

*As Passed
by the Senate
Conferees*

**** Senate Counteroffer ****

Title: Title V

Matter: Federal Insurance Office

The Senate accepts the following House proposals for amendments to the Base text:

1. Change the office name from "National Insurance Office" to "Federal Insurance Office".
2. Add House requirement that Treasury coordinate with the Secretary of Health & Human Services in determining which lines of insurance are health insurance & therefore excluded from FIO authority.
3. Add House provisions to include United States Trade Representative and the relevant congressional committees (FSC, W&M, SBC, SFC) in process by which Treasury negotiates, finalizes and enforces international insurance agreements. This package of related changes includes:
 - Requirement that Treasury and USTR jointly negotiate international insurance agreements;
 - Requirement for Congressional "consultation and lay over" before international insurance agreements can take effect.
4. Add House provision requiring FIO to make Paperwork Reduction Act showing before requiring insurers to produce information. Senate base text requires FIO to "coordinate" with State & Federal agencies/regulators to determine if desired information is available through sources other than directly from insurers, but Senate version does not require FIO to get information from alternate source if available.
5. Add study on U.S. and Global Reinsurance Markets.

The Senate does not accept the following House proposals for amendments to the Base text:

1. Requirement for de novo judicial review of FIO administrative finding.
2. Replacement of Senate definition of "International Insurance Agreement on Prudential Measures" with House "covered agreement" definition.

Senate Counteroffer

FINANCIAL REFORM CONFERENCE:

HOUSE OFFER FOR TITLE V

{Page and line numbers refer to Conference Base Text}

Page 472, strike line 13 and 14 and insert the following:

1 **Subtitle A—Federal Insurance**
2 **Office**

Page 472, lines 16 and 17, strike "Office of National Insurance" and insert "Federal Insurance Office".

Page 472, strike lines 18 and 19, and insert the following:

3 **SEC. 502. FEDERAL INSURANCE OFFICE.**

Page 473, strike line 3 and insert the following:

4 **"SEC. 313. FEDERAL INSURANCE OFFICE."**

Page 473, lines 5 and 6, strike "Office of National Insurance" and insert "Federal Insurance Office".

Page 474, lines 24 and 25, strike "International Insurance Agreements on Prudential Matters" and insert "covered agreements (as such term is defined in subsection (r))".

Page 475, lines 3 and 4, strike "~~International Insurance Agreements on Prudential Matters~~" and insert "~~covered agreements~~".

Page 475, after line 15 insert the following:

1 “(3) ADVISORY CAPACITY ON COUNCIL.—The
2 Director shall serve in an advisory capacity on the
3 Financial Stability Oversight Council established
4 under the Financial Stability Act of 2010.”.

Page 475, lines 17 and 18, strike “as such insurance is determined by the Secretary” and insert “as determined by the Secretary in coordination with the Secretary of Health and Human Services”.

Page 477, strike lines 4 through 18 and insert the following:

5 “(4) ADVANCE COORDINATION.—Before col-
6 lecting any data or information under paragraph (2)
7 from an insurer, or affiliate of an insurer, the Office
8 shall coordinate with each relevant Federal agency
9 and State insurance regulator (or other relevant
10 Federal or State regulatory agency, if any, in the
11 case of an affiliate of an insurer) and any publicly
12 available sources to determine if the information to
13 be collected is available from, and may be obtained
14 in a timely manner by, such Federal agency or State

1 insurance regulator, individually or collectively, other
2 regulatory agency, or publicly available sources. If
3 the Director determines that such data or informa-
4 tion is available, and may be obtained in a timely
5 manner, from such an agency, regulator, regulatory
6 agency, or source, the Director shall obtain the data
7 or information from such agency, regulator, regu-
8 latory agency, or source. If the Director determines
9 that such data or information is not so available, the
10 Director may collect such data or information from
11 an insurer (or affiliate) only if the Director complies
12 with the requirements of subchapter I of chapter 35
13 of title 44, United States Code (relating to Federal
14 information policy; commonly known as the Paper-
15 work Reduction Act) in collecting such data or infor-
16 mation. Notwithstanding any other provision of law,
17 each such relevant Federal agency and State insur-
18 ance regulator or other Federal or State regulatory
19 agency is authorized to provide to the Office such
20 data or information.”.

Page 480, line 7, after “preempted” insert “pursu-
ant to this section or section 314”.

Page 480, lines 12 through 14, strike “an inter-
national insurance agreement on prudential measures”
and insert “a covered agreement”.

4

Page 480, lines 17 and 18, strike "~~International Insurance Agreements on Prudential Matters~~" and insert "covered agreements".

Page 480, after line 25, insert the following new clause (and redesignate succeeding clauses accordingly):

1 “(ii) notify and consult with the
2 United States Trade Representative re-
3 garding any potential inconsistency or pre-
4 emption;”.

Page 481, lines 6 and 7, strike "~~International Insurance Agreements on Prudential Matters~~" and insert "covered agreements".

Page 482, strike lines 3 through 7 and insert the following:

5 “(iii) notify the Committees on Finan-
6 cial Services and Ways and Means of the
7 House of Representatives and the Commit-
8 tees on Banking, Housing, and Urban Af-
9 fairs and Finance of the Senate.”.

Page 482, line 25, before the period insert the following: “, except that in any action for judicial review of a determination of inconsistency, the court shall determine the matter de novo”.

Page 484, strike lines 12 through 22 and insert the following new subsections (and redesignate succeeding subsections accordingly):

1 “(l) RETENTION OF AUTHORITY OF FEDERAL FI-
2 NANCIAL REGULATORY AGENCIES.—Nothing in this sec-
3 tion or section 314 shall be construed to limit the author-
4 ity of any Federal financial regulatory agency, including
5 the authority to develop and coordinate policy, negotiate,
6 and enter into agreements with foreign governments, au-
7 thorities, regulators, and multi-national regulatory com-
8 mittees and to preempt State measures to affect uni-
9 formity with international regulatory agreements.

10 “(m) RETENTION OF AUTHORITY OF UNITED
11 STATES TRADE REPRESENTATIVE.—Nothing in this sec-
12 tion or section 314 shall be construed to affect the author-
13 ity of the Office of the United States Trade Representative
14 pursuant to section 141 of the Trade Act of 1974 (19
15 U.S.C. 2171) or any other provision of law, including au-
16 thority over the development and coordination of United
17 States international trade policy and the administration
18 of the United States trade agreements program.

19 “(n) ANNUAL REPORTS TO CONGRESS.—

20 “(1) SECTION 313(f) REPORTS.—Beginning
21 September 30, 2011, the Director shall submit a re-
22 port on or before September 30 of each calendar

1 year to the President and to the Committees on Fi-
2 nancial Services and Ways and Means of the House
3 of Representatives and the Committees on Banking,
4 Housing, and Urban Affairs and Finance of the
5 Senate on any actions taken by the Office pursuant
6 to subsection (f) (regarding preemption of incon-
7 sistent State insurance measures).

8 “(2) INSURANCE INDUSTRY.—Beginning Sep-
9 tember 30, 2011, the Director shall submit a report
10 on or before September 30 of each calendar year to
11 the President and to the Committee on Financial
12 Services of the House of Representatives and the
13 Committee on Banking, Housing, and Urban Affairs
14 of the Senate on the insurance industry and any
15 other information as deemed relevant by the Direc-
16 tor or requested by such Committees.

17 “(o) REPORTS ON U.S. AND GLOBAL REINSURANCE
18 MARKET.—The Director shall submit to the Committee
19 on Financial Services of the House of Representatives and
20 the Committee on Banking, Housing, and Urban Affairs
21 of the Senate—

22 “(1) a report received not later than September
23 30, 2012, describing the breadth and scope of the
24 global reinsurance market and the critical role such

1 market plays in supporting insurance in the United
2 States; and

3 “(2) a report received not later than January 1,
4 2013, and updated not later than January 1, 2015,
5 describing the impact of Subtitle B of the Non-Ad-
6 mitted and Reinsurance Reform Act of 2010 on the
7 ability of State regulators to access reinsurance in-
8 formation for regulated companies in their jurisdic-
9 tions.”.

Page 488, lines 3 and 4, strike “National Associa-
tion of Insurance Commissioners” and insert “State in-
surance regulators”.

Page 488, line 11, before the period insert “and the
Secretary shall dedicate specific personnel to the Office”.

Page 488, after line 17, insert the following new
paragraph (and redesignate succeeding paragraphs ac-
cordingly):

10 “(2) COVERED AGREEMENT.—The term ‘cov-
11 ered agreement’ means a written bilateral or multi-
12 lateral recognition agreement that—
13 (A) is entered into between the United
14 States and one or more foreign governments,
15 authorities, or regulatory entities; and

1 “(B) provides for recognition of prudential
 2 measures with respect to the business of insur-
 3 ance or reinsurance that achieves a level of pro-
 4 tection for insurance or reinsurance consumers
 5 that is substantially equivalent to the level of
 6 protection achieved under State insurance or re-
 insurance regulation.”

Strike line 21 on page 488 and all that follows
 through page 489, line 3, and insert the following new
 paragraph:

Page 488,
 after line 17,

and
 redesignate
 succeeding
 paragraphs
 accordingly

8 “(4) FEDERAL FINANCIAL REGULATORY AGEN-
 9 CY.—The term ‘Federal financial regulatory agency’
 10 means the Department of the Treasury, the Board
 11 of Governors of the Federal Reserve System, the Of-
 12 fice of the Comptroller of the Currency, the Office
 13 of Thrift Supervision, the Securities and Exchange
 14 Commission, the Commodity Futures Trading Com-
 15 mission, the Federal Deposit Insurance Corporation,
 16 the Federal Housing Finance Agency, or the Na-
 17 tional Credit Union Administration.”

Page 489, lines 9 and 10, strike “Office of National
 Insurance” and insert “Federal Insurance Office”.

Page 490, strike lines 6 through 24 and insert the
 following:

1 "SEC. 314. ~~COVERED AGREEMENTS.~~

2 "(a) AUTHORITY.—The Secretary and the United
3 States Trade Representative are authorized, jointly, to ne-
4 gotiate and enter into ~~covered agreements~~ on behalf of the
5 United States.

international / insurance agreement

6 "(b) REQUIREMENTS FOR CONSULTATION WITH
7 CONGRESS.—

on prudential measures

8 "(1) IN GENERAL.—Before initiating negotia-
9 tions to enter into ~~a covered agreement~~ under sub-
10 section (a), during such negotiations, and before en-
11 tering into any such agreement, the Secretary and
12 the United States Trade Representative shall jointly
13 consult with the Committee on Financial Services
14 and the Committee on Ways and Means of the
15 House of Representatives and the Committee on
16 Banking, Housing, and Urban Affairs and the Com-
17 mittee on Finance of the Senate.

an international insurance agreement on prudential measures

18 "(2) SCOPE.—The consultation described in
19 paragraph (1) shall include consultation with respect
20 to—

- 21 "(A) the nature of the agreement;
- 22 "(B) how and to what extent the agree-
- 23 ment will achieve the applicable purposes, poli-
- 24 cies, priorities, and objectives of section 313
- 25 and this section; and

1 “(C) the implementation of the agreement,
2 including the general effect of the agreement on
3 existing State laws.

4 “(c) SUBMISSION AND LAYOVER PROVISIONS.—
5 ~~covered agreement~~ under subsection (a) may enter into
6 force with respect to the United States only if—

7 “(1) the Secretary and the United States Trade
8 Representative jointly submit to the congressional
9 committees specified in subsection (b)(1), on a day
10 on which both Houses of Congress are in session, a
11 copy of the final legal text of the agreement; and

12 “(2) a period of 90 calendar days beginning on
13 the date on which the copy of the final legal text of
14 the agreement is submitted to the congressional
15 committees under paragraph (1) has expired.”.

An
International
insurance
agreement
on
prudential
measures

Page 491, after line 16, in the item relating to section 313, strike “Office of National Insurance” and insert “Federal Insurance Office”.

Page 507, after line 8, insert the following:

16 (15) STATE.—The term “State” includes any
17 State of the United States, the District of Columbia,
18 the Commonwealth of Puerto Rico, Guam, the
19 Northern Mariana Islands, the Virgin Islands, and
20 American Samoa.

Page 510, after line 19, insert the following:

1 (5) STATE.—The term “State” includes any
2 State of the United States, the District of Columbia,
3 the Commonwealth of Puerto Rico, Guam, the
4 Northern Mariana Islands, the Virgin Islands, and
5 American Samoa.



**AMENDMENT TO HOUSE OFFER FOR TITLE V
OFFERED BY MR. WAXMAN OF CALIFORNIA**

On page 2 of the House Offer, strike the instruction relating to page 475, lines 17 and 18 of the Conference Base Text, and insert the following:

Page 475, strike lines 16 through 21 and insert the following:

1 “(d) SCOPE.—The authority of the Office shall ex-
2 tend to all lines of insurance except—

3 “(1) health insurance, as determined by the
4 Secretary in coordination with the Secretary of
5 Health and Human Services based on section 2791
6 of the Public Health Service Act (42 U.S.C. 300gg-
7 91);

8 “(2) long-term care insurance, except long-term
9 care insurance that includes life or annuity insur-
10 ance components, as determined by the Secretary in
11 coordination with the Secretary of Health and
12 Human Services, and in the case of long-term care
13 insurance that includes such components the Sec-
14 retary shall coordinate with the Secretary of Health

is included
with

1 and Human Services in performing the functions of
2 the Office; and
3 “(3) crop insurance, as established by the Fed-
4 eral Crop Insurance Act (7 U.S.C. 1501 et seq.).”

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