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Before a Hearing of the House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises

"Working with State Regulators to Increase Insurance Choices for Consumers"

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Good morning, Chairman Baker, Ranking Member Kanjorski and members of the Subcommittee. My name is Albert Counselman. I am President and CEO of Riggs, Counselman, Michaels and Downes in Baltimore, MD and past Chairman of The Council of Insurance Agents + Brokers ("The Council"). Thank you for giving me the opportunity to testify before the Subcommittee today.

Riggs, Counselman, Michaels and Downes is the largest independent agency/brokerage firm in Maryland, with more than 225 employees. We are headquartered in Baltimore, with offices in Washington and Richmond. Based on information reported by Business Insurance in their annual survey of firms, RCM&D is the 85th largest insurance/risk management in the U.S. Our clients range from large, multi-state employers in the Fortune 1000, to large and small hospitals, to mid-size and small businesses and individuals. We provide risk management, including risk control and claim management programs, commercial and personal insurance, self-insurance and employee benefit programs. We represent most of the largest and most well known insurers operating in the U.S. and many located overseas. We have been in business since 1885 and continue to be privately owned by individuals active in the operation of the business. Through our ownership and membership in organizations such as Assurex Global and Worldwide Brokerage Network, we service clients locally as well as throughout the U.S. and the globe.

Introduction

RCM&D and the members of the Council of Insurance Agents + Brokers heartily embrace your road map to insurance regulatory reform. We commend you and your colleagues for the years of work and numerous hearings into the shortcomings of the state-based insurance regulatory system that have led to this proposal. The road map lays the groundwork for aggressive reforms that will go a long way toward providing desperately needed modernization in insurance regulation. It builds upon state-based efforts and provides both carrots and sticks to force states to effectively respond to the critical need for reform.

Although the NAIC has attempted efforts to lead reform without federal involvement, the reality is that today's marketplace demands far more dramatic action. The pace of financial services convergence and globalization are far outstripping the pace of individual reform efforts by state regulators and legislators. Competition and efficiency in the insurance industry lags behind other financial services sectors for the exact reasons stated by Chairmen Baker and Oxley – there are glaring regulatory inefficiencies and inconsistencies in the state insurance regulatory system, inefficiencies and inconsistencies that must be addressed if the insurance sector is going to be able to keep up with the pace of change in the rapidly-evolving global marketplace.

The Council regards itself as a pioneer within our industry with respect to regulatory modernization, though reform is a frustratingly long process. We formed our first internal committee to address the problems of interstate insurance producer licensing more than 60 years ago. Our efforts were finally rewarded with the enactment of the NARAB provisions of the Gramm-Leach-Bliley Act a few years ago – a first step on the road to insurance regulatory modernization. We thank you, Mr. Chairman for your leadership on this issue, and other Members of this Subcommittee on both sides of the aisle for your active support of the NARAB provisions during the legislative process that ultimately culminated in enactment of the Gramm-Leach-Bliley Act.

NARAB was a true provision of modernization in the Gramm-Leach-Bliley Act. Were it not for the tenacious support and initiative from Chairman Baker and Congresswoman Kelly, and the leadership of Chairman Oxley, things assuredly would not be changing for the better – particularly at their current pace. This initiative was bipartisan, and provides a very good model for the carrot-and-stick, goals-and-timetables approach contemplated by the road map, which we believe can effectively move insurance regulation forward toward more streamlined, efficient and rational regulation.

The Council has been studying the different routes for achieving modernization in the insurance regulatory process. To that end, The Council's Foundation for Agency Management Excellence (FAME) commissioned an independent study of the economic costs and benefits of these various proposals (the "FAME Study"). While it is abundantly clear to Council members that the current system of state-by-state regulation is not working, we wanted to see a full, economic analysis of the alternatives for reform. Our study, entitled "Costs & Benefits of Future Regulatory Options for the U.S. Insurance Industry," provides an in-depth examination of the pros and cons of the regulatory options available for oversight of the business of insurance. We released this study during one of the hearings you held to examine these issues, and I hope the study has served as a useful tool in the development of the regulatory reform proposal.

Even though the states have made some strides in recent years in simplification and streamlining – thanks to the enactment of the NARAB provisions of Gramm-Leach-Bliley – there are still several problem areas in the interstate licensing process that cost our members time and money unnecessarily. Insurance companies also face problems in doing business on a multi-state basis, and recent efforts by the states to streamline rate and policy form approval processes have not proven to be very successful. These continuing issues with the state-by-state regulatory process lead us to the following conclusion: relief is needed, and it is needed now. The committee's tireless work on this issue, culminating in the road map to reform, indicate to us that you agree with our assessment.

Specific Reform Comments

The Council believes it is critical to the long-term viability of the U.S. insurance industry that Congress pass legislation to address the deficiencies of the state insurance regulatory system. Broad reforms to the insurance regulatory system are necessary to permit the industry to operate on a more efficient basis. Such reforms, like the road map to reform, are also necessary to enable the insurance industry to compete in the larger financial services industry and internationally. There are also more immediate needs, however, that are consistent with the regulatory reform proposal. I would like to focus on three areas that could greatly benefit from immediate reforms that would be relatively easy to implement.

1. Make The NARAB Licensing Reciprocity Requirements Apply To All 50 States

a. Producer Licensure

The NARAB provisions included in the Gramm-Leach-Bliley Act (GLBA) required that at least 29 States enact either uniform agent and broker licensure laws or reciprocal laws permitting an agent or broker licensed in one State to be licensed in all other reciprocal states simply by demonstrating proof of licensure and submitting the requisite licensing fee.

The NAIC pledged not only to reach reciprocity in producer licensing, but also to establish uniformity in producer licensing as their ultimate goal. The NAIC amended its Producer Licensing Model Act (PLMA) to meet the NARAB reciprocity provisions, and is working to get the PLMA enacted in all licensing jurisdictions. As of today, forty-seven states have enacted some sort of licensing reform. Most of those states have enacted the

PLMA, but four states have enacted only the reciprocity portions of that Model Act. Of the states that have enacted the PLMA, there are several states that have deviated significantly from the original language of the Model Act. One state has enacted licensing reform that in no way resembles the PLMA. And two of the largest states in terms of insurance premiums written, Florida and California, have not enacted legislation designed to meet the NARAB reciprocity threshold at all.

The NAIC has now officially certified that a majority of states have met the NARAB reciprocity provisions, thereby averting the creation of NARAB. While that is a commendable accomplishment, there is still much work to be done to reach true reciprocity and uniformity in all licensing jurisdictions. The inefficiencies and inconsistencies that remain in producer licensing affect every insurer, every producer and every insurance consumer. As for my own firm, we hold 161 resident licenses in Maryland and Virginia, and 332 non-resident licenses across the country, up from 175 non-resident licenses in 1999. We not only had to secure initial licenses, but we face annual renewals for those nearly 500 licenses in 50+ jurisdictions, in addition to satisfying all the underlying requirements and post-licensure oversight. Progress in streamlining the producer licensing process has undeniably been made since GLBA's NARAB provisions were enacted in 1999, but these numbers – and, more critically, the regulatory and administrative burdens they represent – vividly demonstrate that the job is not yet finished. Most states retain a variety of individual requirements for licensing, and they all differ with respect to fees, fingerprinting, and certifications, among other requirements.

Although a uniform electronic producer licensing application is now available for use in many states – arguably, the biggest improvement in years – several states, including Florida and Director Csiszar's South Carolina, do not use the common form, and, in those states that do use the form, there is no common response. Each state follows up individually, which can be cumbersome and confusing. An egregious example occurred in our attempts to renew licenses in the District of Columbia last year. Renewal applications were submitted in April 2003 and approval of the final renewal was received just last month after many attempts to follow up.

Thus, we believe reciprocity must be nationwide, and uniformity must be the ultimate goal. For example, if all state insurance commissioners know that agents and brokers must meet the same standards for resident licensure in every state, then no state insurance commissioner should have concerns about licensing nonresident agents and brokers on a reciprocal basis. Areas that would be good candidates for uniformity standards include the agent appointment process, continuing education and pre-licensing education requirements, and criminal history reviews.

I realize that increased uniformity in resident licensing requirements will raise the standards in some states. The Council has historically taken the view that the level of professional requirements for state insurance licensing are not very high when compared to other fields of professional endeavor. However, there are many duplicative and unnecessary requirements that have little or nothing to do with standards of professionalism. Council members have not had a problem with meeting high professional standards; our problem has been with having to meet those standards multiple times in different states. This is why The Council supported the requirement that membership standards for NARAB meet or exceed the highest levels currently existing in the states.

There are other areas in agent and broker licensure that would benefit from increased uniformity, as well. For example, the PLMA did not address license tenure and renewal dates. While this may seem like a small issue, it can easily turn into a large problem for someone like me, who is licensed in all 51 jurisdictions. I must constantly renew licenses throughout the year, based upon the individual requirements in each state. Even if all jurisdictions reach licensing reciprocity, without the development of a uniform standard in this area, I will have to continue to file license renewals throughout the year. The development of a uniform standard in this area would be of enormous benefit to me and millions of other producers in the nation.

b. Firm Licensure

Another area that would benefit from increased uniformity is the licensure of business entities. Perhaps due to confusing and contradictory state requirements, many insurers recently have started pushing for producers and their firms to be licensed in non-resident states. They no longer are accepting the location of the primary business of an insured as the state in which the producer needs to comply with licensing requirements, rather they are asking for firm and individual licenses in all states where the insured has locations. In South Carolina, for instance, our firm has had a difficult time securing payment of commissions because of questions about incorporation requirements. This not only has a regulatory and administrative implications for firms such as mine, but it has tax implications, as well, because many states require firms to be registered with the state prior to securing a producer license.

The licensure of business entities was not addressed in NARAB, and, until this issue is addressed, we have only solved half the licensing problem. Nearly all states license business entities, but the rules for their licensure vary widely. Additionally, some states will not currently license nonresident business entities. And once a nonresident business entity license is secured, the rules on how that entity may operate vary widely from state to state. Because Council members sell and service commercial insurance policies and employee benefits for large companies in all states, and because we must be licensed in all of those states, it is absolutely crucial that this issue be addressed as we move toward increased licensing uniformity.

c. International Considerations

Finally, The Council also believes that increased uniformity is critical as we move toward an increasingly global insurance marketplace. Many Council members sell and service insurance policies for customer with international operations. As we attempt to broaden international opportunities for U.S. insurance providers, we must be prepared to provide a model for our trading partners to follow. Permitting the states to keep the patchwork of licensing laws and regulations will do little to reinforce our arguments that other countries should open their markets to U.S. insurance providers; we must lead on this issue by our example.

Thus it is clear that, despite the revolutionary NARAB achievements, comprehensive reciprocity and uniformity in producer licensing laws remains elusive – and I am not sure that the NAIC and the states will be able to meet that goal. This is especially troubling, given the threat of federal intervention that was implicit in the NARAB provisions of Gramm-Leach-Bliley.

Indeed, until recently, the State of Florida completely barred non-residents from being licensed to sell surplus lines products to Florida residents or resident businesses. The state required non-resident agents and brokers who sold a policy of an admitted company to a Florida resident or resident business to pay a resident agent a mandated "countersignature fee" in order to complete that transaction. These practices have been terminated only because The Council filed a lawsuit and was granted summary judgment on its claims that these statutory requirements violated the constitutional rights of its members. The State has opted not to appeal and legislation has been introduced in the state legislature to repeal the unconstitutional statutory requirements. Unfortunately, we have heard reports that efforts have been made in the legislature to attach other protectionist – and non-reciprocal – requirements to the legislation. We should not have to resort to lawsuits to defeat these protectionist laws and put ourselves in a position to serve our clients in an efficient manner.

d. Reform Recommendation

I do not believe that the NAIC – despite its ambitious reform agenda – is in a position to force dissenting states to adhere to any standards it sets. Congress can, however, and I believe it can be accomplished under the contours set forth in the regulatory reform road map. We believe the regulatory reform proposal should build on GLBA's NARAB provisions, taking NARAB a step further by mandating that <u>all 50 states enact uniform licensure laws</u> or laws permitting an agent or broker licensed in one state to be licensed in <u>all other states on a reciprocal basis</u> and <u>preempting all state insurance laws that discriminate against non-resident agents and brokers</u> as the Florida provisions were found to have done.

Under the NARAB provisions of the Gramm-Leach-Bliley Act, if the threshold requirements were not satisfied by the states, the Act provided for the formation and organization of the National Association of Registered Agents and Brokers. These provisions were modeled after the National Association of Securities Dealers (NASD) and the NARAB, if created, would function in a manner similar to the NASD. It would create a national licensing clearinghouse where multi-state insurance producers could obtain multiple licenses through a single point of filing. It would also likely set a higher standard for licensure than currently exists in any one state, but one that is based on the professional qualifications of the individual. The NARAB would also provide a centralized enforcement mechanism that would enable regulators to get bad actors out of the system sooner rather than later.

A large portion of the regulation of registered securities representatives is done through the NASD, which is a self-regulatory organization established by Congress and overseen by the Securities and Exchange Commission. Registered securities representatives must still procure licenses in all states in which they wish to sell securities, but they can procure those licenses by going through one central location – the NASD’s Central Registration Depository (CRD). The CRD processes registrations for the NASD and for six other securities exchanges. An individual seeking licensure with multiple organizations and/or states need only submit a uniform registration form and payment of the requisite fees. The NASD also provides a centralized authority for the enforcement of securities laws and the development of national enforcement policies. The NASD’s Enforcement Division prosecutes securities violations discovered by the NASD and also receives enforcement referrals from the SEC and the various state securities regulators.

Self-regulatory organizations (SROs) like the NASD provide a good model that could easily be modified to address the regulation of insurance producers. SROs are used quite commonly to regulate professional activities. For example, state bar associations are SROs that provide oversight of the legal profession. The Council’s concerns with state-by-state licensing for insurance producers has never had anything to do with state regulation of insurance producers. Rather, our concerns have arisen from the myriad of idiosyncratic requirements that often have little or nothing to do with the professionalism of our members. The Council would prefer to see a single set of licensing requirements and rules of conduct that are meaningful in terms of expertise and proficiency, even if that means meeting the highest of standards that currently exist.

As part of the regulatory reform plan, the Subcommittee should strongly consider the use of an SRO to address the continuing problems in interstate producer licensing. The state insurance regulators have taken the first steps by adopting the PLMA and creating the National Insurance Producer Registry (NIPR), an affiliate of the NAIC that handles electronic filing of non-resident producer applications. The road map proposal could finish the job by mandating state uniformity and permitting an insurance producer SRO to handle resident and non-resident licensing, renewals, appointments and continuing education.

It is important to note that nothing in the federal securities laws authorizes any specific entity to act as the SRO for securities brokers; rather it provides for the creation of SROs to regulate securities broker/dealers subject to SEC oversight. This same approach could work well in the insurance industry, as it would permit each segment of the producer marketplace (life, health, and property/casualty) to address its own unique issues. The supervising authority could be housed in the federal-state coordinating council contemplated as part of the regulatory reform proposal. Use of a supervised SRO to regulate industry activities could result in significant efficiencies and savings for consumers without diminishing the consumer protections in place today.

2. Speed To Market

There are other problems with the state-by-state system of insurance regulation that deserve immediate attention and that should be addressed in the regulatory reform proposal. While these problems appear to affect insurance companies more than insurance agents and brokers, we would argue that the restraints imposed by the state-by-state regulatory system on these areas harm producers as much as companies because they negatively affect the availability and affordability of insurance, and, thus, our ability to place coverage for our clients.

My agency – like most Council members – sells and services primarily commercial property/casualty insurance. This part of the insurance industry is facing some severe challenges today due to a number of factors, including the losses incurred as a result of the terrorist attacks on September 11, 2001; increased liabilities for asbestos, toxic mold, D&O liability and medical malpractice; and years of declining investment returns and consistent negative underwriting results. Some companies have begun to exit different insurance markets as they realize that they can no longer write these coverages on a break-even basis, let alone at a profit. The end result is increased prices and declining product availability to consumers. This situation is only being exacerbated by the current state-by-state system of insurance regulation.

The FAME study mentioned earlier in my testimony notes that the current U.S. system of regulation can be characterized as a prescriptive system that generally imposes a comprehensive set of prior constraints and conditions on all aspects of regulated entities’ business operations. Examples of these requirements include prior approval or filing of rates and policy forms. The prescriptive approach is designed to anticipate problems and prevent them before they happen. However, this approach to regulation hinders the ability of the insurance industry to deal with changing marketplace needs and conditions in a flexible and timely manner. The prescriptive approach to regulation also encourages more regulation than may be necessary in some areas, while directing precious resources from other areas that may need more regulatory attention.

It is also important to note that insurers wishing to do business on a national basis must deal with 51 sets of these prescriptive requirements. This tends to lead to duplicative requirements among the jurisdictions, and excessive and inefficient regulation in these areas. Perhaps the best (or worst, depending upon your perspective) example of this are the policy form and rate pre-approval requirements still in use in many states. Over a dozen states have completely de-regulated the commercial insurance marketplace for rates and forms, meaning that there are no substantive regulatory approval requirements in these areas at all. Other states, however, continue to maintain pre-approval requirements. Indeed, some studies have shown that it can take as much as two years for a new product to be approved for sale on a nationwide basis. Banking and securities firms, in contrast, can get a new product into the national marketplace in 30 days or less. The lag time for the introduction of new insurance products is unacceptable, and it is increasingly putting the insurance industry at a competitive disadvantage as well as undermining the ability of insurance consumers to access products that they want and need.

Let me give you an example that all Council members are familiar with: a few years ago, PAR, an errors and omissions captive insurer sponsored by The Council, sought to revise its coverage form. In most states, PAR was broadening coverage, although in a few cases, more limited coverage was sought. PAR had to refile the coverage form in 35 states where PAR writes coverage for 65 insureds. After 2 years and $175,000, all 35 states approved the filing. Two years and $5,000 per filing for a straightforward form revision is unacceptable and is symptomatic of the problems caused by outdated rate and form controls.

We support complete deregulation of rates and forms for commercial lines of insurance. There is simply no need for such government paternalism. Commercial insureds are capable of watching out for their own interests, and a robust free market has proved to be the best price control available. These concepts are addressed in the outline of the regulatory reform proposal. We look forward to working with the committee regarding the review of policy forms, and we enthusiastically support the extension of the Illinois-style free-market competition with respect to price controls to the rest of the country. This will help to put insurance on an equal footing with all other financial products.

3. Increasing Access To Alternative Markets

In the last eighteen months or more, high rates for property and casualty insurance have been a serious problem for many mid-sized and larger commercial firms. Congress should explore ways that alternatives to the traditional, regulated marketplace can be fostered to provide a viable alternative for sophisticated insurance consumers. Two mechanisms that help stem increasing rates are the use of surplus lines products and risk retention groups.

Surplus Lines. For commercial property and casualty insurance, increasingly business is done through the surplus lines marketplace. A surplus lines product is an insurance product that is sold by an insurance company that is not admitted to do business in the state in which the risk insured under the policy is located. Surplus lines products tend to be more efficient because the issuing companies are less regulated and because the policies are manuscripted and therefore need not comply with state form and rate requirements. In essence, the insured goes to wherever the insurer is located to purchase the coverage. The insurer may be in another state, or it may be in Great Britain, Bermuda or another country. Potential insureds can procure this insurance directly, but they generally do so through their insurance brokers.

Although the purchase of this type of insurance is perfectly legal in all states, the regulatory structure governing surplus lines coverage is a morass. When surplus lines activity is limited to a single state, regulatory issues are minimal. When activity encompasses multiple states, however, regulatory compliance is difficult, if not impossible. And I should note that multi-state surplus lines policies are the norm rather than the exception because surplus lines coverage is uniquely able to address the needs of insureds seeking multi-state coverage. Thus, the difficulty of complying with the inconsistent, sometimes conflicting requirements of multiple state laws is a real problem. Simply keeping track of all the requirements can be a Herculean task: Maryland and DC require a monthly "declaration" of surplus lines business placed, but only require payment of premium taxes on a semi-annual basis; Virginia, in contrast, requires that declaration be filed and taxes be paid quarterly; New Jersey has 36 pages of instructions for surplus lines filings, including a page discussing how to number the filings and a warning not to file a page out of sequence because that would cause a rejection of the filing and could result in a late filing.

The problems with state surplus lines laws fall into four general categories:

- Taxes: States have inconsistent and sometimes conflicting approaches regarding the allocation of premium taxes, which can lead to double taxation and confusion when a surplus lines policy involves multi-state risk.
    - Single situs approach – 100% of the premium tax is paid to the insured's state of domicile or headquarters state. (This approach is imposed by some states regardless of what percentage of the premium is associated with risks insured in the state.)

  - Multi-state approach – Premium tax is paid to multiple states utilizing some method of allocation and apportionment based upon the location of the risk.
  - No clear requirement – More than a dozen states that impose surplus lines premium taxes do not have statutory or regulatory provisions indicating the state's tax allocation method, leaving it up to the insured and the insured's broker to determine how to comply with the state law. In such states, determination of tax allocations is often based on informal guidance from state insurance department staff.
- Declinations: Some, but not all, states require that an attempt be made to place coverage with an admitted insurer before turning to the surplus lines market. Some states specifically require that one or more licensed insurers decline coverage of a risk before the risk can be placed in the surplus lines market. State declination requirements are inconsistent and conflicting, however, and the methods of proving declinations vary tremendously – from specific requirements of signed affidavits to vague demonstrations of "diligent efforts."
- Status of Insurers:
  - Most states required that a surplus lines insurer be deemed "eligible" by meeting certain financial criteria or having been designated as "eligible" on a state-maintained list. These lists vary from state to state, making it potentially difficult to locate a surplus lines insurer that is "eligible" in all states in which placement of a multi-state policy is sought. Although the NAIC maintains a list of eligible alien (non-U.S.) surplus lines insurers, this does not seem to have any bearing on the uniformity of the eligible lists in the individual states.
  - In addition to eligibility, another problem with respect to the status of insurers occurs when surplus lines coverage is placed with an insurer that is an admitted (not surplus lines) insurer licensed in a state where part of the risk is located. This is problematic because surplus lines insurance cannot be placed with a licensed insurer.
- Filings: All states require surplus lines filings to be made with the state insurance department. The type and timing of such filings vary from state to state, but may include filings of surplus lines insurer annual statements, filings regarding diligent searches/declinations, and filings detailing surplus lines transactions. Depending on the states in question, filings can be required annually, quarterly, monthly or a combination thereof. In addition, some states treat "incidental exposures" – generally relatively small surplus lines coverages – differently from more substantial coverages. States have differing definitions of what constitutes incidental exposures and who has to make required filings for such an exposure: some states require the broker to make the filings; others the insured; and some require no filings at all for incidental exposures.

My hope is that Congress can act to alleviate these problems by creating incentives or requirements for the states to rationalize their irrational surplus lines requirements. We would welcome the opportunity to work with the committee to incorporate sensible surplus lines provisions into the regulatory reform legislation to address these issues, such as the establishment of a clear rule that the only applicable surplus lines laws to a multi-state transaction are those of the state in which the insured is headquartered; creation of a clearinghouse for allocation of premium tax payments; establishment of a national "eligibility list;" and creation of national standards for declinations and information filings.

Risk Retention Groups. Enacted in 1981, the Product Liability Risk Retention Act was developed by Congress in direct response to the insurance "hard market" of the late 1970s. The current version of the law – the Liability Risk Retention Act of 1986 – was enacted in response to the "hard market" of the mid-1980s and expanded the coverage of the Act to all commercial liability coverages. Risk Retention Groups (RRGs) created under the Act are risk-bearing entities that must be chartered and licensed as an insurance company in only one state and then are permitted to operate in all states. They are owned by their insureds and the insureds are required to have similar or related liability exposures; RRGs may only write commercial liability coverages and only for their member-insureds.

The rationale underlying the single-state regulation of RRGs is that they consist only of "similar or related" businesses which are able to manage and monitor their own risks. The NAIC has recognized that the purpose of Risk Retention Groups is to "increase the availability of commercial liability insurance."

RRGs are working. They have created an alternative market for liability coverage that serves a valid and important purpose and a market segment that otherwise would be difficult or prohibitively costly to cover. We believe Congress should expand the availability of RRGs by expanding the Liability Risk Retention Act to allow coverage of property damage as well as liability exposures. This would provide another alternative for businesses seeking economical insurance solutions in difficult economic times for the insurance industry.

I know that some are opposed to expansion of RRGs, arguing that single-state regulation constitutes a "race to the bottom" with respect to regulatory supervision. Although I do not agree with that concern, I would support a requirement limiting RRG domiciliary states to those states that are accredited by the NAIC. Thus, all RRGs would be subject to the same solvency requirements and regulation regardless of their state of domicile.

Moving Forward

The FAME study notes that all of the regulatory modernization efforts put forward by the NAIC in the past several years have been the direct result of major external threats – either the threat of federal intervention, or the wholesale dislocation of regulated markets. It concludes that there is no guarantee that the state-based system will adopt further meaningful reforms without continued external threats to its jurisdiction, and offers the states' progress on producer licensing reform as a prime example. The Council wholeheartedly agrees with this conclusion, and believes your road map to regulatory reform is an excellent vehicle to force the states to make the reforms necessary to address the glaring deficiencies of the state system. Too much protectionism and parochialism interferes with the marketplace. The incentive for reform in individual states simply does not exist without a federal threat. Thus, a congressional partnership with the states is entirely in order, and overdue.

The Council looks forward to working with you and your staff to develop the "road map to reform" from concept into reality. As I have mentioned, we believe there are several targeted reforms that the Congress could address in the reform legislation that will benefit not only the insurance industry but also the consumers we serve. Bringing further improvements and uniformity to the producer licensing system and addressing the speed-to-market shortcomings in the current state system by eliminating prior approval of rates and policy forms, similar to the successful model used in Illinois, are two essential elements of reform that are currently contemplated in the road map. We would also like to suggest that additional reforms could be made to foster growth and expand access to alternative insurance marketplaces for sophisticated commercial insureds. Such reforms would further the goal of eliminating inconsistent and inefficient regulatory requirements and thereby expanding the insurance marketplace for the benefit of insurers, producers and consumers.

In closing, as I noted above, improvements in the state insurance regulatory system have come about largely because of the leadership of this Committee, and through your continued oversight of the regulatory process. The regulatory reform proposal is the next step in this diligent effort. On behalf of The Council, I thank you for your attention to this critical issue, and also thank Chairman Oxley and Rep. Kanjorski for their leadership in this area. We stand ready to assist you in any way that we can to advance this important effort.

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