commissioners (NAIC) began allowing insurers to submit TCFD reports in lieu of responses to its climate risk survey in 2020,[8] and a recent letter from the Insurance Commissioners of California and Washington urges all insurers they regulate to submit TCFD reports.[9] The letter notes that the TCFD figures prominently in the recent US Securities and Exchange Commission's Request for Comment on Climate Change Disclosure. In the PRI's response to the SEC Request for Comment, we

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[2] New York State, *Public Consultation Proposed Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change*, available at https://www.dfs.ny.gov/industry_guidance/climate_change#public-consultation.
[3] *Fiduciary Duty in the 21st Century, California Roadmap* (September 2020), available at https://www.unpri.org/download?ac=11646.
[4] Principles for Responsible Investment and United Nations Environment Programme Finance Initiative, *Fiduciary Duty in the 21st Century Programme* available at https://www.unpri.org/policy/fiduciary-duty/.
[5] Principles for Responsible Investment, *US PRI signatories support mandatory climate and ESG disclosure* (June 11, 2021) available at https://www.unpri.org/pri-blog/us-pri-signatories-support-mandatory-climate-and-esg-disclosure/7849.article.
[6] See Appendix C.
[7] Task Force on Climate-Related Financial Disclosures, *TCFD Recommendations*, available at https://www.fsb-tcfd.org/recommendations/.
[8] The National Association of Insurance Commissioners, A*ssessment of and Insights from NAIC Climate Risk Disclosure Data* (November 2020), available at https://content.naic.org/sites/default/files/cipr-report-assessment-insights-climate-risk-data.pdf.
[9] Office of the Insurance Commissioner Washington State, *Letter Regarding the NAIC Climate Risk Disclosure Survey* (June 8, 2021), available at http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/ClimateSurvey/upload/nr058ClimateRiskSurveyLetter_06082021.pdf.

recommended the Commission look to the TCFD Framework's 11 recommendations as they present a succinct and comprehensive baseline from which issuers can report climate information.[10]

The TCFD disclosure framework aligns with the topics DFS highlights as most important: governance, strategy (including scenario analysis) and risk management. It also requires disclosure of metrics and targets organizations have chosen to manage their climate risks and opportunities as well as the organizations' own operational emissions. The four pillars of the TCFD framework are key for determining climate risks:

- First, the TCFD requests disclosure of the governance mechanisms in place to manage climate risk. Typically, these involve the inclusion of climate risk oversight in the responsibilities of a board committee or specific board member, as well as in the job description of one or more specific managerial employees.
- Second, the TCFD asks for specific risks and opportunities that the firm has already identified regarding climate, over short, medium, and long-time frames. It asks not only what these risks and opportunities are, but how they are currently informing the company's business planning and financial strategy, and whether that strategy is robust, to the potential for a variety of climate-related future scenarios to unfold. It is this section of the TCFD that is most informative regarding the insurer's current assessment of how the economy-wide transformation necessitated by climate change is likely to affect its business.
- The third section of the TCFD requires disclosure about the processes being developed to identify, assess and manage climate risk, and thus provides essential information about how the insurer may respond to emergent climate-related risks that are not yet apparent, but are likely to become salient, given the dynamic and evolving nature of the climate crisis.
- The fourth section of the TCFD asks for disclosure of the metrics issuers are using to measure climate risk (which include, but are not limited to, the issuer's own GHG emissions), as well as the targets toward which the insurer is working with regard to climate-related adjustments to its business model or operations.

Mandating TCFD-aligned reporting would simplify regulatory requirements for New York insurers. Building on existing and widely used standards, such as the TCFD framework, comes with clear advantages, including aiding the speed and ease of implementation for insurers. Furthermore, relying on the TCFD recommendations would allow New York State to align with broader market trends towards national and global alignment.

The PRI commends the New York State Department of Financial Services for proposing guidance for domestic issuers on climate-related financial risks alongside market practice at the state and federal level and looks forward to participating in future consultations on climate-related financial disclosures.

The PRI has experience of public policy on sustainable finance policies and responsible investment across multiple markets and stands ready to further support the work of the Department of Financial Services in developing guidance for insurers on climate change disclosures. Any question or comments can be sent to policy@unpri.org.

[10] Principles for Responsible Investment, *Consultation Response Securities and Exchange Commission: Request for Comment on Climate Disclosure* (June 11, 2021), available at https://dwtyzx6upklss.cloudfront.net/Uploads/g/q/m/pri_secrfcclimatechange11june_578878.pdf.