TWIA Board Meeting

Public Comments

February 14, 2023

February 10, 2023

Board of Directors
Texas Windstorm Association

Dear Board Members,

These comments are submitted on behalf of all members of TWIA under Texas Insurance Code Section 2210.551(b), who are also members of the following property and casualty trade associations:

1. the Insurance Council of Texas (ICT), a Texas based trade association comprised of over 400 property casualty insurers including insurers that are required to be members of TWIA. ICT's members represent over 80% of the Texas market;

2. the Association of Fire and Casualty Companies of Texas (AFACT), a Texas based trade association of 30 property casualty insurers primarily operating in Texas including insurers that are required to be members of TWIA;

3. the American Property Casualty Insurance Association (APCIA), a national trade association representing property and casualty insurers doing business in Texas, nationwide, and globally. APCIA's members, which range from small companies to the largest insurers with global operations, represent more than two-thirds of the property and casualty marketplace in the United States and include insurers that are required to be members of TWIA;

4. Texas Coalition for Affordable Insurance Solutions (TCAIS), a trade association comprised of seven large property casualty insurance groups including individual insurers that are required to be members of TWIA; and

5. the National Association of Mutual Insurance Companies (NAMIC), a trade association of more than 1,500 members comprised of property casualty insurers including insurers that are required to be members of TWIA.

We are writing to express our concern and issues with the TWIA board decision to attempt to assess member insurers for "excess reinsurance" under Insurance Code Section 2210.453(d) which provides that:

The cost of the reinsurance purchased or alternative financing mechanisms used under this section in excess of the minimum funding level required by Subsection (b) shall be paid by assessments as provided by this subsection. The association, with the approval of the commissioner, shall notify each member of the association of the amount of the member's assessment under this subsection. The proportion of the cost to each insurer under this subsection shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

As background, Insurance Code Section 2210.453(b) requires TWIA to *"...maintain total available loss funding in an amount not less than the probable maximum loss for the association for a catastrophe year with a probability of one in 100."*

On January 19, 2023, the TWIA board met and discussed possible adoption of a 1:100 probable maximum loss (PML) loss funding level for 2023.

The board heard the report from the TWIA Actuarial and Underwriting Committee's January 11, 2023, meeting. The Committee had reviewed catastrophe model results presented by Aon, TWIA's catastrophe modeling vendor, and had voted to recommend the TWIA board take the average of two different catastrophe models, AIR and RMS, use the model results based on long-term assumptions, and include loss adjustment expenses in determining the 1:100 PML for this year's storm season. The Committee recommended the TWIA Board establish $5.244 billion as the 1:100 PML for the 2023 storm season. Aon's analysis was included in the board materials. In addition, TWIA staff and other models had also projected a 1:100 PML in the $5.2 billion range.

Among the other models considered, the Aon analysis included a 1:100 PML using only the RMS model. This would have set the 1:100 PML at $3.9 billion. However, the Committee did not recommend using only this model for adoption by the board. The Committee considered various models, which is what they were tasked with doing, but nothing in their report recommended that using only one model with the lowest 1:100 PML was appropriate or best for TWIA.

Despite the committee's recommendation, and after hearing comments from Senator Mayes Middleton advocating for using the lowest possible 1:100 PML and some discussion amongst the board, the board voted 4-3 to use the RMS catastrophe model, apply the model results based on long-term assumptions, and include loss adjustment expense in determining the 1:100 PML for the 2023 storm season.

In addition, despite the TWIA actuarial staff and Committee recommendation, the board also gave direction to staff and the TWIA reinsurance broker to purchase reinsurance up to the Committee recommended 1:100 PML. Although the board did not follow the PML recommended by the Committee, they nonetheless believed it was prudent to secure reinsurance sufficient for adequate loss funding at the $5.244 billion level recommended by staff and the Committee.

If the board is considering the difference to be "excess" reinsurance requiring an assessment of insurers, the motions described above may not comply with what is required by law. Further, an assessment on the private insurance market may discourage more voluntary writings on the coast and also have a direct negative impact on property policyholders statewide who will have to bear this expense, as well as policyholders in the first tier who do not have coverage under a TWIA policy.

During the discussion on the motion to adopt at the lower 1:100 PML, board members noted that TWIA could save money if it adopted this lower PML. This should not be a justification to choose a model and 1:100 PML that was not recommended by the Committee. This also suggests that the limit was selected specifically to pass along costs to insurers. As a reminder, at no time did the board comment or assert that the Committee recommendation was incorrect, faulty, or not appropriate for TWIA's risk and/or exposure.

Interestingly, the board discussion referenced Hurricanes Harvey and Ike as examples of losses not being as high as some of the models proposed and asked if TWIA was buying too much reinsurance. We understand the temptation to look at those specific past events as a barometer for future losses, but recent hurricanes have shown increasing intensity and losses have continued to climb in coastal states hit by hurricanes. This is especially true as more risks are concentrated in certain coastal areas, and inflation has increased costs to repair or replace structures and pay losses for personal property.

Texas has been lucky, but that good luck shouldn't be taken for granted nor should Harvey and Ike be viewed as the standard for a 1:100 PML. While Harvey was "only" a $1.7 billion loss for TWIA, the storm was much more significant as a flood event, and would likely be costlier today as TWIA's exposure has increased since 2017.

Other comments in the board discussion characterized adopting the lower 1:100 PML as a compromise. This board owes a duty to TWIA policyholders and they should expect the board to make decisions based on the accuracy of the models used and the appropriateness of the 1:100 PML for TWIA's risks, rather than a decision based on "compromise".

Further, a board member commented that insurers "…aren't picking up their share…," suggesting that this was justification for passing along this cost to insurers. This ignores the fact that Texas insurers write over 55% of the coverage in Tier 1 and are already committed to pay $1 billion for losses after a catastrophic event.

We note that adopting a lower 1:100 PML is at odds with TWIA's increasing exposure. The Aon presentation noted that TWIA's exposure had increased 27% between 2021 and 2022, from $65.2 billion to approximately $82.9 billion. Of note, Brazoria, Galveston, and Nueces counties had notable increases in exposure and these would be some of the counties hardest hit by a direct catastrophe. These facts and the analysis provided by Aon and the Committee's recommendation do not support a arbitrary decision to adopt the lower 1:100 PML.

If the board believes TWIA needs to secure loss funding up to the Committee recommended 1:100 PML level, then the board should adopt this for loss funding up to $5.2 billion, and not select a 1:100 PML based on the cost for TWIA policyholders, rather than making a sound insurance and risk decision justified by the modeling information presented by Aon.

The board's decision also appears to be an attempt to implement a legislative proposal that did not pass. As background, in 2021, the Texas legislature considered a proposal to require TWIA to only use the hurricane risk simulation model that produced the lowest PML. This language was in early versions of HB 769 (87^{th} Texas Legislature) which eventually passed but without the language mandating the lowest 1:100 PML. Some board members seemed to be guided by an approach to use the lowest PML and discussed treating the lowest 1:100 PML as a "floor," in effect, implementing the proposed, but not passed, language from early versions of HB 769. The board cannot manipulate the catastrophe model analysis to give effect to legislation which has been considered and rejected by the Texas legislature.

In taking this approach, the TWIA board has set a troubling precedent for future decisions on the 1:100 PML and created the fiction of "excess reinsurance", which will be used to pass that expense on to member insurers, through assessments, and ultimately to Texas policyholders across the state. The board should also be reminded that numerous Texas insurers such as reciprocal exchanges and mutual insurers are owned by the policyholders.

This is not the same as member assessments to pay for losses which help TWIA policyholders recover after a loss. By law, member insurers are already subject to up to $1 billion in assessments for losses and most recently paid $372 million in assessments after Hurricane Harvey in 2017. Companies can plan for this possibility and either purchase reinsurance for their proportionate share, or through reserves.

The potential excess reinsurance assessment is completely discretionary, as it's subject to the TWIA board deciding the appropriate 1:100 PML regardless of TWIA's risk and the soundness of the insurance models considered, and most troubling, is unlimited, making companies unable to plan for these types of assessments. Companies doing business in Texas would have to use their reserves or surplus to pay this assessment because TWIA decided to pass along an expense. This takes away funds to pay losses across the state and may be particularly detrimental to smaller and midsize companies who are already dealing with the economic pressures of increased losses due to inflationary costs. This board decision manipulated the 1:100 PML analysis to attempt to avoid the legitimate expense and cost of doing business. The consequence of this action means that companies, as a condition of membership in TWIA, would become a revenue source which TWIA can decide to use to avoid paying a legitimate reinsurance expense.

TWIA is required by 28 Texas Administrative Code Section 5.4160 (c) and (d), to disclose its method for determining the 1:100 PML and detailed information on the model(s) used. Nothing in the rule suggests that a method for determining the 1:100 PML should be based on compromise or a notion to make insurers "do their share."

As a reminder, Section 5.1460(c) requires that:

After the board meeting described in subsection (b) of this section, but not later than April 1 of each year, the association must disclose to the Commissioner its one-in-100-year probable maximum loss for the calendar year and the association's method for determining that probable maximum loss.

Section 5.1460(d) requires that:

In disclosing its method for determining its one-in-100-year probable maximum loss, the association must include:
(1) the hurricane model or models it relied on, including the model vendors, the model names, and the versions of each model;
(2) the in-force date and the total amount of direct exposures in force for the policy data used as the input for each hurricane model the association relied on;
(3) all user-selected hurricane model input assumptions used with each hurricane model the association relied on;
(4) the one-in-100-year probable maximum loss model output produced by each hurricane model the association relied on;
(5) if the association relied on more than one hurricane model, the methodology the association used to blend or average the hurricane model outputs, including all weighting factors used; and

(6) any adjustments the association or another party made to the one-in-100-year probable maximum loss model outputs or the blended or averaged output, including any adjustments to include loss adjustment expenses.

For the reasons outlined above, we urge the board to reconsider its vote on January 19, and if the board believes that TWIA's loss funding needs to be at the 1:100 PML with loss funding up to $5.244 billion, then the board vote to set a legitimate 1:100 PML at this level. This reconsideration would be consistent with the recommendation of the Committee and the information provided by TWIA's catastrophe model vendor, Aon, and appropriate given the risks and exposures for TWIA.

Sincerely,

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Public Comment

From: [redacted]
Sent: Saturday, February 4, 2023 2:13 PM
To: PublicComment
Subject: No Rate Increase

CAUTION: This email originated from outside of the organization. Do not reply with sensitive information or click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

Public Comment

From:	[redacted]
Sent:	Tuesday, February 7, 2023 8:57 AM
To:	PublicComment
Cc:	Todd Hunter
Subject:	Public comments for upcoming board meeting

CAUTION: This email originated from outside of the organization. Do not reply with sensitive information or click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern:

We need for the board to consider restructuring the composition of the number of counties that carry the financial load to include THE TORNADO 🌪 ALLEY counties to pay in to the pool as they were before they were removed during the Anne Richard's administration.

After all, the last time that I checked, tornadoes do meet the definition of being a WINDSTORM.

We need to have more counties to be included in order to lessen the financial burden on only 14 counties.

Sincerely,

[redacted]

Sent from Yahoo Mail on Android

Public Comment

From: [redacted]
Sent: Wednesday, February 8, 2023 2:43 PM
To: PublicComment
Cc: [redacted]
Subject: Board of Directors Meeting - February 14, 2023

Texas Windstorm Insurance Association (TWIA) Board of Directors

Public Comments by [redacted]

Chairman and Directors…thank you for giving me the opportunity to provide personal comments before your meeting. I am writing to propose a change in TWIA policy for your consideration.

I am [redacted] and a customer of TWIA. My wife and I own our second home on the oceanfront at the west end of Galveston Island. TWIA provides us with replacement coverage wind and hail insurance. I believe there is a lack of accountability among TWIA staff and that requires a board policy to correct the weakness in operation.

I retired from the [redacted] where I was a Vice President there and at other institutions of higher education for more than 26 years. I was responsible for the oversight of construction and maintenance of the university facilities along with the overall business affairs of those institutions. I understand the processes.

Now I have a personal experience. Our TWIA-insured home was damaged by Hurricane Nicholas on September 14, 2021. We followed the directed procedures and filed a claim (claim number [redacted] for our damages which totaled approximately $180,000. TWIA staff disagreed and offered only $$89,204 of which I paid my deductible of $27,960.

I requested an appraisal and filed for an Appraisal Process, following the detailed directions provided by TWIA on November 11, 2021. The Process was agreed to on December 16, 2021. As directed by TWIA, I selected a "competent and independent appraiser" ([redacted] and TWIA did the same ([redacted] The two appraisers met for the first time on January 10, 2022. TWIA and I would each pay one-half of the cost of each appraiser.

The TWIA appraiser offered a revised appraisal value of an additional $18,255 on August 4, 2022…more than 8 months later. I believe the losses are an additional $62,369. There has been no subsequent offer to me since then. So, I requested the next step in the Process which is: "if the appraisers fail to agree, they will submit their differences to an umpire" who would make a binding decision.

More than eight different TWIA staff members managed my claim since the eight months taken by the TWIA appraiser. I asked the most recent TWIA staff member, who became responsible for my claim on August 23, 2022 which is after the only offer was presented, to insist that the TWIA appraiser join my appraiser and declare an impasse so that an umpire could be engaged. She told me that was not necessary and that the two appraisers would continue to find an agreed upon value. She explained that she had no authority to direct the appraiser to focus on my claim and had to wait until he was ready. I think that is the weakness in policy that must be addressed.

I decided to hire an attorney to represent me because I strongly believe that the TWIA appraiser and she "conducted the appraisal in a manner that substantially prejudiced" my rights. The attorney advised that so long as the Appraisal Process was still not completed, a lawsuit could not be filed. So, I am still waiting 15 months later.

I urge the TWIA Board Directors to change the Dwelling Policy for Windstorm and Hail to provide more authority to the Claims Examiner and enable the TWIA Staff Member to hold the selected appraiser more accountable. The lack of control by TWIA leads to both customer service issues and legal issues as well as damage to your reputation. Thank you for your consideration.

I hope that I will also be present at the Board Meeting at Moody Gardens Hotel. However, those plans have not been set.

[redacted]