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United States House of Representatives
Committee on Financial Services
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M E M O R A N D U M

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: November 13, 2014

Subject: November 18, 2014, Housing and Insurance Subcommittee Hearing on "The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers, Part II"

On Tuesday, November 18, 2014, at 2:00 p.m. in Room 2167 of the Rayburn House Office Building, the Housing and Insurance Subcommittee will hold a hearing entitled "The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers, Part II." This hearing will focus on the various international regulatory standards being proposed by the G-20, the Financial Stability Board, the International Association of Insurance Supervisors, and other international supervisory authorities.

This will be a one-panel hearing with the following witnesses:

- Mr. Michael McRaith, Director, Federal Insurance Office, U.S. Department of the Treasury
- Mr. Neil D. Breslin, Senator, State of New York
- Mr. Michael F. Consedine, Commissioner, Pennsylvania Insurance Department
- Mr. Thomas Sullivan, Senior Advisor, Board of Governors of the Federal Reserve System

Background

For nearly 150 years, U.S. insurance companies of every kind—including property-casualty, life, reinsurance, health, and auto—have been regulated primarily by the states. During that time, Congress and the states have occasionally reviewed the effectiveness of the state-based regulation of insurance, coordinated efforts to achieve greater regulatory uniformity, and facilitated a dialogue about insurance and regulation. In 1945, Congress passed the McCarran-Ferguson Act (15 U.S.C. §§ 1011 *et seq.*), which confirmed the states' regulatory authority over insurance except where a federal law expressly provides otherwise.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111–203) enlarged the federal government's role in the insurance industry by creating a federal office specifically tasked with insurance matters. The Dodd-Frank Act established a Federal Insurance Office (FIO) at the U.S. Department of the Treasury; it charged the director of the FIO with representing the interests of U.S. insurers during the negotiation of international agreements and advising the Office of the U.S. Trade Representative (USTR) during trade negotiations.

The Dodd-Frank Act also brought insurers, insurance holding companies, and insurance subsidiaries within the purview of the newly-created Financial Stability Oversight Council (FSOC), a 15-member inter-agency group of federal and state regulators and other experts. The FSOC is charged with identifying risks to the financial stability of the United States and promoting market discipline. The Dodd-Frank Act requires that three of FSOC's members represent the perspective of the insurance industry.[1] Even though the Dodd-Frank Act expanded the federal government's oversight of the insurance industry, the Act also preserved the states' general authority to regulate insurance and to resolve failed insurance firms.

Federal Insurance Office

Mr. Michael McRaith serves as the Director of FIO. As dictated by the Dodd-Frank Act, the director is charged with a number of duties, including: (1) consulting with state insurance regulators and coordinating federal involvement and policymaking on international insurance matters; (2) representing the U.S. on the International Association of Insurance Supervisors (IAIS) – an international insurance standard-setting body whose mission is to establish "standards, principles, and guidance papers" and to provide training for insurance regulators – in negotiations of international insurance agreements; (3) assisting the Secretary of the Treasury and advising the USTR in negotiating trade agreements; and (4) determining whether state insurance laws that treat non-U.S. insurers less favorably than U.S. insurers are preempted by international agreements.

International Regulatory Changes

U.S. officials and regulators coordinate through a variety of fora with their foreign counterparts on insurance regulation. U.S.-domiciled insurance companies have expressed concern that measures being considered in these international fora could result in a bank-like regulatory regime, draconian capital requirements that are ill-suited to the business of insurance, and potentially costly new accounting standards that could make U.S. insurers less competitive and impede their ability to expand and create U.S. jobs.

During the global financial crisis, the Group of Twenty Finance Ministers and Central Bank Governors (G-20), of which the U.S. is a member, accelerated the development of new international insurance standards that will affect the U.S. insurance industry. In 2009, the G-20 created an entity called the Financial Stability Board (FSB), a consortium of financial authorities and international standard-setting bodies, and tasked it with overseeing, establishing standards for, and designating large financial institutions as "global systemically important financial institutions" (G-SIFIs). To date, the FSB has

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[1] Of the three insurance-related slots on the FSOC, two are non-voting: the FIO Director and a state insurance commissioner. The third slot, which confers voting privileges, is occupied by "an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise." Roy Woodall, a former state insurance commissioner, was confirmed by the Senate to fill this position on September 26, 2011.

designated 29 global financial firms as G-SIFIs, including eight U.S.-based firms, but it has not designated any insurance company as a G-SIFI. The FSB has delegated to one of its members, the IAIS, the task of developing standards for G-SIFI insurance companies, which will be known as global systemically important insurers (G-SIIs). In establishing G-SIIs, the IAIS has developed an assessment methodology to identify any insurers whose distress or disorderly failure, because of their size, complexity and interconnectedness, would cause significant disruption to the global financial system and economic activity. Any such insurers would be regarded as systemically important on a global basis. The FSB published its list of systemically important insurers in the summer of 2013. Three American insurance companies were included: American International Group, MetLife, Inc., and Prudential Financial Inc.

The U.S. is represented by the FIO and the National Association of Insurance Commissioners (NAIC) on the IAIS. IAIS's members include insurance "regulators and supervisors" from over 190 jurisdictions and over 120 insurance professionals. During their previous annual conferences, IAIS members discussed the following subjects: (1) improving international coordination, standards, guidance, and supervision of insurance, also referred to as the "Common Framework for the Supervision of Internationally Active Insurance Groups" (ComFrame); and (2) designating G-SIFI insurers or G-SIIs.

Apart from the G-20 and IAIS initiatives, the European Union (EU) is moving forward with a comprehensive overhaul of financial regulations, which includes new solvency requirements for European insurers, known as "Solvency II," to be implemented in 2014. These new requirements seek to better match the risks assumed by insurers with capital requirements. Many U.S. insurance companies have expressed concern that their European subsidiaries may be subject to stricter regulation (such as higher capital requirements) than their European competitors if EU regulators do not find that the U.S. state-based regulatory regime is equivalent to that of the EU. State insurance regulators have responded that solvency requirements set at the state level enabled U.S. insurers to weather the financial crisis, and that history demonstrates that the state-based regulatory regime for insurance companies is equivalent to that of the EU. Discussions among U.S. and EU officials are ongoing. Because the EU is the U.S.'s largest trading partner in insurance services, U.S. insurance companies are eager to avoid being placed at a competitive disadvantage against their EU counterparts.